

NORRIS, MURRAY & PELOQUIN, LLC

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SCHOOL CORNER

Restraint Reporting

All school districts and special education schools are reminded that they are required to report student restraints and injuries that occur during the school day to the DESE using the Restraint Application Tool in DESE's Security Portal.

All data for the 2018-2019 school year is required to be submitted by 5:00 p.m. on June 28, 2019.



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License To Carry Is Condition Of Employment For Police Officer

In *Crawford v. City of Leominster*, Officer Crawford was terminated for engaging in insubordination, neglect of duty, and conduct unbecoming an officer. His behavior, which came about after being asked to correct a deficient police report, was captured on camera. The Chief viewed the footage and determined the behavior was also violent and aggressive. The Chief placed Crawford on administrative leave and revoked his License to Carry (LTC). On June 4, 2018, following a hearing, Crawford was terminated from his position as a police officer. He challenged both the termination and the Chief's revocation of his LTC.

The good news is that the District Court affirmed the Chief's revocation of the LTC. Mr. Crawford has appealed the District Court's decision, which is pending, but the Superior Court is expected to affirm the Chief's revocation given a Police Chief's "broad discretion in making a licensing decision." *Chardin v. Police Comm'r of Boston*, 465 Mass. 314 (2013).

In not so good news, the Civil Service Commission viewed the evidence differently than the Chief and the City. Commissioner Bowman, Hearing Officer, agreed that the City had just cause to discipline Crawford for yelling at his supervisor and throwing his tactical vest against the wall, but he determined that the City was unable to prove the more serious charges including that his behavior was violent and aggressive. The Commission reduced the dismissal to a sixty (60) day suspension, however, "because of the inherent requirement of a police officer to carry a firearm," the relief was made contingent on Mr. Crawford's successful appeal of the District Court's decision upholding the revocation of his LTC. In a concurring opinion, Commissioner Camuso disagreed that a LTC is a condition of employment, however, that position is not consistent with case law. *See Healy v. Massachusetts Civil Service Comm'n*, 10 Mass.L.Rptr. 22 (1999).

No Duty To Bargain Where Impacts Of Food Restrictions Are De Minimus

The Department of Labor Relations (DLR) got it right in finding no bargaining obligations where an employer sought to maintain cleanliness at the workplace. In *City of Boston*, 45 MLC 126 (March 15, 2019), the City implemented new food guidelines in the operations room without prior notice to the Union. The Union filed a charge at the DLR, claiming that the City was required to bargain over the guidelines because they resulted in "inconveniences" to employees.

The hearing officer determined the guidelines were not mandatory subjects of bargaining, finding that the Department's interests outweighed any inconvenience that resulted from having to drink out of a spill proof container or walk across the hall to eat in the designated area. Ironically, the guidelines were initially issued in response to employee complaints about the unsanitary nature of the operations room. In this situation, the City did the right thing in addressing the complaints and not giving in to the Union's irrational demand to bargain over mere inconveniences.