

ABOLITION OF POSITION

Decision to abolish

Generally, good faith required in abolishing position

Werlock v. Woodbridge Twp. Bd. of Ed., 5 N.J. Super. 140 (App. Div. 1949) (76:685, Oros) (76:761 Cordano, aff'd St. Bd. 77: February 2) (77: March 21, Lilenfield) (77:440, Popovich) (77:625, Vexler) (77:706, Camp) (77:919, Deal Ed. Assoc., stayed St. Bd. 77:925) (77:1033, Outslay) (77:1040, Van Os) (77:1114, Makulinski, dismissed St. Bd. 78: April 5, unpublished opinion) (77:1118, Debold) (77:919, Deal Ed. Assoc., stayed St. Bd. 77:925, rev'd St. Bd. 78:589) (79:274, Breese) (80: April 15, Fischbach) (80: May 7, Hanneman, St. Bd. rev'g 79:709) (80: January 21, Hardick) (80:793, Pavlik) (80:857, Lippincott) (81: August 10, Sherman) (83: June 1, Hering, aff'd St. Bd. 83: November 2) (84:1955, Linglebach, St. Bd. rev'g 83: June 6) (reorganization) (85:196, Fischbach, aff'd St. Bd. 87:2608) See also (83:1418, Fischbach, aff'd St. Bd. 84:1931) (85:249, Gonsalves) (85: October 9, Clark) (87:379, Maresca) (87:23, Miller) (87:1078, Stahnten and Washington, aff'd St. Bd. 87:1104)

Abolition of full-time position; board not obligated to create two part-time positions to accommodate seniority rights (88:2409, Baran, aff'd St. Bd. 89:2995)

Abolition of two full-time positions and creation of two equivalent part-time positions: if one of incumbents is tenured, he is entitled to a full-time position unless there is educationally based reason for having two part-time positions (85: November 8, Valinski, St. Bd. rev'g 85: March 11)

Abolition of two full-time positions: More senior of two tenured teachers is entitled to full-time position (86:1486, Bartz, aff'd in part, rev'd in part St. Bd. 87:2520)

Administrative position, some duties merely reassigned, overturned (74:805)

Affirmative action plan does not prevent legitimate reduction in force where minority positions are affected (87:1078, Stahnten and Washington, aff'd St. Bd. 87:1104)

Annual abolition of non-tenured part-time positions based on uncertainty of personnel needs (78:714, Gushue)

Arbitrary and capricious; where board bypassed superintendent and acted on recommendations of board secretary (82: September 9, DiNardo, remanded St. Bd. 83:1534, decision on remand 84:116, aff'd by St. Bd. 84:135)

Assistant cafeteria manager (70:308)

ABOLITION OF POSITION - continued

Decision to abolish - continued

- Assistant superintendent (87:1078, Stahnten and Washington, aff'd St. Bd. 87:1104) (89:2901, Kaprow, aff'd w/modif. St. Bd. 91:2561, aff'd 255 N.J. Super. (App. Div. 1992), certif. granted 130 N.J. 16 (1992), aff'd 131 N.J. 573 (1993)
- Attendance officer (77:1114, Makulinski, dismissed St. Bd. 78: Apr. 5) (78:207, Arangio, dismissed St. Bd. 78: May 3) (88:995, Harris, dismissed St. Bd. 88:1006, aff'd App. Div. unpub. op. (Dkt. No. A-2038-88T2, Mar. 28, 1990))
- Board may abolish two full-time positions and create two part-time positions: Tenured teacher not entitled to full-time employment even where part-time positions are equivalent to more than one full-time position. Klinger v. Bd. of Ed. of Twp. of Cranbury, 190 N.J. Super. 354 (App. Div. 1982), certif. denied, 93 N.J. 277 (1983), aff'g (82: January 6, St. Bd. rev'g 81: January 8); Cf. (84:1955, Linglebach, St. Bd. rev'g 83: June 6) modified App. Div., unpublished opinion (Docket No. A-4783-83T7, May 17, 1985)
- Board may not abolish one full-time position and create two part-time positions, the salaries for which are established on an hourly basis (84:1955, Linglebach, St. Bd. rev'g 83: June 6), modified App. Div., unpublished opinion (Docket No. A-4783-83T7, May 14, 1985), certif. denied 101 N.J. 333 (1985)
- Board not required to fragment existing positions in order to accommodate seniority rights (88:2409, Baran, aff'd St. Bd. 89:2995)
- Board not required to maximize protection of tenured employees (80:595, Fitzpatrick, aff'd St. Bd. 81: March 4, aff'd in part, rev'd in part, unpublished opinion, App. Div. (Docket No. A-3278-80T3, June 16, 1982) St. Bd. on remand 82: September 8) (85: April 29, Goodwin-Davis, aff'd St. Bd. 85: September 4)
- Board is obliged to accommodate an individual's tenure and seniority rights so long as it does not require the board to take extraordinary steps to provide the tenured teacher with a position in the category of entitlement (87:1578, Balczun)
- Board required to notify employee of categories in which he has seniority rights before it abolishes position (81: December 16, Bechtel)
- Board secretary, full-time to part-time (76:970, Vanderbeck)
- Chief janitor (59-60:155)
- Child study team members (83:953, Cochran, aff'd with opinion St. Bd. 85:1878, aff'd App. Div. unreported opinion (Docket

No. A-2327-85T7, decided December 22, 1986))
Commissioner's seniority determinations must be based on
regulations (86:1478, Edison, St. Bd. aff'g 86:1471)

ABOLITION OF POSITION - continued

Decision to abolish - continued

Consultation with superintendent must precede decision to abolish, but Board need not follow superintendent's recommendation where it acts in good faith (87:1078, Stahnten and Washington, aff'd St. Bd. 87:1104)

Coordinator of Special Education (74:647)

Dean of students (71:314)

Decision to abolish may be made at any time (81: October 13, Sherman)

Declining enrollment (76:309, Wexler, aff'd St. Bd. (76:314) (76:1011, Cicccone) (77:832, Salowe) (77:1102, Zink, aff'd St. Bd. 78:1051, aff'd App. Div. 79:885) (82: June 7, Messick) (83:758, Cinnaminson, aff'd St. Bd. 84:1915) (85: March 11, Sampietro) (88:655, Currao)

Department chairpersons (77:555, Wilson) (77:984, Van Houten) (80: December 22, Franklin Tp.) (84: March 7, Paternoster, St. Bd. rev'g 82: November 9)

Director of Guidance, Jablonski v. Bd. of Ed. of Emerson, unpublished opinion, App. Div. (Docket No. A-6100-82T2, decided March 6, 1984), aff'g 83: April 18, aff'd St. Bd. 83: July 6)

Director of industrial education (63:119)

Director of special services (78:784, Ross)

Due process hearing not required to abolish position of tenured employee (81: December 16, Bechtel)

Duties of the abolished position may be distributed among remaining staff (87:1078, Stahnten and Washington, aff'd St. Bd. 87:1104)

Duties performed control rather than name given to particular position (74:805)

Evidence; burden of proof upon petitioner to demonstrate that new position was substantially same as old position (84: January 4, Assarsson, St. Bd. aff'g with modification 83: August 29)

Failure to abolish position formally (80:636, Riemann) (80:1221, Boehler, aff'd St. Bd. 81: April 1)

Good faith

Abolishing position incident to administrative and supervisory reorganization of the school district; sound exercise of managerial prerogative (83: July 11, Cortina, aff'd St. Bd. 83: November 2)

Administrative assistant to superintendent position (79:522, Coyle)

Attendance Officer (77:1114, Makulinski, dismissed St. Bd.)

78: April 5, unpublished opinion) (88:995, Harris,
aff'd St. Bd. 88:1006, aff'd App. Div. unpub. op.,
(Dkt. No. A-2038-88T2, March 28, 1990))

ABOLITION OF POSITION - continued

Decision to abolish - continued

Good faith - continued

- Defense of tenure charge found not to be basis for elimination of Attendance Officer (88:995, Harris, aff'd St. Bd. 88:1006, aff'd App. Div. unpub. op., (Dkt. No. A-2038-88T2, March 28, 1990))
- Director of health and physical education position (65:119)
- Driver education (77:706, Camp)
- Librarian positions; employment of aides to perform clerical, but not professional, library functions (84: August 9, Freed)
- Mathematics coordinator (76:767, Marotta)
- Music program (77:440, Popovich)
- Nurse's position (78:184, Johnson)
- Racial discrimination (80:655)
- Reasons of economy (84:311, O'Toole, aff'd St. Bd. 84:332, aff'd App. Div. unreported opinion (Docket No. A-774-84T7, dated June 30, 1986)) (83:1373, Deutsch, aff'd St. Bd. 85:1902) (87:1078, Stahnten and Washington, aff'd St. Bd. 87:1104) (88:655, Currao)
- Reducing CST positions from 12 months to 10 months, (82: June 7, Messick)
- Reducing employment from full-time to half-time (76:309, Wexler, aff'd St. Bd. 76:314) (76:763 Hyun) (77:823, Wilson) (77:832, Salowe) (77:919, Deal Ed. Assoc. stayed St. Bd. 77:925) (77:984, Van Houten) (77:1040, Van Os) (77:1102, Zink, aff'd St. Bd. 78:1051, aff'd App. Div. 79:885) (77:1118, Debold) (77:919, Deal Ed. Assoc., stayed St. Bd. 77:925, rev'd St. Bd. 78:589) (80:655, Perry)
- Reducing position from 3/5 to 2/5 time: No anti-union animus found (81: November 12, Kauffman)
- Reorganization: Department chairpersons replaced by area supervisors (85: April 25, Burghardt)
- Teacher-librarian (77:346, Polaski)
- Guidance counselor (72:274)
- Improper; board did not eliminate the duties of tenured child study team members, but merely transferred their duties to outside contractor (83:953, Cochran, aff'd St. Bd. 85:1878, aff'd App. Div. unreported opinion (Docket No. A-2327-85T7, decided December 22, 1986))
- Improper; position not effectively abolished when "new" position involved rescheduling of hours, different

compensation from old position, but where duties of two positions were identical (84:1955, Lingelbach St. Bd. rev'g 83: June 6, aff'd with modification App. Div. unpub. opinion (Docket No. A-4783-83T7, May 17, 1985), certif. denied 101 N.J. 333 (1985)

