



Retired Teacher's Same-Sex Spouse Entitled to Retirement Benefits

Insights

3.27.18

Last Month, in *Gateway Sch. Dist. V. Gateway Educ. Ass'n*, 783 C.D. 2017 (Pa. Commw. Ct. Feb. 28, 2018), a Pennsylvania court affirmed an arbitration decision holding that a retired teacher could add his same-sex spouse to his retirement benefits after his retirement.

At the time the teacher retired, he was in a relationship with his now husband for more than seventeen years; however, he elected single coverage for his retirement plan because they could not legally marry under Pennsylvania law. The couple married in June 2014, shortly after a Pennsylvania federal court declared that it was unconstitutional not to recognize same-sex marriage in *Whitewood v. Wolf*, 992 F. Supp. 2d 410 (M.D. Pa. 2014). The school district refused the teacher's request to add his husband to his retirement medical benefits after their marriage. The district argued that the collective bargaining agreement in place when the teacher retired did not recognize same-sex marriage, and that the district had a longstanding practice of not allowing benefits to be changed after retirement, even if a retiree remarried or married for the first time.

The court affirmed the arbitrator's decision that a substantial change in both Pennsylvania and federal law about same-sex marriage made the past practice irrelevant, and noted that the arbitrator was not required to consider past practice in interpreting a collective bargaining agreement. The court also declined to review the arbitrator's factual finding that, but for the law, the teacher would have married his current spouse and added him to his health care benefits before he retired.

Further, the court affirmed the arbitrator's decision that requiring the teacher's spouse to be added to his benefits did not violate the impairment of contracts clauses in the United States and Pennsylvania Constitutions. First, the court reasoned that those clauses only apply to legislation, not changes in the law that arise through court interpretation. Second, the court found that the constitutional holdings about same-sex marriage did not alter the contract. They simply changed the teacher's legal right to be married, and affected the arbitrator's interpretation of the collective bargaining agreement.

If you have questions about how this decision might impact your employee benefits agreements, please consult your Fisher Phillips attorney.

