

# NORRIS, MURRAY & PELOQUIN, LLC

Legal Counsel to Employers and Schools

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## Speaking Engagements

### MMA Annual Meeting

January 18-19, 2019

Leo Peloquin and Melissa Murray will join D. Moschos to present this year's "Labor Law Update: New Laws, Recent Cases and Agency Decisions" at the Massachusetts Municipal Association's Annual Meeting and Trade Show, January 18-19, 2019 at the Hynes Convention Center in Boston. Time TBD.



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## SJC Allows Reinstatement of Police Officer Who Made "Intentionally Misleading" But Not False Statements

A fired Pittsfield police officer who made statements in a report that were "intentionally misleading" but not false, was reinstated after the SJC ruled that an arbitrator's ruling can only be overturned if an officer's deception leads to false charges. *City of Pittsfield*, 2018 WL 4762406 (2018). In this case, the officer was fired for falsifying the police report and lying about his arrest of a shoplifter. In his report, he said that he moved the suspect from the back of the car for "safety reasons", but the real reason was to allow supermarket security to photograph her.

The Court ruled that the arbitrator's factual findings that the officer's statement was made solely in an attempt to avoid discipline for moving the shoplifter, rather than to falsify criminal charges, was entitled to deference. The Court cited state law favoring the resolution of disputes by arbitrators, and said under the circumstances presented it could not substitute its judgment for that of the arbitrator.

The Court distinguished this decision from an earlier police misconduct case where the officer acted with "egregious dishonesty" by falsely accusing someone of assault and battery on a police officer. *City of Boston v. Boston Police Patrolman's Assoc.*, 443 Mass. 813 (2005). In that case, the Court ruled that as a matter of public policy an officer who lies should not remain on the force, and overturned an arbitrator's decision reinstating the officer. In reinstating the officer in this case, the Court made clear that police chiefs still have the authority to fire officers they believe lied, and that departments do not have to reinstate officers whose false words trigger a criminal case against an innocent person. The case does not establish a new standard of behavior for police officers, rather it reaffirms the policy of upholding arbitration awards even if they are wrong.

## DESE Releases New (and Improved) Physician's Statement for Home or Hospital Placement

The Massachusetts DESE has reviewed and revised the "Home and Hospital" form, a physician's order for the implementation of educational services in a home or hospital setting. The updates and changes to the form are intended to:

1. improve the physician's authorization process by narrowing the scope of orders to comply with the regulation; and
2. provide additional clarity to districts by requiring that the authorizing physician provide clear and specific information.

School Districts should begin using the new form immediately. Contact DESE's Problem Resolution System office with any questions or for further clarification. The form is available on our website and <http://www.doe.mass.edu/sped/28mr/>.