ABOLITION OF POSITION - continued

Decision to abolish - continued

- Industrial Arts (76:761, Cordano, aff'd St. Bd. 77: February 2)
Janitor positions (38:742) (38:744) (38:747) good faith not found in (57-58:58) (71:448, aff'd St. Bd. 72:665)
- Librarian; consider for positions of non-tenured teachers where librarian position is reduced to half-time (83: February 1, Miller, St. Bd. rev'g and remanding 82: May 17)
- Negotiated agreement; contract may set forth reasonable termination procedures consistent with board's discretion to lay off tenured staff, pursuant to N.J.S.A. 18A:28-9; petitioner entitled to reasonable damages, Old Bridge Bd. of Education v. Old Bridge Education Association, 193 N.J. Super. 182 (App. Div. 1984), aff'd and remanded 98 N.J. 523 (1985) See also (79:598, Metzger)
- Negotiated agreement requiring board to give notice of employment status to teachers by March 30 does not nullify board's authority to abolish positions after that date (81: October 5, Jarrett)
- Negotiation is not required (81: November 12, Kauffman)
- Non-arbitrability of decision to abolish positions (74:488)
- Non-negotiable and non-arbitrable, In re Englewood Bd. of Ed., 150 N.J. Super. 265 (App. Div. 1977) clarifying 135 N.J. Super. 120 (App. Div. 1975)
- Notice (73:704, aff'd St. Bd. 74:1416) (77:1118, Debold) (83:758, Cinnaminson, aff'd St. Bd. 84:1915)
Must be given to employees prior to discussion in closed session, Rice v. Union County Reg. H.S. Bd. of Ed., 155 N.J. Super. 64 (App. Div. 1977)
- Notice of; employee is not entitled to 60 days notice of good faith decision to abolish his position (84: January 12, German, aff'd with opinion St. Bd. 84: August 8)
- Notice of
60 day notice to tenured teachers of RIF occurring during school year met board's obligation under negotiated agreement; teachers not entitled to balance of year's salary (86:1588, Rahway, aff'd St. Bd. 87:2677) See also Old Bridge, 98 N.J. 523 (1985)
- Nurse (78:184, Johnson) (80: March 17, Trowbridge)

Nurse, full-time to part-time (76:672, Roe, aff'd St. Bd.
76:676) (77:823, Wilson) (77:1033, Outslay) (77:1047,
Scrupski, rev'g 76: March 24)
Political motivation, bad faith found (83:1534, DiNardo, St.
Bd. remanding 82: September 9, decision on remand 84:116,
aff'd by St. Bd. 84:135)
Political motivation not found; petitioner failed to meet his
burden of proof (88:655, Currao)

ABOLITION OF POSITION - continued

Decision to abolish - continued

Presumption of validity accorded board decision to reduce staff; will not be overturned unless showing of bad faith or arbitrary and capricious action (75:168, Klig) (76:970, Vanderbeck) (77:315, Lilenfield) (77:440, Popovich) (77:625, Vexler) (77:706, Camp) (77:919, Deal Ed. Assoc. stayed St. Bd. 77:925) (77:1033, Outslay) (77:1040, Van Os) (77:1114, Makulinski dismissed St. Bd. 78: April 5) (77:1118, Debold) (77:919, Deal Ed. Assoc. stayed St. Bd. 77:925 rev'd St. Bd. 78:589) (79:274, Breese) (80: January 21, Hardick) (80:536, Banzer) (80: September 15, Loper) (81: February 23, Willingboro) (81: August 10, Sherman) (83: August 15, Vogel) (84:311, O'Toole, aff'd St. Bd. 84:332, aff'd App. Div. unreported opinion (Docket No. A-774-84T7 dated June 30, 1986)) (84: March 7, Paternoster, St. Bd. rev'g 82: November 9) (87:1078, Stahnten and Washington, aff'd St. Bd. 87:1104)

Principals (38:320) (38:323) (38:324)

Procedure; board must act formally to abolish position (80: March 18, Breese) (81: January 12, Fujarczyk)

Psychologist (76:685, Oros) (77:315, Lilenfield)

Psychologist, abolition of position held invalid since employing boards had created de facto jointure commission (78:187, Bisson)

Reasons, generally Nichols v. Jersey City Bd. of Ed. 9 N.J. 241 (1952); Seidel v. Ventnor City Bd. of Ed., 110 N.J.L. 31 (Sup. Ct.) aff'd 111 N.J.L. 240 (E & A 1933); (74:488), (76:672, Roe, aff'd St. Bd. 76:676) (76:717, D'Ambrosio aff'd St. Bd. 77:721) (77:1040, Van Os) (77:1102, Zink, aff'd St. Bd. 78:1051, aff'd App. Div. 79:885) (78:184, Johnson)

Reassignment of RIF'd teaching staff member in absence of board policy and without consulting superintendent, bad faith (83:1534, DiNardo, St. Bd. remanding 82: September 9, decision on remand 84:116, aff'd St. Bd. 84:135)

Reduction of cooperative education director from 12 months to 10 months for budget reasons upheld; allegations of increased workload during school year must be heard by PERC (86:1519, Swaluk)

Reduction of position from 75% to 65% require two resolutions (one to abolish the 75% position and one to create the 65% position); where intent clear reduction will not be overturned (82: June 24, Pallington)

Reorganization of administrative or supervisory organization

(85: March 11, Sampietro)
Rescission by board of decision not to abolish positions upheld
(81: October 5, Jarrett)

ABOLITION OF POSITION - continued

Decision to abolish - continued

- RIF'ing for budget reasons will not be invalidated because of board's failure to notify each affected person of his seniority status, but board ordered to provide notification (86:1588, Rahway, aff'd St. Bd. 87:2677)
- RIF'ing of high school Supervisor of Guidance, creation of Director of Student Services upheld as part of plan to consolidate services district wide, but Commissioner orders county superintendent to ensure that district wide consolidation continues (86:1501, Sandri)
- Ripeness (83: September 7, Gratta, St. Bd. aff'g with mod. 83: June 6) (84: October 24, Fazan) (85: January 3, Andreula)
- Scheduling changes resulting in minor fluctuations of teaching periods does not constitute a RIF (84: November 28, Bassett)
- School business administrator - board may not abolish without consent of county superintendent, commissioner, state board. N.J.A.C. 6:3-1.18(d) (88:2256, Shenekji, aff'd St. Bd. 89:3078) Regulation repealed. See N.J.A.C. 6:11-9.7.
- Secretarial staff (76:995, Sheridan) (80: March 24, Booth) (81: August 18, Kigerl, aff'd St. Bd. 81: December 2) (83:96, Mackey)
- Special assignment teacher (77:1043, Dedrick)
- Speech teacher, to part-time position (83: June 1, Hering, aff'd St. Bd. 83: November 2)
- Superintendent (77:913, Plumsted Tp.)
- Supervisor (39-49:107) (39-49:131) (89:2878, Sahagian)
- Teacher-librarian (77:346, Polaski)
- Teachers (38:509) (38:515) (38:539) (38:540) (38:542) (38:547) (76:963, Morer) (77:823, Wilson) (77:832, Salowe) (77:919, Deal Ed. Assoc., stayed St. Bd. 77:925, rev'd St. Bd. 78:589) (77:984, Van Houten) (77:1040, Van Os) (77:1043, Dedrick) (77:1102, Zink, aff'd St. Bd. 78:1051, aff'd App. Div. 79:885) (77:1118, Debold) (79:232, Boquszewski) (79:274, Breese) (80:182, Lynch) (80: April 7, Cyphers) (80: May 5, Pryszianzny)
- Tenure rights; Capodilupo principles not applicable when a board fills a vacancy six months after a reduction in force (85: May 24, Geiling-Hurley, decision remand 86:952, aff'd in part rev'd in part St. Bd. 86:964, aff'd App. Div. unreported opinion (Docket No. A-1959-86T8, decided October 5, 1987)
- Tenure rights; physical education teacher with service at secondary level entitled to elementary position held by non-tenured teacher, even though he had no rights to

elementary position under seniority regulations; tenure rights are not limited by grade level; (86:3010, Capodilupo, St. Bd. rev'g 85:554, aff'd 218 N.J. Super. 510 (App. Div. 1987), certif. denied 109 N.J. 514 (1987))

ABOLITION OF POSITION - continued

Decision to abolish - continued

Tenured teacher whose full-time position is abolished has a claim to any position within his area of certification, and such claim is superior to that of any non-tenured teacher without regard to consideration of elementary and secondary experience. Bednar v. Westwood Bd. of Ed., 221 N.J. Super. 239 (App. Div. 1987) rev'g St. Bd. 86:2993 and Commissioner 85:627, certif. den. 110 N.J. 512 (1988)) (88:1988, Mirandi, aff'd St. Bd. 89:3057)

Timing of, may be accomplished at any time during academic year (75:168, Klig) (76:309, Wexler aff'd St. Bd. 76:314) (76:763, Hyun) (77:1033, Outslay) (77:1118, Debold)

Transfer, board need not offer to teacher in lieu of reduction from full- to part-time (80:636, Riemann)

Twelve month position reduced to 10 months, proportionate reduction in salary, no violation of N.J.S.A. 18A:28-9 (81: October 13, Sanders, aff'd St. Bd. 82: March 24, aff'd App. Div. 83:1630, certif. denied 97 N.J. 585 (1984))

Vice principal (59-60:184) (60-61:68) (72:606)

What constitutes abolition of position (74:488) (87:2175, D'Alonzo)

Placement, seniority and preferred eligibility lists

Categories

Generally; actual duties of position, not title or certification beyond duties performed, confer tenure and seniority rights (86:748, Gordon)

Generally; duties of position, not title, confer tenure and seniority rights (83:1004, Rudolph-Nachtman, rev'd St. Bd. 84:2009)

Generally; seniority may only be conferred in categories in which teacher was certified at time of RIF (81: April 3, Casazza) (82: December 20, Howley, aff'd St. Bd. 83:1554)

Academic year: Summer service in position different from academic year position will not count toward tenure or seniority in summer position (85:589, McHugh, rev'd by St. Bd. with opinion 87:2636, aff'd App.Div. unreported opinion (Docket No. A-4243-86T7, A-4617-86T7, decided April 28, 1988))

Academic year vs. calendar year, calculation of annual time

served is identical for purposes of seniority (Schmidt, St. Bd. 82: December 1, aff'd App. Div. 84:2015, published opinion (decided July 30, 1984), certif. denied 99 N.J. 196 (1984), rev'g September 20, 1982) See N.J.A.C. 6:3-1.10(e).

Accord and satisfaction between teacher and board on teacher's entitlement to employment (81: April 6, Scelba)

Acting assistant principal (87:2175, D'Alonzo)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

Actual service in category

Actual service in category (85:675, Bartz, aff'd St. Bd. 85:703, aff'd App. Div. unreported opinion (Docket No. A-1800-85T1, A-1934-85T1, decided January 28, 1987)

Endorsements acquired after hire, must actually have taught (81: August 25, Salierno)

Teaching incidental English as part of a foreign language educational enrichment program is not teaching English for purposes of seniority accrual (84: March 30, Califano)

Additional requirements imposed by Board beyond appropriate certification may not be used to defeat seniority rights (South River, unpub. op., App. Div. (Dkt. No. A-1695-87T8, Apr. 16, 1990), aff'g St. Bd. 87:2724, rev'g 85:1384)

Administrative supervisor and Director of School Operations are not equal; board ordered to reassign petitioner to administrative supervisor (89:2159, Brownlee)

Adult evening school

Full-time tenured staff members in adult evening schools have seniority rights upon reduction in force to the same positions in regular day school programs. (87:1412, Williams, aff'd St. Bd. 87:1430) (88:2129, Williams, dec. on remand 89:118, aff'd St. Bd. 89:126)

Advisory opinions; not binding on Commissioner (80:825, Blitz, aff'd St. Bd. 81: February 4)

Appointment by board prerequisite to acquiring seniority rights (55-56:91)

Art teacher, assigned duties as testing teacher, has seniority in art, Aslanian v. Fort Lee Bd. of Ed., unpublished opinion, App. Div., (Docket No.

