



FEBRUARY 3, 2011

e-BLACKBOARD

SCARIANO, HIMES & PETRARCA

ILLINOIS' CIVIL UNIONS LAW: HOW WILL THIS NEW LEGISLATION AFFECT YOUR DISTRICT?

By: James Petrunaro and Adam Dauksas

This week, Governor Quinn signed into law the *Illinois Religious Freedom Protection and Civil Union Act*, which will soon provide for legal recognition of civil unions in Illinois. Under the law, which takes effect June 1, 2011, any person entering into a civil union will have "the same legal obligations, responsibilities, protections, and benefits as are afforded or recognized by the law of Illinois to spouses." Significantly, the new law will recognize both homosexual and heterosexual civil unions.

Because this is only a State law, however, civil unions granted in Illinois will remain unrecognized by the federal government. Accordingly, the new legislation will have no impact on federal employment laws, such as the *Family and Medical Leave Act* ("FMLA") and the *Consolidated Omnibus Budget Reconciliation Act* ("COBRA"). Similarly, a party to a civil union will be ineligible to receive a survivor's Social Security benefit.

Nevertheless, the new law will have a significant impact on school districts. For instance, Section 24-6 of the *School Code* provides that districts must grant to their full-time employees at least 10 days of sick leave at full pay each school year to care for, among other things, "a serious illness or death in the immediate family or household." Under the *Illinois Religious Freedom Protection and Civil Union Act*, the term "immediate family" now encompasses a civil union partner.

The new civil union law also grants to licensed partners the same property inheritance rights that have long been enjoyed by married couples in Illinois. Accordingly, a partner in a civil union will soon be able to receive state pension benefits when his or her partner, who had worked for the government, dies.

In addition, the law may impact discrimination rights. The *Illinois Human Rights Act* makes it a civil rights violation for a board of education to "refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment" on the basis of an individual's "marital status." Although there is currently no case law equating civil unions to one's "marital status," we expect civil union partners to claim protected status under the *Illinois Human Rights Act*. One way in which this could affect school districts is through the grant of insurance benefits to dependents. If civil union partners are protected by the *Human Rights Act*, a spouse cannot be offered dependent care to the exclusion of a civil union partner. Yet, even if the employee's civil union partner receives insurance benefits from the school district, the value of any insurance benefits received by an employee's partner would be treated as income and taxed by the federal government.

To ensure compliance with the new law, boards of education and appropriate administrators should review and modify their existing board policies, handbooks and insurance policies to adequately reflect the law's changes. If you have any questions regarding the implementation of the *Illinois Religious Freedom Protection and Civil Union Act* or would like us to audit your policies and procedures to ensure compliance, please do not hesitate to contact Scariano, Himes and Petrarca.

The information herein was prepared by Scariano, Himes and Petrarca, Chtd. to provide general guidance on issues affecting educators. This publication is not intended to provide specific legal advice or to create an attorney-client relationship. We are pleased to provide legal assistance to you on the subjects addressed in this communication or on other subjects. Reproduction is permitted with credit to Scariano, Himes & Petrarca, Chtd.

Scariano, Himes and Petrarca, Chtd., represents more than 100 school districts, special education cooperatives and vocational education cooperatives. Our attorneys have expertise in all areas of education law and practice in three locations to more readily serve our clients:

CHICAGO OFFICE

Two Prudential Plaza
180 N. Stetson, Suite 3100
Chicago, Illinois 60601-6702
Phone 312.565.3100 / Fax 312.565.0000

CHICAGO HEIGHTS OFFICE

1450 Aberdeen
Chicago Heights, Illinois 60411
Phone 708.755.1900 / Fax 708.755.0000

WAUKEGAN OFFICE

209 W. Madison Street
Waukegan, Illinois 60085
Phone 847.662.5800 / Fax 847.662.6813

[CLICK here](#) to remove your email address from our list.

State and federal law require that this document be designated as advertising material.

© 2011 Scariano, Himes & Petrarca, Chtd.