



School Law FYI

Wisconsin Court of Appeals Upholds Act 10

HEATHER CURNUTT, DOUGLAS E. WITTE, BRIAN P. GOODMAN, RICK VERSTEGEN | 07.30.26

2011 Wisconsin Act 10 (Act 10) significantly modified the collective bargaining rights of municipal employees and state employees. In a 2-1 unauthored decision in *Abbotsford Education Association et al. v. Wisconsin Employment Relations Commission et al.* issued July 29, 2026, the Wisconsin Court of Appeals rejected a challenge to Act 10. As a result of the decision, Act 10 remains in full force and effect.

The plaintiffs alleged that Act 10 is unconstitutional under the equal protection clause of the Wisconsin Constitution. A circuit court had previously ruled in favor of the plaintiffs and struck down various provisions of Act 10. See [Act 10 Court Decision Update](#) (Jul. 30, 2024). The circuit court later delayed the decision from taking effect pending the court of appeals' decision. The court of appeals has now reversed the circuit court's decision and directed the circuit court to enter a judgment dismissing the case.

Surprisingly, for a case of substantial and continuing public interest, the decision was unauthored and, as a result, will not be published. This means that the decision may generally not be cited in any Wisconsin court as precedent or authority, and the court's analysis should have little impact on future cases. The court of appeals relied heavily on the analysis in prior decisions by the Wisconsin Supreme Court and the United States Court of Appeals for the Seventh Circuit, both of which upheld Act 10.

This decision is unlikely to be the last word in the matter. The plaintiffs have until August 28, 2026, to file a petition for review by the Wisconsin Supreme Court. The Wisconsin Supreme Court has discretion to accept or reject the petition for review. If the Wisconsin Supreme Court declines to accept the petition for review, the court of appeals' decision upholding Act 10 will be the final decision in the matter. If the

Supreme Court agrees to consider the case, the Supreme Court's decision will be the final decision and would likely be issued in spring 2027.

School districts do not need to take any action as a result of this decision. All provisions of Act 10 remain in effect and parties can continue to bargain and negotiate consistent with Act 10's requirements. If the Wisconsin Supreme Court issues a decision altering the status quo, school districts should work closely with their legal counsel. If any school district has questions about bargaining, please reach out to a member of the Firm's [School Law Practice Group](#).

DISCLAIMER: Boardman & Clark LLP provides this material as information about legal issues and not to give legal advice. In addition, this material may quickly become outdated. Anyone referencing this material must update the information presented to ensure accuracy. The use of the materials does not establish an attorney-client relationship, and Boardman & Clark LLP recommends the use of legal counsel on specific matters.

Primary Authors



Heather Curnutt
(608) 286 7237



Douglas E. Witte
(608) 283-7529



Brian P. Goodman
(608) 283-1722



Rick Verstegen
(608) 286-7233

School Law Practice Group Members

Douglas E. Witte
(608) 283-7529

Rhonda R. Hazen
(608) 283-1724

Brian P. Goodman
(608) 283-1722

Jennifer C. Johnson
(608) 286-7151

William L. Fahey
(608) 286-7234

Matthew W. Bell
(608) 286-7239

Daniel T. Fahey
(608) 286-7216

Heather Curnutt
(608) 286 7237

Rick Verstegen
(608) 286-7233

Christopher T. Schmidt
(608) 286-7157

Eric B. Hagen
(608) 286-7225

Libbie Osaben
(608) 286 7187

David P. Weller
(608) 286-7235

Michael C. Wieber
(608) 283-1797