A-4745-79-T1, decided March 27, 1981) aff'g St. Bd. 80:1475 rev'g 80: January 4 and 79: October 15) but see N.J.A.C. 6:3-10.1, effective September 1, 1983

Art teacher, junior high, no claim to elementary art position under 1983 regulations (85:93, Hill, aff'd St. Bd. 85:107, aff'd App. Div. unreported opinion (Docket No. A-4355-84T1, decided February 19, 1986))

Art teacher teaching TMR pupils of high school age does not acquire secondary experience (85:478, Principe, aff'd St. Bd. 85:496, rev'd and remanded App. Div. unreported opinion (Docket No. A-384-85T1, decided October 31, 1986))

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

- Art teacher, tenured, secondary, no claim to elementary art position over tenured teacher under 1983 Seniority regulation (85:93, Hill, aff'd St. Bd. 85:107, aff'd App. Div. Docket No. A-4355-84T1, decided February 19, 1986)
- Art teacher with elementary seniority has tenure claim against non-tenured secondary art teacher. Bednar, 221 N.J. Super. 239 (App. Div. 1987) rev'g St. Bd. 86:2993 and Commissioner 85:627, certif. den. 110 N.J. 512 (1988)
- Assistant Director Special Needs/Student Services position had district wide responsibilities with broader supervisory scope then abolished Supervisor of Guidance position; RIF'd Supervisor of Guidance not entitled to Director position (86:1501, Sandri)
- Assistant principal of high school has tenure entitlement to middle school assistant principal position (88:1988, Mirandi, aff'd w/op. St. Bd. 89:3057)
- Assistant principal of high school transferred to position of assistant principal of middle school at time of RIF remains on reemployment list for high school position (85:264, Fallis, aff'd St. Bd. 85:281)
- Assistant principal of junior high school credited with seniority for summer service in assistant high school principal position (85:589, McHugh, rev'd St. Bd. with opinion 87:2636, aff'd App.Div. (Docket No. A-4243-86T7, A-4617-86T7, decided April 28, 1988)
- Assistant principal of middle school found to have seniority as assistant elementary principal (84:1885, Greenberg)
- Assistant Superintendent (89:2901, Kaprow, aff'd St. Bd. 91:2561, aff'd 255 N.J. Super. 76 (App. Div. 1992) cert. granted 130 N.J. 16 (1993), aff'd 131 N.J. 573 (1993)
- Assistant Superintendent, duties of; pupil personnel services and director of pupil personnel services identical; petitioner tenured director, entitled by seniority to assistant superintendent assignment (86: December 11, Figurelli aff'd St. Bd. 87:2607, remanded App. Div. unreported op. Dec. 3, 1987, supplementation of record 88:2458)
- Assistant Superintendent position not substantially

identical to former position held by a RIF'd assistant superintendent. Seniority rights not applicable to new position (87:1523, Cade)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

- Automotive Mechanics Teacher/Automotive Services Teacher:
Automotive Services is a course that is qualitatively different from automotive mechanics. Where a teacher possesses a specific endorsement authorizing the teaching of one subject area, that teacher has no valid seniority claim to other subject matter areas for which a separate endorsement exists (87:11, Tote)
- Basic skills; reading and elementary endorsement held by teacher who taught only remedial reading classes in elementary schools, seniority earned in elementary category (84: January 19, Berl, aff'd St. Bd. 84: September 5)
- Board action may affect tenured and non-tenured teachers (74:488) but non-tenured teachers must be dismissed first (72:606) (75:569, Siderio aff'd St. Bd. 76:1170) (76:601, Kuett)
- Business teacher with temporary certificate in English does not have seniority over non-tenured or tenured English teachers (76:963, Morer)
- Career education (87:1788, Hart III, aff'd in part, rev'd in part St. Bd. 89:3015) See also 86:2254.
- Clerical employee, see "Secretary Staff"
- Common branch subjects: Teachers with elementary endorsement acquire seniority at secondary level in subject taught, e.g. remedial reading (85:1150, Old Bridge Education Assn., aff'd St. Bd. 87:2663)
- Compensatory education; secondary (85:1150, Old Bridge Education Assn., aff'd St. Bd. 87:2663)
- Coordinator of Guidance and Health; position within general supervisor category person's assignment to position within General Elementary Supervisor category improper (83: September 12, Magliozzi)
- Departmentalized 7th and 8th grade teachers with elementary certificates and service prior to September 1983 accrue elementary seniority for all years of service and secondary seniority, limited to subject taught, for all service after September 1, 1983 (84: August 6, In the Matter of the Seniority Rights of Certain Teaching Staff Members, aff'd St. Bd. with opinion 85: January 2, aff'd App. Div. unreported opinion (Docket No. A-2241-84T6, A-2531-84T6, decided June 17, 1986))

(85:830, Kornett) (85: August 8, Krueckeberg)
(86:1239, Rebovich)
Determination of seniority, see "Pre-September, 1983
regulations - vested rights", this section
Director of recreation (81: January 12, Fujarczyk)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

Disability leave, paid or unpaid, before or after child
birth, credit toward seniority (83:1310, Zorfass, aff'd
St. Bd. 84:2048, aff'd App. Div. unreported opinion
(Docket No. A-2792-86T1, decided December 14, 1987))
District-wide seniority of teacher simultaneously employed
at both secondary and elementary level does not entitle
her to secondary level position as against teacher with
greater seniority at secondary level even where
elementary level courses are added to the position
(87:1788, Hart "III", aff'd in part, rev'd in part St.
Bd. 89:3015) See also (86:2254)
Duties performed substantially similar: Seniority rights
secured to petitioner as a tenured educational broker
in the adult evening program would apply to employment
in the same category as a guidance counselor in the day
program pursuant to N.J.S.A. 18A:28-12 and N.J.A.C.
6:3-1.10 (87:1412, Williams, aff'd St. Bd. 87:1430)
(88:2129, Williams, dec. on remand 89:118, aff'd St.
Bd. 89:126)
Driver Education teachers not entitled to teach physical
education even though driver education had been part of
physical education program; regulations require
separate endorsement (86: June 2, In the Matter of the
Seniority Rights of Certain Teaching Staff Members
Employed by Edison Township, aff'd St. Bd. 86:1478)
Elementary category - teaching of departmentalized eighth
grade after effective date of 1983 regulations - no
elementary seniority acquired (86:2774, Sternberg)
Elementary or secondary teachers with greater seniority
than 7th and 8th grade departmentalized teachers have
bumping rights over the 7th and 8th grade teachers
under pre-September, 1983 regulations (83: December
29, Edison Twp. Ed. Assn., aff'd St. Bd. 84:1930, aff'd
App.Div. unreported opinion (Docket No. A-515-84T7,
decided February 26, 1986) (84:1073, Edison Twp. Ed.
Assn., aff'd St. Bd. 84:1085, aff'd App.Div. unreported
opinion (Docket No. A-2030-84T7, decided February 11,
1986) (84: July 2, DeGeronimo, aff'd St. Bd. 85:

January 2, aff'd App. Div. unreported opinion (Docket No. A-2654-84T7, decided May 27, 1986)
Elementary teacher has no seniority entitlement to 7th grade English position. Board could properly consider her for employment but was not obligated to hire her. (85: May 24, Geiling-Hurley, decision on remand 86:952, aff'd in part rev'd in part St. Bd. 86:964, aff'd App. Div. unreported opinion (Docket No. A-1959-86T8, decided October 5, 1987))

ABOLITION OF POSITION -continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

Employment in two categories simultaneously: Individual acquires full year of seniority in each category (84: August 6, In the Matter of the Seniority Rights of Certain Teaching Staff Members, aff'd St. Bd. with opinion 85: January 2, aff'd App. Div. unreported opinion (Docket No. A-2241-84T6, A-2531-84T6, decided June 17, 1986) (85:675, Bartz, aff'd St. Bd. 85:703, aff'd App. Div. unreported opinion (Docket No. A-1800-85T1, A-1934-85T1, decided January 28, 1987))

Experienced family life teacher must be retained to teach full-time assignment over teacher not authorized to teach subject (89:2130, Savarese, aff'd St. Bd. 90:1808)

Family Life Program; board is not compelled to assign employees on a seniority basis within the various disciplines. (85:800, Hart, aff'd St. Bd. 88: December 4, aff'd App. Div. Docket No. A-2176-85T6, decided November 7, 1986)

Family Life program is not a separate category for purposes of seniority (85:800, Hart, aff'd St. Bd. 85: December 4, aff'd App. Div. unreported opinion Docket No. A-2176-85T6, decided November 7, 1986) (85:1150, Old Bridge Education Association, aff'd St. Bd. 87:2663) (89:2130, Savarese, aff'd St. Bd. 90:1808)

Family life program (N.J.S.A. 6:29-7.1), petitioner possessing endorsement in home economics held not entitled to teach inter-disciplinary family life program where board reasonably had determined that majority of program would be taught through health courses (84:894, Johnson)

Full-time and part-time positions

Abolition of two full-time positions and creation of

two equivalent part-time positions: if one of incumbents is tenured, he is entitled to a full-time position unless there is educationally based reason for having two part-time positions. (85: November 8, Valinski, St. Bd. rev'g 85: March 11)

Abolition of two full-time positions: More senior of two tenured teachers is entitled to a full-time position (86:1486, Bartz, aff'd in part, rev'd in part St. Bd. 87:2520)

ABOLITION OF POSITION -continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

Full-time and part-time positions - continued

Board required to reinstate tenured home economics teacher with greater elementary seniority. Absent establishment of K-12 position board must continue bifurcated positions to accommodate seniority rights (86:2254, Hart II, 87:1788, Hart "III", aff'd in part, rev'd in part St. Bd. 89:3015)

Board may abolish two full-time positions and create two part-time positions: Tenured teacher not entitled to full-time employment even where part-time positions are equivalent to more than one full-time position. Klinger v. Bd. of Ed. of Twp. of Cranbury, 190 N.J. Super. 354 (App. Div. 1982), certif. denied, 93 N.J. 277 (1983), aff'g (82: January 6, St. Bd. rev'g 81: January 8); Cf. (84:1955, Linglebach, St. Bd. rev'g 83: June 6) modified App. Div., unpublished opinion (Docket No. A-4783-83T7, May 17, 1985)

Board may not abolish one full-time position and create two part-time positions, the salaries for which are established on an hourly basis (84:1955, Linglebach, St. Bd. rev'g 83: June 6), modified App. Div., unpublished opinion (Docket No. A-4783-83T7, May 14, 1985), certif. denied 101 N.J. 333 (1985)

Calculation of seniority where teacher acquired full-time tenure and was later employed part-time; service counts toward seniority on pro-rata basis (82: July 1, South Brunswick, aff'd St. Bd. 83: May 4)

Full-time tenured teacher's position was eliminated in a RIF and she accepted reassignment to a part-time position, school district was required to compensate her on a prorated basis of 1/6 of full time salary for every period taught rather than at an hourly rate prescribed in the collective bargaining agreement for part-time teachers. Bassett v. Oakland Board of Education, 84: March 19, aff'd St. Bd. with opinion 87:2528, aff'd 223 N.J. Super. 136 (App. Div. 1988)

