

## ***Quick Updates***

### **CONSUMER PRICE INDEX (CPI) FOR BARGAINING AGREEMENTS BEGINNING JULY 1, 2020 CONFIRMED**

The Wisconsin Department of Revenue (DOR) has advised the Wisconsin Employment Relations Commission (WERC) that the CPI increase applicable to one-year collective bargaining agreements with a term beginning on July 1, 2020 is 1.81%.

This CPI rate is only applicable to bargaining units for which the bargaining representative was recertified during the November election conducted by the Wisconsin Employment Relations Commission (WERC). Unless designated by board policy, it does not apply to any other group or individual and does not apply to setting new hire wages.

This CPI rate is a cap. Unless approved by referendum, a school board is prohibited from making any change in total base wage that exceeds this percentage change in CPI. Offers and settlements can still be negotiated or implemented at a level below CPI.

Total base wage is the only mandatory subject of bargaining. Districts are required to negotiate both the amount of total base wage increase offered and its distribution. All other subjects of bargaining are prohibited. Total base wage increase means the maximum increase to the sum of all base wages in the applicable bargaining unit; it does not refer to the base wage for individuals.

Distribution of the total base wage increase in a proposal does not have to occur on an equal dollar or equal percentage across-the-board basis. Individuals or groups of employees can, if not discriminatory, be provided different levels of base wage increase. However, it is common for districts to offer an equal dollar distribution (even if that means an individual within the bargaining unit may receive an individual percent increase above CPI).

### **ACA: CADILLAC TAX REPEALED**

On December 20, 2019, President Trump signed a bi-partisan spending bill into law which included a number of changes to the Affordable Care Act (“ACA”).

One of the most significant changes was the repeal of the Cadillac Tax. The Cadillac Tax was an excise tax on high-cost group health insurance plans. The Cadillac Tax was part of the original passage of the ACA but was delayed numerous times and ultimately never implemented. It has now been legislatively removed from the ACA.

This change is significant as it removes the threat of a future excise tax from your group health insurance considerations.

### **EEOC RELEASES FISCAL YEAR 2019 ENFORCEMENT AND LITIGATION DATA**

The Equal Employment Opportunity Commission (“EEOC”) released breakdowns for the 72,675 charges of workplace discrimination the Commission received in fiscal year 2019, which ended on September 30, 2019.

Significant observations regarding this data include:

- Retaliation continues to be the most frequently filed charge received by the EEOC. 53.8% of all charges filed allege retaliation. This is significant, as employers sometimes can prevail on an underlying charge of discrimination, but if they take adverse action against employees who file discrimination charges or complain about discrimination, they can lose a retaliation claim.
- Disability, race, and sex are the most common discrimination charges filed at 33.4%, 33.0%, and 32.4% respectively.
- Sexual harassment charges were down 1.2% from fiscal year 2018. Sexual harassment charges still amounted to 7,514 charges or 10.3% of all charges filed, so it has not gone away as a significant issue.

This data should serve as a reminder to employers that employment discrimination based on all kinds of protected classifications continues to be a significant area of concern.

## STEVE ZACH HONORED FOR 20 YEARS OF SCHOOL BOARD SERVICE

Steve Zach, who has been an attorney with Boardman Clark for over 35 years, was honored at the WASB Convention in Milwaukee for his 20 years of service on the Oregon School District Board of Education. The number of long-serving board members is dwindling, and we are proud of Steve's continued service to his District. His perspective as a board member is also invaluable to our School Law Practice Group as we represent districts on a variety of matters.

If you have any questions about any of the above topics, please feel free to contact any of the following for more information.

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