



School Law FYI

Act 10 Court Decision Update

DOUGLAS E. WITTE | 07.30.24

As some of you may have read, on July 3, 2024, a Dane County Judge issued a decision denying a Motion to Dismiss a lawsuit which was brought by a number of individuals and unions challenging Act 10 (“Plaintiffs”). Plaintiffs claimed that the provisions in Act 10 violate the equal protection guarantees in the Wisconsin Constitution because of the way in which Act 10 split public employees into two separate classes: “General” and “Public Safety” employees. Act 10 did not restrict the collective bargaining rights of Public Safety employees as extensively as General employees such as teachers and other school district personnel.

In short, the Judge ruled that there was no “rational basis” for the distinctions drawn between how the employees were grouped and, therefore, he declared “those provisions of the Act relating to collective bargaining modifications are unconstitutional and void.”

At the end of his ruling, the Judge stated: “As my decision appears to resolve all issues, I order the parties to file a letter or memorandum to the court as to whether the court should issue judgment on the pleadings in light of this decision or take some other action to bring this action to a final judgment. As part of that discussion, Plaintiffs should address what sections of Act 10 must be severed and struck under my ruling and Defendants shall respond on this issue as well.”

The Court gave the Plaintiffs 14 days to submit a response. Defendants then have 14 days to submit their response and the Plaintiffs have 7 days to reply. It is unknown when, after those filings, the Judge will issue a final decision.

Even once the Dane County Judge issues his next decision, it is highly likely that the case will be appealed to the Wisconsin Court of Appeals or directly to the Wisconsin Supreme Court. Therefore, it may be some time before we get a “final” decision on the issues raised by this lawsuit.

At the present moment, school districts do not need to take any action. At present, all the provisions of Act 10 are still in effect and parties can proceed to bargain and negotiate consistent with Act 10's requirements.

We will continue to monitor this case and report on any developments. If you have any specific questions with respect to how your particular situation may be impacted by this decision or the pending litigation, please feel free to reach out to a member of the [Boardman Clark School Law Practice Group](#).

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