Full-time position abolished; offer of part-time
position does not violate seniority rights (80:
February 20, Bick, motion to vacate denied 80:
March 19, aff'd St. Bd. 80: September 3)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

Full-time and part-time positions - continued

- Full-time position abolished; refusal to accept part-time position does not constitute waiver of seniority rights (79:232, Boguszewski) (80:272, Vexler)
- High school assistant principal has no seniority rights to junior high assistant principal position (85: April 1, Mirandi)
- Librarian RIF'd from part-time position had seniority right to vacancy in full-time position where duties were identical, Lichtman v. Ridgewood Bd. of Ed., 93 N.J. 362 (1983) rev'g App. Div. 83:1588, aff'g (80:585, St. Bd. rev'g 80:573)
- Part-time employment (80:866, Berkowicz)
- Part-time employment prior to obtaining certification will not be credited toward seniority (83: August 22, Marty)
- Part-time position abolished; no rights to full-time position, Aslanian v. Fort Lee Bd. of Ed., unpublished opinion, App. Div., (Docket No. A-4745-79-T1, decided March 27, 1981) aff'g St. Bd. 80:1475, rev'g 80: January 4 and 79: October 15) but see Lichtman, 93 N.J. 362, (1983) rev'g App. Div. 83:1588, aff'g (80:585, St. Bd. rev'g 80:573)
- Part-time position, 15 hours a week; tenured teacher's assignment to 9 hour a week position improper, entitled to similar 24 hour a week position held by untenured teacher (83: September 2, Von Schalscha)
- Part-time service must receive pro-rated full-time credit on seniority list in light of Lichtman (83: September 1, James) (84:1531, South River)
- Part-time service, no entitlement to full-time position (80: March 23, Faro)
- Part-time teacher with more years of service than full-time teacher, not entitled to full-time position, Zubkoff v. Madison Bd. of Ed., unpublished opinion, App. Div., (Docket No. A-4506-79, decided March 27, 1981); (ALJ dec. August 14, 1979, unpublished opinion; St. Bd. dec. 80: July 2)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

Full-time and part-time positions - continued

Part-time tenured remedial reading teacher with elementary and reading endorsements, position abolished, held, teacher employed under elementary endorsement and entitled to part-time position in elementary category (84: January 19, Berl, aff'd St. Bd. 84: September 5)

Person whose full-time position abolished must be offered part-time position (77:625, Vexler) (77:1033, Outslay)

Teacher with tenure in a part-time position may assert seniority rights to a position held by a full-time non-tenured teacher following a RIF (83: April 7, Greiner, aff'd St. Bd. 84: September 5) (83: October 26, Tietjen, St. Bd. rev'g 83: June 3) (83: November 7, Raffaele)

Handicapped - holder of teacher of handicapped endorsement who was sole math instructor for secondary level special education students and taught all subjects to another student acquires seniority as teacher of the handicapped, secondary level; teachers who provide only supplemental instruction to classified students do not accrue seniority as teacher of the handicapped. (86:2774, Sternberg)

Health teacher not entitled to school nurse position (80: April 7, Cyphers)

Home economics teacher possessing endorsement in home economics alone, does not have seniority in categories for which she does not have the required endorsement (83:595, Werner-Chamberlin) (84:894, Johnson)

Isolated Classroom Environment position eliminated; board improperly assigned teacher to substitute teacher; tenure and seniority entitlement to Social Studies position (89: August 22, Merlino)

Job success orientation teacher in vo-tech school; seniority earned as both teacher/coordinator for consumer education and family living or distributive education teacher/coordinator (84: January 12, German, aff'd with opinion St. Bd. 84: August 8)

Learning disabilities teacher does not have seniority as reading specialist (80:158, Ebel, remanded to St. Bd. Legal Cmte. 80:171)

Learning disabilities teacher with elementary certificate
but no elementary experience does not have seniority in
elementary category (78:534, Berkhout)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

- Leave of absence; tenured employee on approved leave must be offered position upon his return: cannot be terminated before less senior employees (81: May 21, Philbin)
- Librarian cannot accrue seniority as teacher without actual experience (84:1425, Walton, aff'd St. Bd. 85:2027)
- Librarian; bumping school librarian to English teacher position held improper, entitled to remaining librarian position (83: May 3, Neidhardt)
- Military service, pre-1985, does not count toward seniority unless teacher employed by board prior to such service. Post 1985, all military service, regardless of when it occurred, allowed up to four years (84:933, Corrado, aff'd with modification St. Bd. 85:1890 and 85:1896, aff'd App. Div. unreported opinion (Docket No. A-3663-84T7, decided June 27, 1986)) But see P.L. 1985, c. 217 (N.J.S.A. 18A:28-12; prospective application of Corrado) (83:1099, Meyer, rev'd St. Bd. 86:3094, aff'd App. Div. unreported opinion (Docket No. A-3175-85T6, decided September 24, 1987) [RIF occurred prior to Corrado]) (85:457, Marshall, rev'd St. Bd. 86:3087, aff'd App. Div. Docket No. A-2595-85T1, March 10, 1987) (but see P.L. 1985, c. 217)
- Music teachers; "vocal" and "instrumental" music constitute single category and seniority is basis for determining which teacher entitled to full-time over part-time position (75:737, Popovich) (81: September 9, Weir)
- Must have actually served in category for which seniority is claimed; mere certification is not sufficient (61-62:98) (61-62:118) (72:274)
- Nurse, full-time to part-time (76:672, Roe aff'd St. Bd. 76:676) (77:823, Wilson) (77:1033, Outsley) (77:1047, Scrupski rev'g 76: March 24)
- "Vocational Teacher of Nurses' Aides", not included within nurse category (74:1095, aff'd St. Bd. 75:1160, aff'd App. Div. 76:1170)
- Physical education, full-time to part-time (76:672, Roe, aff'd St. Bd. 76:676)
- Physical education; physical education teacher with service at secondary level entitled to elementary position held by non-tenured teacher, even though he had no rights to elementary position under seniority regulations; tenure rights are not limited by grade level. (86:3010,

Capodilupo, St. Bd. rev'g 85:554, aff'd 218 N.J. Super.
510 (App. Div. 1987) certif. denied 109 N.J. 514
(1987))

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

- Physical education: RIF upheld; teachers failed to prove seniority entitlement (89:2461, Parker, rev'd St. Bd. 90:1778)
- Physical education; teacher with service at secondary level only does not receive district-wide seniority (86:2466, Nosnitsky)
- Previous positions
 - Rights in former category arise only if no full-time employment in present category (81: November 13, East Brunswick)
 - Vice principal who voluntarily relinquished principal position has seniority rights as principal when vice principal position abolished (80:943, Gincel, aff'd St. Bd. 80:953, aff'd App. Div. 82:1503)
- Principal has no right to a coordinator position (84: November 5, George)
- Principal; middle school considered extension of elementary program, district did not seek approval of middle school as secondary school nor are they classified as secondary schools under N.J.A.C. 6:27-1.2; principal of middle school earned seniority as elementary administrator and may be assigned as vice principal of elementary school (83: June 9, Lynch) (85: February 6, Novak, aff'd St. Bd. 85: June 5)
- Reading coordinator position abolished, teacher held to have seniority rights to reading teacher position over third grade teaching position (71:277)
- Reading Specialist seniority accrues from the time endorsement and/or certification obtained (88:757, Arnold and Pappas, aff'd St. Bd. 88:777, aff'd App. Div. unreported op. (Dkt. No. A-2417-88T5, Oct. 30, 1989))
- Recognition of program
 - Board not required to retain full-time position with community and adult education duties: assignment of adult education duties to superintendent and creation of part-time hourly community education position held proper (84:1832, Polaha, dismissed by St. Bd. 85:1982, rev'd in part, remanded 212 N.J. Super. 628 (App. Div. 1986) on remand Commissioner opinion (reinstated Comm. opinion 84:1832) 86: November 20, rev'd by St. Bd. with

opinion 88:2517, aff'd App. Div. unreported op.
(Dkt. No. A-3799-87T8, June 22, 1989))

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

RIF'd Science supervisor has tenure claim to supervisor of special services position (89:2148, Herbert, aff'd St. Bd. 90:1759, aff'd App. Div. unpublished op. (Dkt. No. A-318-90T1, May 22, 1991))

Science, board may require comprehensive science certificate (77:1040, Van Os)

Secondary category - although adult high school is not specified as a seniority category, service in that area would fall under the "secondary" seniority category since the curriculum leads to a high school diploma. (87:1412, Williams, aff'd St. Bd. 87:1430) (88:2129, Williams, dec. on remand 89:118, aff'd St. Bd. 89:126)

Secondary category - teacher with elementary endorsement teaching compensatory math and reading at secondary level acquires secondary seniority in these subjects (86:2774, Sternberg)

Secretarial studies endorsement does not entitle holder to teach distributive education (86:1688, Caron, aff'd St. Bd. 86:1698, aff'd App. Div. unreported opinion (Docket No. A-2183-86T7, decided October 26, 1987))

Secretary staff, seniority rights (80: March 24, Booth) (81: August 18, Kigerl, aff'd St. Bd. 81: December 2) (83:96, Mackey), but seniority rights may be proper subject for collective negotiations, (81: August 18, Kigerl, aff'd St. Bd. 81: December 2) (83: April 13, Ramage, aff'd St. Bd. 84: January 4) (84: July 23, Lavine, aff'd St. Bd. 84: December 5) (85: April 22, Golden)

Entitled to part-time position: non-tenured individual was performing regular, not substitute or temporary employment (85: April 22, Golden)

Tenured clerical staff, entitled to employment over non-tenured staff (83: September 16, Jacobsen, aff'd St. Bd. 84: February 1)

Tenured secretarial staff; RIF'd tenured ten-month secretary entitled to employment over non-tenured twelve-month secretary (76:995, Sheridan) (83: March 31, Kerris)

Seniority regulations under N.J.A.C. 6:3-1.10 effective September 1, 1983 (see also "Pre-September, 1983 regulations - vested rights", this section)

Application

Inapplicable to controversy which arose prior to
the effective date (83:1004,
Rudolph-Nachtman, rev'd St. Bd. 84:2009)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

Seniority Requirements:

Notice: Board required to notify employee of categories in which he has seniority rights before it abolishes the position. 81: December 16, Bechtel

Service in subsequent category "tacks" onto years service in prior category for seniority purposes (80:595 Fitzpatrick, aff'd St. Bd. 81: March 4) aff'd in part, rev'd in part, App. Div., unpublished opinion (Docket No. A-3278-80T3, June 16, 1982) on remand, (82: September 8)

Seventh and eighth grade science positions: elementary teacher with 10 years service displaces science teacher with less service (81: October 5, Jarrett)

Social Worker

Duties of bilingual social worker were same as those of social worker. Approval by superintendent of unrecognized job title did not alter the seniority regulations: staff member with the most seniority as a social worker is entitled to the position. Fluency in Spanish enhanced effectiveness, but in the absence of endorsement establishing that it is necessary to have qualifications different from those required to provide social work services, the proper classification is school social worker. (85:618, Johnson, aff'd St. Bd. 87:2613)

