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on New Hampshire School Boards

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Legal Notes: Teacher Non-renewal

CRITICAL DATE(S):

April 15 is not just the date that we must file our federal tax returns, it is also the date (with very limited exceptions for some districts that adopt their annual budgets at later dates) that teachers must be notified if they are not going to be re-employed for the following school year.

POINTS TO REMEMBER:

- Under state statute (RSA 189:14-a), length of service makes a major difference in the specifics of the notification and process available to the teacher.
- For teachers who have taught in a district for *less than three consecutive years*: only written notice of their non-renewal must be given.
- For teachers who have taught in a district *for three consecutive years or more*: written notification must be given by April 15, AND, the teacher may request that he/she be given written reasons for the decision to non-renew his/her employment, AND the teacher may request a hearing with the school board, AND the teacher may appeal the decision of the local school board to the State Board of Education.

THE ROLE OF THE SCHOOL BOARD IN TEACHER NON-RENEWAL

While a school board is the ultimate employer of a teacher, a school board plays a unique and often misunderstood role in the non-renewal process under New Hampshire law.

Under RSA 189:14-a, the superintendent is responsible for making the decision to not recommend renewal. Then, in the case of a teacher who "qualifies" for reasons and appeal (as stated above), the teacher may appeal that decision to the school board. The school board must then hold a formal hearing allowing the teacher to challenge the non-renewal decision.

Due process must be accorded the teacher in his/her hearing before the

shire Department of Education Rules 216.02, as well as from any other applicable legal sources.

Routine Reviews of Teacher Evaluations Not Recommended

Due process also requires that the local school board hearing the appeal must not be unduly prejudiced by advance knowledge of the specifics of the situation. Therefore, most school law experts advise that local school boards not routinely review (e.g. on an annual basis) the specifics of a given teacher's evaluation.

Very recently, this has been a serious issue before the State Board of Educa-

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SOURCES TO CONSULT REGARDING TEACHER NON-RENEWAL:

- New Hampshire RSA 189:14-a
- Department of Education Rules (specifically see Ed 216.02)
- Applicable Local School Board Policies
- Individual Teacher Contracts of Employment
- Negotiated Labor Agreements
- YOUR SCHOOL DISTRICT LEGAL COUNSEL

School Board role in teacher non-renewal (Continued from page 1)

189:14-b to review a non-renewal decision of a local school board. While the State Board of Education has historically given significant deference to local school board decisions in this area, it is now closely scrutinizing the due process procedures (particularly those which involve previous knowledge of the school board about the teacher's

situation) that were accorded the teacher at the school board hearing level.

New Law to Consider

In 2003, the Legislature amended RSA 189:14-b (Review by the State Board) to provide that the review by the State Board of Education of a local school board decision on non-renewal was the EXCLUSIVE remedy available to the teacher. Previously, teachers

and their unions had looked to binding arbitration remedies to challenge non-renewal decisions.

Teacher non-renewal is a complicated area of school law -- please remember to consult local counsel on specific situations.