

LEGAL BRIEFS

A Message From
Andre Dalbec,
 SAANYS Counsel
ADalbec@saanys.org



A New Year Has Prospects...

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financial needs. From there, the discussion will likely touch on the effect of Obamacare, also known as the Affordable Care Act (ACA), on these items. In some instances for 2015, the ACA places new limits on employer contributions and changes the tax implications on these negotiated benefits.

Inasmuch questions arise about the tax implications of both non-health care and health care related fringe benefits. Separate from the health care related items mentioned above, non-health care related items may include reimbursements for personal cell phone use

on work-related matters, use of one's car, or payment of life insurance premiums. It is best in negotiations to follow the general rule that if an item was not expressly created by the legislature to have tax free benefits, it likely does not. Thereafter, you can get specific as to which items need to be precisely delineated as taxable or non-taxable benefits. Critical to remember is that what was considered of value in the previous agreement, which may have been taken away by a legislative act like the ACA, can and should be negotiated back into your contract in one

form or another. Don't settle for the fact that it is gone. Demand something in return.

Similarly, the discussion of the current political and economic climate will raise particular questions from those preparing to retire or merely looking down the road toward retirement. Their interests may involve the pensionability of particular benefits provided in their collective bargaining agreements. Members in the Teacher Retirement System (TRS) currently occupy six tiers with those joining the system after April 1, 2012 labeled as Tier 6 members. The TRS has recently issued clarification on certain particular negotiated benefits that retirees believed were added to their pension calculations but found that they were not.

The general rule that has been applied to the

tiers 3 through 6 had always been that to be included in a pension, the payments had to be reasonably incidental to the work necessary to complete the job of the title, was cumulative and continuous year after

interpretation is the same as that of the district, that a particular item is part of base salary and thus added to a pension calculation. That is always a dangerous presumption but in this case is also an irrelevant presumption.

Even if the parties agree on an interpretation of a contract, such agreement does not bind the TRS. So, as noted above, if you believed something had pensionable value

that it turns out may not, do not despair, it merely presents an opportunity to negotiate its lost value back to your members in another form.

Looking positively, SAANYS will impart at these regional meetings the good things that can come from the changes that come with a new year. ■

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year, and was not in the mode of a bonus designed to augment a final average salary. Questions have arisen about negotiating tenure stipends, merit pay, longevity bonuses, and the like, as to how they figure in to a member's final average salary, if at all. Each provision or proposal in your negotiation involving such an item must be scrutinized and made clear. Often, bargaining units have proceeded on the presumption that its

It's Time to Take Discipline Reporting Seriously...NOW!

Opinion piece by Scott B. Crowder,
 CEO, Educational Vistas, Inc.

When State Comptroller, Tom Dinapoli, recently released the results of his audit, the findings were not unexpected. As many as 30 percent of violent or substance-related incidents were unreported! Since 2000, when the Safe Schools Against Violence in Education (SAVE) Act was enacted, NYS schools have been grappling with "just what is reportable?" The Violent and Disruptive Incident Report (VADIR) requirements both clarified and confused districts as to which incidents rose to the level of reportability. The Dignity for All Students Act (DASA) has further complicated

district compliance and consistency.

As of 2014, VADIR and DASA material incident reporting is part of the data collection process for School Safety and the Educational Climate (SSEC) reporting: http://www.p12.nysed.gov/irs/school_safety/school_safety_data_collection.html.

This is a perfect time to take an in-depth look at your district's three "P's" – policies, procedures, and personnel assignments, in regard to all aspects of discipline reporting and management. I am still amazed and disappointed that all schools have not yet adopted a

comprehensive, integrated management system for this difficult requirement. The argument for such a solution is very easy to make: "You would not manage school transportation, IEP's, AIS, lunch services, the library, curriculum, APPR, or many other educational enterprise needs through your Student Information System (SIS), so why would you attempt to handle VADIR, DASA, & discipline in the SIS?" Please read that again.


Since 2003, the Violent and Disruptive Incident Reporting System (VADIRSTM) – now called SafeSchoolsNYTM – has been the leading, complete management system for one-button production of both your VADIR and DASA reports. Beyond that, the program provides all stakeholders access to in-process data and information necessary to protect vulnerable

students, modify the behavior of offenders, and even identify witnesses to disruptive incidents. Powerful reports and surveys allow administrators the ability to gather baseline data, create a process to improve school climate and culture, assess effectiveness, and reduce disruptive and/or violent incidents. I believe that returning this time to classroom instruction will result in both student academic improvement and a reduction in absenteeism and tardiness.

With this web-based software product available under contract through Nassau BOCES, Eastern Suffolk BOCES, WSWHE BOCES, or directly from Educational Vistas, Inc., there is no reason not to make it your discipline management solution. ■



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 — Martin Luther King Jr.*

*"An investment in knowledge always pays the best interest."
 — Benjamin Franklin*



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