Spanish teacher eligible for English certificate at beginning of next school year has no seniority in English (78:792, Freitag)

Special subject field endorsement (85: August 8, Krueckeberg)

Speech teacher, also certified as teacher of the handicapped, has seniority only in speech (78: November 28, Archibald)

Speech teacher, reduced to part-time position, program desirable, not required (83: June 1, Hering, aff'd St. Bd. 83: November 2)

Supervisors/Administrators

In general (85: September 27, Brownlee)
Administrative intern; service as such does not count toward seniority as vice-principal (85: October 15, Capatato)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

Supervisors/Administrators - continued

Assistant junior high school principal employed on 12 month basis and assigned to serve in summer session as assistant high school principal acquires seniority as assistant high school principal and right to such position over non-tenured applicant (85:589, McHugh, rev'd by St. Bd. with opinion 87:2636, aff'd App. Div. unreported opinion (Docket No. A-4243-86T7, A-4617-86T7, decided April 28, 1988)

Assistant Superintendent positions with different responsibilities are separate categories (81: December 16, Bechtel)

Director of Art not entitled to placement on preferred eligibility list for Director of Fine Arts; duties of positions different although same certification required (85:976, Frissell)

Director of guidance and director of guidance/vocational education are not the same for seniority purposes (85: March 4, De Carlo, aff'd St. Bd. 85: September 4)

Director of guidance, high school position which requires an educational services certificate, is a separate supervisory category, distinct from Director of Guidance in junior high (85:1734, Turner)

Director of guidance; position abolished, assignment of certain responsibilities to principal held proper (83:758, Cinnaminson, aff'd St. Bd. 84:1915)

Director of guidance, who held director of student-personnel services endorsement, was transferred inter-categorically to department chairperson of guidance, essentially performing same job, and could not be reduced in compensation (83:580, Sorensen, aff'd St. Bd. with opinion 85:2015)

Duties of one supervisory position held identical for purposes of seniority to newly created supervisory position (85:299, Christie)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

Supervisors/Administrators - continued

General supervisor; person with seniority in this category must also have actual supervisory experience in the subject area in which preferred eligibility is claimed (84:1932, Flanagan, St. Bd. on remand), prior decisions: 80:1283, aff'd St. Bd. 81: December 2, aff'd App. Div. 83:1548, remanded 94 N.J. 551 (1983), remanded App. Div. August 31, 1983); (83:1373, Deutsch, aff'd St. Bd. 85:1902) (85: February 6, DiNardo, St. Bd. on remand, prior decisions: February 18, 1983, aff'd St. Bd. June 1, 1983, remanded App. Div. A-5388-82T3, unpublished February 5, 1983) (83:1004, Rudolph-Nachtman, rev'g St. Bd. 84:2009)

General supervisor does not acquire tenure or seniority as vice principal where supervisor, not principal, endorsement required (88:1796, DeCarlo)

Position of district wide supervisor and department chairperson/supervisor deemed "substantially identical" (89:2878, Sahaqian)

RIF'd position determined to be within, assignment to position within another category improper (83: September 12, Magliozzi) (84: January 12, Lucia)

RIF'd tenured supervisor of science has tenure claim to supervisor of special services position (89:2148, Herbert, aff'd St. Bd. 90:1759, aff'd App. Div. unpub. op. (Dkt. No. A-318-90T1; May 22, 1991)

Subject supervisor

Board may reduce position of teacher and assign classes to supervisor (82: February 22, Huff, aff'd St. Bd. 82: July 7, aff'd App. Div. 83:1555, certif. denied 96 N.J. 284 (1984)) (83: November 1, Silva)

Seniority confers rights only in specific subject, description required such supervisors to possess subject matter expertise (83: July 5, Eagan, aff'd St. Bd. 83: November 2); seniority rights generally in subject category of supervision (83: August 29, Assarsson, aff'd St. Bd. 84:

January 4)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

Supervisors/Administrators - continued

Subject supervisor - continued

- Where position of Supervisor/Physical Education and Health/Athletic Director formerly held by the petitioner had different duties from the new position of Vice Principal/Supervisor of Physical Education, petitioner had no claim to new position because he had neither served nor acquired tenure in the new position, the mere inclusion of some of petitioner's former duties in new position does not entitle petitioner to new position (87:23, Miller)
- Supervisor of Curriculum and Instruction; RIF'd Director of Student Personnel Services entitled to Supervisor position, both found to be within General Supervisor category (84: January 12, Lucia)
- Supplemental teacher is not separate seniority category; supplemental service must be credited in accordance with existing regulations, teacher's instructional certificate and category in which teacher served, but State Board declines to specify categories to which service should be credited prior to RIF (87:2758, West Orange, St. Bd. aff'g in part, rev'g in part 84: September 4, aff'd App. Div. unpublished op. (Dkt. No. A-5792-86T8, Nov. 1, 1988)) See also (88:2753, St. Bd. aff'g 84: September 4)
- Teacher of the handicapped with elementary certificate does not have seniority in elementary category (78:558, Dullea, aff'd St. Bd. 78:563, aff'd App. Div. 79:823) (84:1202)
- Teacher-librarian, also eligible to teach common branch subjects of reading, writing, arithmetic and spelling (77:346, Polaski)
- Teacher with appropriate certification who taught nine years of driver education and one year of health acquired ten years of seniority in each subject area (83: May 18, Ellis, aff'd with opinion St. Bd. 84: May 2) NOTE: but see revised seniority regulations contained in N.J.A.C. 6:3-5.1, formerly 6:3-1.10, operative September 1, 1983.
- Title I and supplemental teachers entitled to same method of calculation of seniority as other teachers (84:1202,

Gundlah) (84:1531, South River)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Categories - continued

- Unrecognized job title, seniority entitlement to (81: February 20, Kutawski, aff'd St. Bd. 81: June 3) (85:1734, Turner) (87:1057, De Gise, aff'd St. Bd. 87:1063, aff'd unpublished op. App. Div. (Dkt. No. A-694-87T7, December 15, 1988))
- Unrecognized job title, approval by county superintendent does not alter Seniority Regulations. Duties of bilingual social worker and school social worker were the same; fluency in Spanish enhanced effectiveness, but in absence of endorsement establishing requirement that qualification must be different from those required to provide social worker services, the proper classification is School Social Worker. (85:618, Johnson, aff'd St. Bd. 87:2613) See N.J.A.C. 6:3-1.10(g).
- Vacant position must exist in special subject area for entitlement under seniority rules (86:2254, Hart "II") (See also 87:1788, aff'd in part, rev'd in part St. Bd. 89:3015)
- Vice principal, each a separate category, explained (54-55:83 - overturned by 1962 amendment to tenure statute) (59-60:68)
- Vice principal, each a separate category, school with grades 6-8, designated secondary, elementary vice principal is not entitled to junior high vice principal position (85:1721, Furbeck)
- Vice principal, of middle school containing grades 6, 7 and 8, placed in elementary vice principal category (81: October 2, Cohen, aff'd St. Bd. 82: February 3)
- Vice principal: petitioner by virtue of placement on preferred eligibility list, had right to automatic reemployment in accordance with his seniority (87:1, Villarin)
- Vice principal's position abolished, bumped to classroom teacher (86:1699, Rufalo)
- Vocational:
 - Business (85:675, Bartz, aff'd St. Bd. 85:703, aff'd App. Div. unreported opinion (Docket No. A-1800-85T1, A-1934-85T1, decided January 28, 1987))
 - Skilled trade endorsement; holder entitled to teach only the course for which certification requested (86:514, Ryan, aff'd St. Bd. 86:526, aff'd App.

Div. unreported opinion (Docket No. A-5172-85T6,
decided April 7, 1987))
Vocational trade and industrial teacher coordinator (83:
August 1, Davis)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Causes of Action: Although original cause of action was the calculation of seniority and failure to place on preferred eligibility list, a new cause of action accrued when the board appointed another with less seniority to the full time position (86:2191, Ackerman)

Certification

Additional requirements imposed by board beyond appropriate certification may not be used to defeat seniority rights (South River, unpub. op. App. Div. (Dkt. No. A-1695-87T8, April 16, 1990), aff'g 87:2724, rev'g 85:1384)

Basis for granting and effect on preferred eligibility list (85:1150, Old Bridge Education Assn., aff'd St. Bd. 87:2663)

Board may impose greater requirements for a position than minimum under State Board certification standards if they are reasonable and are not contrary to any statute or regulation (83: July 5, Eagan, aff'd St. Bd. 83: November 2) (83:1039, Teaneck); see (84:86, Tirico), such requirements must be formally adopted by board, not administratively imposed.

Certification and endorsement distinguished (82: December 20, Howley, aff'd St. Bd. 83:1554)

Certification is not the sole criteria for determining entitlement to position, must be substantial identity between duties of former position and position sought on basis of seniority (83:1004, Rudolph-Nachtman, rev'd St. Bd. 84:2009)

Date of eligibility for certificate is date from which tenure and seniority rights are calculated (86:1, Nangle)

Date that certificate was issued is date from which seniority is counted (87:2156, Pezzullo II)

Determination of whether certification appropriate for position, ALJ examined course description and functions of program (84: January 12, German, aff'd with opinion St. Bd. 84: August 8) (85:635, Rogan) (87:11, Tote)

District, service within

Physical education teacher who taught only grades 1-6

in former K-12 district, now K-8, has no seniority right to physical education position in new regional secondary district which includes grades 9-12 from former district (83: May 17, Kunkel, aff'd St. Bd. 84: September 5)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Certification - continued

District, service within - continued

Science supervisor in former K-12 district has no seniority right to science supervisor position in newly formed regional secondary district but retains right to teaching position (83: May 17, Kunkel, aff'd St. Bd. 84: September 5)

Dual certification or endorsements

Departmental instruction in 7th and 8th grade, pre-September 1983 regulations: elementary teacher, possessing secondary certification, who taught 7th and 8th grade English classified as elementary by the board, is entitled to have service tacked on to previous service as a high school English teacher. Trimboli v. Bd. of Ed. of Hazlet, 84: September 14, aff'd St. Bd. 85: February 6, rev'd App. Div. unreported opinion (Docket No. A-2875-84T7, decided March 13, 1986))

Dual categories: teacher must teach in category to acquire entitlement to position (81: July 9, Friedman) (83: April 7, Greiner, aff'd St. Bd. 84: September 5) (84:241, Myhren, aff'd St. Bd. 84:268)

Dual endorsements (seniority regulations prior to September 1, 1983): seniority acquired in all subjects for which endorsement held at time of RIF (Mulhearn v. Sterling Reg. Bd. of Ed., App. Div. 83:1599) rev'g (82: February 2, aff'd St. Bd. 82: June 2) (85: March 4, North Bergen, aff'd St. Bd. 85: July 3) But see, additional endorsements must be held prior to acquisition of tenure (84: July 30, Califano, on remand from 84: March 30) NOTE: Earlier decisions held that seniority was acquired only in subjects in which endorsements were held at time of hire (81: July 6, Friedman) (81: August 5, Salierno)

Requirement of actual service needed to acquire seniority under an additional endorsement is satisfied where tenured teacher served part of one year in additional area (85:788, Walliczek)

Secondary seniority as English Teacher found where 7th and 8th grade programs found to be departmentalized. Commissioner's finding to the

contrary lacked evidentiary support (84: September 14, Trimboli, aff'd St. Bd. 85: February 6, rev'd App. Div. (Docket No. A-2875-84T7) decided March 13, 1986)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Certification - continued

Educational services certificate and special subject field endorsements - holders who are transferred between elementary and secondary category do not acquire district-wide seniority for all time served (84: August 6, In the Matter of the Seniority Rights of Certain Teaching Staff Members, aff'd St. Bd. with opinion 85: January 2, aff'd App. Div. unreported opinion (Docket No. A-2241-84T6, A-2531-84T6, decided June 17, 1986)

Educational services certificate and special subject field endorsements - possession of certificate/endorsement with K-12 designation, coupled with service in secondary grades only, yields secondary seniority only (85: December 12, Peterson, aff'd St. Bd. 87: February 4)

tenure Educational services certificate required for purposes and seniority accrual (84:922, King) (87:2338, Hughes, aff'd St. Bd. 88:2467, aff'd App. Div. unreported op. (Dkt. No. A-4558-87T1, June 20, 1989))

Educational services certificate - social worker; bilingual social worker is not a special endorsement (85:618, Johnson, aff'd St. Bd. 87:2613)

Elementary endorsement entitled RIF'd tenured teacher to half-time music or physical education position over non-tenured personnel with endorsements in those subjects (83:847, Freeman)

Eligibility for certification sufficient; subsequent requirement of teacher-coordinator certificate did not negate acquisition of tenure (83: June 30, Hausser)

Endorsements

Endorsement on instructional certificate is not the sole criterion for entitlement to position; duties performed control determination of tenure and seniority rights (86:748, Gordon)

No entitlement to position of Automotive Services teacher where endorsement was for Automotive Mechanics (87:11, Tote)

Entitled to seniority credit for first 30 days of unpaid maternity leave (87:2562, Cohen, St. Bd. rev'g 85:1344, aff'd 225 N.J. Super. 316 (App. Div. 1988))

Entitled to seniority credit for nine unused sick days applied to maternity leave. Cohen v. Emerson Bd. of Ed., 87:2562, St. Bd. rev'g 88:1344, aff'd 225 N.J. Super. 324 (App. Div. 1988)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Certification - continued

- History/Government endorsement appropriate for Isolated Classroom Environment/In School Suspension position (89: August 22, Merlino)
- Improper assignment of tenured vocational mathematics teacher by board cannot result in loss of seniority (82: October 29, Proebstle)
- Improper certification; effect on rehiring (80: February 20, Bick, aff'd St. Bd. 80: September 3)
- New position acquired after RIF; seniority will not accrue in all subject area endorsements on teacher's certificate since new position requires no endorsement other than the one under which teacher already served. (88:107, Data-Samtak, aff'd St. Bd. 88:123)
- No seniority without proper certification (80:825, Blitz, aff'd St. Bd. 81: February 4) (85: March 4, North Bergen, aff'd St. Bd. 85: July 3) (87:2338, Hughes, aff'd St. Bd. 88:2467, aff'd App. Div. unreported op. (Dkt. No. A-4558-87T1, June 20, 1989))
- Not entitled to secondary school seniority credit for work performed for parochial school students (87:2562, Cohen, St. Bd. rev'g 85:1344, aff'd 225 N.J. Super. 316 (App. Div. 1988))
- Position must require certification in job description or seniority credit does not accumulate (83:847, Freeman)
- Positions encompassed by certificate determined by regulations in effect at time certificate issued (86:106, Hudson County Vo-Tech Educational Assn., aff'd St. Bd. 86:116)
- Production, personal or service occupations endorsement entitles holder to teach only occupation listed on certificate (86:106, Hudson County Vo-Tech Educational Assn., aff'd St. Bd. 86:116)
- Reading Specialist Certificate (educational services certificate); teacher possessing reading specialist certificate qualifies for a reading teacher endorsement; hence petitioner is qualified to teach reading in the compensatory education program. 84:2018, Schmidt v. Bd. of Ed. of Weehawkin, published opinion App. Div. (Docket No. A-4842-82T5, decided February 1, 1984) rev'g and remanding (83:1633, St. Bd. aff'g 82: August 19), decision on remand (84:593)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Certification - continued

Reorganization of K-12 district to K-8 with 5-8 middle school, district may require new teachers to possess elementary certificates; tenured teachers with secondary certification having taught 7th and 8th grade in high school (7-12) have seniority rights to openings in middle school with modified self-contained format (83: June 8, Platukis, aff'd St. Bd. 84: February 1)

RIF'd individual on a preferred eligibility list is "qualified" under N.J.S.A. 18A:28-12 if holds the appropriate certification; no additional qualifications may be imposed (89:1053, Bodine, aff'd St. Bd. 89:1064, with opinion)

Service in unrecognized title which had not been approved by county superintendent, teacher will acquire tenure and seniority in one or more areas of certification depending upon job duties (82: July 1, South Brunswick, aff'd St. Bd. 83: May 4)

Service in subsequent category "tacks" onto years service in prior category for seniority purposes (80:595 Fitzpatrick, aff'd St. Bd. 81: March 4) aff'd in part, rev'd in part, App. Div., unpublished opinion (Docket No. A-3278-80T3, June 16, 1982) on remand, (82: September 8)

Subject area endorsement:

Course either requires subject endorsement or it does not: settlement rejected where it created possibility that same course taught by another in the future could require endorsement different than petitioner's. Remanded. (88: March 31, Chanda)

Holder acquires seniority in all subjects listed on endorsement, not just those actually taught (85:1, Camilli, aff'd St. Bd. 85:9)

Physical science endorsement includes chemistry, which petitioner taught and physics, in which petitioner claimed seniority. See (85:675, Bartz, aff'd St. Bd. 85:703, aff'd App. Div. unreported opinion Docket No. A-1800-85T1, A-1934-85T1, decided January 28, 1987)

Unrecognized job title, duties performed rather than title determine seniority (85:1734, Turner) (87:1412, Williams, aff'd St. Bd. 87:1430) (88:2129, Williams,

dec. on remand 89:118, aff'd St. Bd. 89:126)
Unrecognized job title, service for less than 1 year,
where position abolished no remedy as regards that
position (84: January 12, Lucia)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Certification - continued

Unrecognized job title: scope and nature of duties of
"Coordination of the Alternative School" were
sufficiently "principal-like" to require higher level
certification of principal rather than supervisor.
(87:2156, Pezzullo II)

Unrecognized title, certification and endorsement for LDTC,
seniority accrued (84:881, Furst, aff'd St. Bd. 84:892)
Voluntary, unpaid leaves of absence do not count toward
seniority (80:866, Berkowicz)

Due process hearing is not required prior to a bona fide
reduction in force (85:130, Schwarzkopf)

Expiration of one year acting position is not a reduction in
force that will trigger seniority rights in category
(87:2175, D'Alonzo)

Maternity leave; does not accrue toward seniority (81:
January 9, Comaskey, aff'd St. Bd. 81: May 6)

No entitlement to newly created position of administrative
assistant after abolition of guidance director position
where new position entailed greater and additional
responsibilities, Jablonski v. Bd. of Ed. of Emerson,
unpublished opinion, App. Div. (Docket No. A-6100-82T2,
decided March 6, 1984), aff'g (83: April 18, aff'd St. Bd.
83: July 6) Cf. (83: August 29, Assarsson, aff'd St. Bd.
84: January 4) (reorganization failed); (84:854,
Santarsiero, aff'd St. Bd. 84:880) (reorganization
successful)

No entitlement to position of assistant superintendent or
personnel specialist where position abolished was
administrative assistant to superintendent (83: April 26,
Heyman, aff'd St. Bd. 83: October 5)

No entitlement: assistant superintendent not entitled to
newly created position of assistant superintendent because
the new position was not "substantially identical" to the
one that was abolished (87:1523, Cade)

Offer of alternative employment, refusal to accept (80:
October 27, Effron)

One of several guidance positions abolished: assignment to

remaining positions must be placed on seniority (81: March 23, Horun, aff'd 82: February 3, aff'd unpublished opinion, App. Div. (Docket No. A-2743-81T2, May 26, 1983), certif. denied 96 N.J. 287 (1984))

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Parochial school, speech correctionist does not accrue secondary seniority where she provides services to 6th, 7th, and 8th grade parochial school students who receive departmentalized instruction. Classification of services is based upon the school in which the teacher is located and in which services are rendered, not the parochial school. (87:2562, Cohen, St. Bd. rev'g 85:1344, aff'd 225 N.J. Super. 324 (App. Div. 1988))

Parochial school, speech correctionist is entitled to seniority for time spent in non-public school as part of district's remedial program but receives credit only for that portion of the board's academic year during which she was employed at parochial school (87:2562, Cohen, St. Bd. rev'g 85:1344, aff'd 225 N.J. Super. 324 (App. Div. 1988))

Part-Time positions - reduction in hours of employment: Held, petitioner with greatest seniority entitled to full-time position (86:2191, Ackerman)

Permanent substitute filling vacant position for six months, recognized as teaching staff member (85:1329, Ujhely)

Preferred eligibility list

Board may not allow position to remain vacant and unabolished while eligible person is on list (82: January 22, Rooney, aff'd St. Bd. 82: July 7, aff'd and remanded, unpublished opinion, App. Div. (Docket No. A-5809-81T2, decided February 23, 1984))

Board must assign tenured employee to previously held position in which she had tenure (74:805)

Board must draft according to statute and regulations (81: August 25, Salierno)

Board required to provide notice to entitled tenure staff of vacancies before considering non-tenured staff members (Schienholz, App. Div. unpub. op. (Dkt. No. A-2905-89T3, Nov. 19, 1990, aff'd 90:1809, St. Bd. rev'g in part 89:1860 Commr., certification denied Mar. 7, 1991))

Board must prepare (50-51:68) (61-62:51) (61-62:98) (72:274) (76:601, Kuett) (77:1204, Point Pleasant Beach) (85:830, Kornett)

Employee remains on list following transfer to another position at time of RIF (85:264, Fallis, aff'd St. Bd. 85:281)

Nature and extent of tenure must be determined (82: October 27, Belmar, remanded to ALJ)

No statutory time limit on individual's preferred

eligibility (89:1053, Bodine, aff'd St. Bd. 89:1064 w/op.)
Notice to employee of status required (81: August 25, Salierno)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Preferred eligibility list - continued

Resignation from position, not district, did not remove petitioner from preferred eligibility list.
(Schienholz, App. Div. unpub. op. (Dkt. No. A-2905-89T3, Nov. 19, 1990) aff'd 90:1809, St. Bd. rev'd in part 89:1860 Commr., certification denied Mar. 7, 1991)

Pre-September, 1983 regulations - vested rights

Art teacher RIF'd pre-September 1983 and rehired:
continues to accrue seniority in old teacher of art category (85: January 28, Felper)

No vested rights if not RIF'd before September, 1983
(85:1, Camilli, aff'd St. Bd. 85:9) (85:93, Hill, aff'd St. Bd. 85:107, aff'd App. Div. unreported opinion (Docket No. A-4355-84T1, decided February 19, 1986)) (85:478, Principe, aff'd St. Bd. 85:496, rev'd and remanded App. Div. unreported opinion (Docket No. A-384-85T1 decided October 31, 1986)) (85: December 12, Peterson, aff'd St. Bd. 87: February 4) (Bednar v. Westwood Bd. of Ed., 221 N.J. Super. 239 (App. Div. 1987) rev'g St. Bd. 86:2993 and Commissioner 85:627, certif. den. 110 N.J. 512 (1988)) (85: August 19, Blinderman, aff'd St. Bd. 85: December 4, aff'd App. Div. unreported opinion (Docket No. A-2272-85T7, decided October 8, 1986))

No vested rights to seniority determination made prior to September 1983 under any circumstances, pursuant to regulations in effect decision of Commissioner in 85: January 28, Felper, overruled 87:2562, Cohen, St. Bd. rev'g 85:1344, aff'd 225 N.J. Super. 324 (App. Div. 1988) (87:2706, Small, St. Bd. rev'g 86:1931)

RIF occurred prior to September 1, 1983, vacancy arose after effective date of new regulations, seniority determined by old regulations (84: July 2, DeGeronimo, aff'd St. Bd. 85: January 2, aff'd App. Div. unreported opinion (Docket No. A-2654-84T7, decided May 27, 1986))

RIF occurred prior to September 1, 1983, vacancy arose after September 1, 1983, seniority determined by new regulations (84:1073, Edison Twp. Ed. Assn., aff'd St. Bd. 84:1085, aff'd App.Div. unreported opinion (Docket

No. A-2030-84T7, decided February 11, 1986) see also:
(83: December 29, Edison Twp., aff'd St. Bd. 84:1085,
aff'd App. Div. unreported opinion (Docket No.
A-515-84T7, decided February 26, 1986) (85: May 24,
Geiling-Hurley, decision on remand 86:952, aff'd in
part rev'd in part St Bd. 86:964, aff'd App. Div.
unreported opinion (Docket No. A-1959-86T8, decided
October 5, 1987))

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Pre-September, 1983 regulations - vested regulations - continued

Seniority earned as the result of a RIF which occurred
prior to September 1, 1983 continues in effect
following reinstatement, and must be credited in
accordance with old seniority regulations in the event
of a second RIF which occurs after September 1, 1983.
(86:1776, Panarotto, rev'd St. Bd. 88:2505, aff'd App.
Div. unreported op. (Dkt. No. A-4369-87T2, May 22,
1989)) See also Cohen, 225 N.J. Super. 324 (App. Div.
1988) (86:2580, Harcar)

Primary school principal (83:1090, Schifano)

Principal of elementary school: seniority accrued as
elementary principal, not "primary school principal" as
negotiated in agreement (83:1090, Schifano)

Principal of middle school (elementary) to vice principal
(secondary), bumping vice principal upheld (82: December
20, Howley, aff'd St. Bd. 83:1554)

Principal with pre-1969 secondary endorsement eligible to serve
in middle school having both elementary and secondary grades
(e.g., 6-7-8), however, seniority is as secondary principal
only (83:248, Liggett, remanded by Commissioner, decision on
remand 83: September 22)

Provisional certificate; counts toward seniority once standard
certificate is obtained (80: March 17, Trowbridge)

Reduction from 12 months to 10 months of school psychologist
position and initiation of child study team program proper
where financed by funds not allocable for salaries (82: May
24, Bridgeton, aff'd St. Bd. 82: October 6)

Reduction from 12 to 11 month position must be accomplished
according to seniority (82: June 1, Glassboro)

Reduction from 12 to 10 month position is not reduction from
full-time to part-time (81: November 13, East Brunswick)

Reduction from 12 to 10 month position to achieve economies due
to declining enrollment (83:758, Cinnaminson, aff'd St. Bd.
84:1915)

Reduction in salary, where position abolished and person lawfully transferred to lower paying position, no reduction in salary under tenure laws (50-51:44) (60-61:167) (70:176) (73:704 remanded 74:1416 on remand 75:644 aff'd St. Bd. 76:1158) (78:784, Ross) (79:598, Metzger) (80: April 21, Okin) (81: August 18, Kigerl, aff'd St. Bd. 81: December 2) (81: October 13, Sanders, aff'd St. Bd. 82: March 24, aff'd App. Div. 83:1630, certif. denied 97 N.J. 585 (1984)) (82: June 24, Pallington) (84: November 5, George) (85:130, Schwarzkopf)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Refusal of employment by RIF'd teacher at the beginning of school year may be relied upon by board for the entire school year, teacher had no seniority right in second semester to part of her replacement's position (83: May 6, Cerra)

Refusal to accept/assume position within reasonable time of offer (85:1150, Old Bridge Education Assn., aff'd St. Bd. 87:2663)

Regional day schools; such schools are autonomous entities under statute, teachers are not entitled to positions in other regional day schools (84:311, O'Toole, aff'd St. Bd. 84:332, aff'd App. Div. unreported opinion (Docket No. A-774-84T7, dated June 30, 1986))

Rehiring or reinstatement

Arbitrary and capricious; where board insisted on an immediate response from tenured teachers to offer of full-time position for school year (83: December 29, Edison Twp. Ed. Assn., aff'd St. Bd. 84:1930, aff'd App.Div. unreported opinion (Docket No. A-515-84T7, decided February 26, 1986))

Entitled to regular salary and benefits immediately upon recall to regular teaching position (84: November 19, Willingboro)

"Natural break" in school year, board may not wait for such moment to occur - must reinstate when position becomes available (86:1258, Yesalavich)

Rehired in new category, may receive less salary than before (77:1043, Dedrick)

Rehired in same category, entitled to full recognition for previous years of service (78:440, Scavelli)

Rehired to substitute for teacher on maternity leave, no vacancy exists and no claim to position (80:334, South River)

Reinstatement; no protection of tenure and seniority if reinstated in position different from one abolished (80:1373, Feit, aff'd St. Bd. 81: April 1, aff'd App. Div. unpublished opinion (Docket No. A-3761-80T1, decided November 16, 1982))

Substitutes; board may not hold position vacant for a recalled teacher by use of substitutes beyond 60 days (85:1150, Old Bridge Education Assn., aff'd St. Bd. 87: 2663)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Relief

- Improper termination, reinstated (77:1047, Scrupski rev'g 76: March 24) (77:1204, Point Pleasant Beach)
- Improper termination, reinstatement; petitioner's seniority at time of the RIF was greater than other retained employee, petitioner entitled to position (86:3094, Meyer, St. Bd. rev'g 83:1099, aff'd App. Div. unreported opinion (Docket No. A-3175-85T6, decided September 24, 1987))
- Improper termination: reinstatement and seniority credit ordered (80: March 18, Breese)

Remedies

- Seniority Credit: Held, petitioner entitled not only to the full-time position, but also to all the benefits and seniority credit that would have been received had proper placement occurred (86:2191, Ackerman)

Reorganization of program

- Abolition of two full-time positions and creation of two equivalent part-time positions: if one of incumbents is tenured, he is entitled to a full-time position unless there is educationally based reason for having two part-time positions (85: November 8, Valinski, St. Bd. rev'g 85: March 11) See also (85: April 29, Goodwin-Davis, aff'd St. Bd. 85: September 4) (86:1486, Bartz, aff'd in part, rev'd in part St. Bd. 87:2520) (88:2409, Baran, aff'd St. Bd. 89:2995)
- Administrative reorganization, vice principal correctly bumped to classroom teaching assignment (86:1699, Rufalo)
- Board may not abolish one full-time position and create two part-time positions, the salaries for which are established on an hourly basis (84:1955, Linglebach, St. Bd. rev'g 83: June 6, modified App. Div. Docket No. A-4783-83T7, unpublished May 17, 1985) certif. denied 101 N.J. 233 (1985) (85: November 8, Valinski, St. Bd. rev'g 85: March 11)
- Board not required to reorganize curriculum after RIF in order to preserve tenure/seniority rights, Klinger v. Cranbury Bd. of Ed., 190 N.J. Super. 354 (App. Div. 1982), certif. denied 93 N.J. 277 (1983), (affirming 82: January 6, St. Bd. rev'g 81: January 8); (84: May 3, Wendeken) (84: July 20, Sheridan) (85: March 11, Valinski, rev'd St. Bd. 85: November 8) (85:

April 29, Goodwin-Davis, aff'd St. Bd. 85: September
4) (88:2409, Baran, aff'd St. Bd. 89:2995)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Reorganization of program - continued

- Board not required to retain full-time community and adult education position: assignment of adult education duties to superintendent and creation of part-time hourly community education position held proper (84:1832, Polaha, dismissed by St. Bd. 85:1982, rev'd in part, remanded 212 N.J. Super. 628 (App. Div. 1986) on remand Commissioner opinion (reinstated Comm. opinion 84:1832) 86: November 20, rev'd by St. Bd. with opinion 88:2517, aff'd App. Div. unreported op. Dkt. No. A-3799-87T8, June 22, 1989)
- Board required to preserve full-time position of tenured employee where it can be accomplished without realignment of class schedules (83: February 1, Miller, St. Bd. rev'g 82: May 17) (84:1058, Miles, aff'd St. Bd. 84:1072) (87:1578, Balczun)
- Failed to officially establish new directors positions; petitioners held proper certification for positions and had acquired tenure rights in abolished positions, which required same qualifications, general description, functions, and responsibilities (83: August 29, Assarsson, aff'd St. Bd. 84: January 4)
- Junior high school, grades 7 and 8 departmentalized with grade 6 (N.J.A.C. 6:27-1.2(b)); classified as secondary: elementary vice principal not entitled to administrative position (85:1721, Furbeck)
- Remand ordered to determine whether board had sound educational basis for creating marketing/distributive education coordinator position instead of separate marketing position to which RIF'd business studies teacher would have been entitled (88:2202, Grossman, aff'd St. Bd. 89: March 1, aff'd in part, rev'd and remanded in part App. Div. unpub. op. (Dkt. No. A-3270-88T1, May 17, 1990))
- Subject supervisor, revised job description required degree in subject supervised, responsibilities same as previous job description, petitioner reinstated (85:598, Walldov, aff'd St. Bd. 85:617)
- Successfully abolished area chairperson category and created district program supervisor category where two categories differed in terms of primary responsibility, scope of function, calendar years, compensation and authority (84:854, Santarsiero, aff'd St. Bd. 84:880)
- Temporarily approved by county superintendent, employment

of one principal to cover two schools, with increased supervisory staffing was not arbitrary or an abuse of discretion nor an attempt to deprive petitioner of reemployment (83: August 15, Vogel)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

- Resignation; time in former position prior to resignation does not count toward seniority in current position (85:1756, Lachman)
- Resignation from part-time position does not affect teacher's right to remain on reemployment list for full-time position (Mishkin v. Mountainside Bd. of Ed., App. Div. (Docket No. A-803-83T2, unpublished November 2, 1984), rev'g 83:117, aff'd St. Bd. 83:148)
- Resignation from part-time position terminates all rights to future employment where there was no indication that resignation was due solely to fact that position had been reduced from full time (87:2520, Bartz, St. Bd. aff'g in part, rev'g in part 86:1486)
- Revised seniority regulations contained in N.J.A.C. 6:3-1.10 (now 6:3.5-1) and operative on September 1, 1983 apply prospectively (83: May 18, Ellis, aff'd St. Bd. 84: May 2)
- Salary, competence may be used in determining which non-tenured employees to be retained (81: August 25, Salierno)
- Secondary principals certificates; those possessing such eligible to serve as principal, vice principal or assistant principal in middle and junior high schools (83:248, Liggett, remanded by Commissioner, decision on remand 83: September 22) (86:3094, Meyer, St. Bd. rev'g on other grounds 83:1099, aff'd App. Div. unreported opinion (Docket No. A-3175-85T6, decided September 24, 1987)), but see N.J.A.C. 6:3-1.10(n)
- Seniority accrued to extent of certification at time employed in secondary category under old seniority regulations (77:1043, Dedrick) (84: November 19, Mele) (educational services certificate) (84:922, King)
- Seniority, absence of reduction effecting petitioner's employment, need not be computed (84: October 24, Fazan)
- Seniority and preferred eligibility relinquished upon refusal to accept employment within scope of certification (82: January 26, Hagens)
- Seniority and tenure began to accrue at time of hire by superintendent, since board is assumed to have known of and consented to the action, absent proof to contrary (82: July 1, South Brunswick, aff'd St. Bd. 83: May 4)

Seniority claim denied; petitioner never served under
distributive occupations endorsement (88:2202, Grossman,
aff'd St. Bd. 89: March 1, aff'd in part, rev'd and rem. in
part App. Div. unpub. op. (Dkt. No. A-3270-88T1, May 17,
1990))

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

- Seniority claim denied; practical law course was markedly different in scope and content from business law course - social studies endorsement needed (88:2202, Grossman, aff'd St. Bd. 89: March 1, aff'd in part, rev'd and rem. in part App. Div. unpub. op. (Dkt. No. A-3270-88T1, May 17, 1990)
- Seniority credit, earned by actual service only, no addition for time teacher would have served if not for improper RIF (83:847, Freeman)
- Seniority is a statutory right and is not limited by artificial division; held board improperly failed to offer full-time positions to tenured teachers, (who had accepted part-time positions), which were not available at a "natural-break" i.e. summer break or winter break (83: December 29, Edison Twp. Ed. Assn., aff'd St. Bd. 84:1930, aff'd App.Div. unreported opinion (Docket No. A-515-84T7, decided February 26, 1986)
- Seniority is governed by statute and regulation rather than contract; may not be acquired by estoppel (88:757, Arnold and Pappas, aff'd St. Bd. 88:777, aff'd App. Div. unreported op. (Dkt. No. A-2417-88T5, October 30, 1989))
- Seniority: Middle School subject supervisor had no seniority claim to similar newly created K-8 position, where he only served grades 6-9; however, tenure rights were acquired. (88:553, Schaeffer, aff'd St. Bd. 89:3077)
- Seniority, need to calculate and vesting of rights occurs when person is affected by a RIF, even though that person actually suffers no loss (85:1756, Lachman)
- Seniority; physical location of program does not preclude acquisition of seniority; grade level and departmentalized instruction are determining factors (90:1778, Parker, St. Bd. rev'g 89:2461)
- Seniority provisions did not authorize retention of non-tenured full-time secondary teacher and reduction of work hours of tenured art teacher in elementary setting on basis of non-tenured teacher's "seniority." Bednar v. Westwood Bd. of Ed., 221 N.J. Super. 239 (App. Div. 1987), rev'g St. Bd. 86: December 3 and Comm. 85:627, certif. den. 110 N.J. 512 (1988)
- Seniority regulations effective September 1, 1983; inapplicable to controversy which arose prior to the effective date (83: May 18, Ellis, aff'd St. Bd. 84: May 2) (83:1004, Rudolph-Nachtman, rev'd St. Bd. 84:2009) (84: January 23, Parisi, rev'd and remanded St. Bd. 84: October 24, on

remand 86:405, aff'd St. Bd. 86:418, aff'd App. Div.
unreported opinion (Docket No. A-5840-85T7, decided May 4,
1987))

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

- Seniority rights cannot be assigned to non-tenured teacher (82: October 29, Burlington) (88:553, Schaeffer, aff'd St. Bd. 89:3077)
- Seniority rights cannot be claimed on a category or under an endorsement before it comes into existence (88:757, Arnold and Pappas, aff'd St. Bd. 88:777, aff'd App. Div. (Dkt. No. A-2417-88T5, Oct. 30, 1989))
- Seniority rights cannot be claimed to a new position which encompasses substantially different duties and in which petitioner has neither served nor acquired tenure (87:23, Miller)
- Seniority standards, generally (39-49:115) (39-49:167) (39-49:190) (39-49:193) (39-49:202) (59-60:106) (61-62:118) (65:88 rev'd St. Bd. 66:247) (76:601, Kuett) (76:995, Sheridan) (77:1043, Dedrick) (77:1204, Point Pleasant Beach) (78:470, Large) (80:182, Lynch) (80: May 5, Pryszianzny) (80:702, Reeves) (82: October 29, Burlington) (82: December 20, Howley, aff'd St. Bd. 83:1554) (83: March 31, Wayne) (83: August 15, Vogel) (84:922, King)
- Seniority standards, not affected by affirmative action goals (80:809, Bierman, aff'd St. Bd. 81: December 2, aff'd App. Div. 83:1552)
- Seniority standards, not affected by competence or performance (87:1, Villarin)
- Seniority standards in case of a tie in length of service, can be set by a duly adopted policy of the school board. Lottery system to break seniority tie is not unfair. (87:1506 Mann, aff'd St. Bd. 87:1522, aff'd App. Div. unpub. op. (Dkt. No. A-2695-87T1, June 7, 1990)
- Special subject field endorsement (85: August 8, Krueckeberg)
- Statute of limitations (80: December 18, McAtee)
- Substitute teaching, does not count toward seniority (81: May 22, Gruber)
- Substitute teaching employee replaced teacher on approved leave, recognized as regularly employed; tenure, seniority accrued (85: August 8, Krueckeberg)
- Summer school
 - Service does not count toward seniority (80:825, Blitz, aff'd St. Bd. 81: February 4)
 - Summer assignments; no vacancy occurred where board assigned a number of guidance counselors on extra work/extra pay basis, petitioner not entitled to all additional summer hours on basis of seniority.

Petitioner entitled to 10 day position on basis of seniority (84: May 21, Killino, aff'd St. Bd. 84: December 5) See also (85: March 25, Killino)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Supervisor does not acquire tenure or seniority as
vice principal; supervisor's endorsement was
required (88:1796, DeCarlo)

Suspension

Agreement that seniority would accrue during suspension
is unenforceable (89:2959, Hermann, aff'd St. Bd.
90:1763)

Tenure entitlement claims

Assistant principal of high school RIF'd; claim to middle
school assistant principalship upheld (88:1988,
Mirandi, aff'd w/op. St. Bd. 89:3057)

Board required to provide notice to entitled tenured staff
of vacancies before considering non-tenured staff
members, (Schienholz, App. Div. unpublished op. (Dkt.
No. A-2905-89T3, Nov. 19, 1990), aff'g 90:1809, St. Bd.
rev'g in part 89:1860 Commr., certif. denied March 7,
1991)

"Educationally based reasons" argument rejected (89:1713,
Grosso, rev'd St. Bd. w/opinion 90:1750)

Physical education; physical education teacher with service
at secondary level entitled to elementary position held
by non-tenured teacher, even though he had no rights to
elementary position under seniority regulations; tenure
rights are not limited by grade level. (86:3010,
Capodilupo, St. Bd. rev'g 85:554, aff'd 218 N.J. Super.
510 (App. Div. 1987) certif. denied 109 N.J. 514
(1987))

Resignation from position, not district, did not remove
petitioner from preferred eligibility list (Schienholz,
App. Div. unpub. op. (Dkt. No. A-2905-89T3, Nov. 19,
1990) aff'd 90:1809, St. Bd. rev'd in part 89:1860
Commr., certif. denied March 7, 1991)

RIF'd assistant superintendent had no entitlement to
position of teacher, principal or superintendent;
placed on preferred eligibility list for Assistant
Superintendent position (89:2901, Kaprow, aff'd
w/modification St. Bd. 91:2561, aff'd 255 N.J. Super.
76 (App. Div. 1992), cert. granted 130 N.J. 16, aff'd
131 N.J. 573 (1993))

RIF'd science supervisor has tenure entitlement to
supervisor of special services position (89:2148,
Herbert, aff'd St. Bd. 90:1759, aff'd App. Div. unpub.
op. (Dkt. No. A-318-90T1, May 22, 1991))

RIF'd speech correctionist entitled to LDTC position -
tenured in educational services (89:2244, Ellicott,
rev'd St. Bd. 90:1714, aff'd 251 N.J. Super. 342 (App.
Div. 1991)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Tenure entitlement claims - continued

- Tenure entitlement claim; remand ordered to determine whether board had sound educational basis for creating marketing/distributive education coordinator position instead of separate marketing position to which RIF'd business studies teacher would have been entitled (88:2202, Grossman, aff'd St. Bd. 89:Mar. 1, aff'd in part, rev'd and remanded in part App. Div. unpub. op. (Dkt. No. A-3270-88T1, May 17, 1990)
- Tenure entitlement claim upheld; RIF'd elementary principals deemed entitled to secondary principal vacancy. Board may choose among three tenured candidates (Schienholz, App. Div. unpub. op. (Dkt. No. A-2905-89T3, Nov. 19, 1990) aff'g 90:1809, St. Bd. rev'g in part 89:1860, certif. denied March 7, 1991)
- Tenure entitlement claim upheld; RIF'd teacher of business deemed entitled to elementary position (89:1713, Grosso, rev'd St. Bd. w/opinion 90:1750)
- Tenure entitlements not limited to endorsement on instructional certificate (89:1713, Grosso, rev'd St. Bd. w/opinion 90:1750)
- Tenure rights; Capodilupo principles not applicable when a board fills a vacancy six months after a reduction in force. (85: May 24, Geiling-Hurley, decision remand 86:952, aff'd in part rev'd in part St. Bd. 86:964, aff'd App. Div. unreported opinion (Docket No. A-1959-86T8, decided October 5, 1987) But see: (88:1988, Mirandi, aff'd St. Bd. 89:3057)
- Tenure rights extend to all endorsements possessed under Educational Service Certificate; tenure in "educational services." (89:2244, Ellicott, rev'd St. Bd. 90:1714, aff'd 251 N.J. Super. 342 (App. Div. 1991)
- Tenure rights; physical education teacher with service at secondary level entitled to elementary position held by non-tenured teacher, even though he had no rights to elementary position under seniority regulations; tenure rights are not limited by grade level; (86:3010, Capodilupo, St. Bd. rev'g 85:554, aff'd 218 N.J. Super. 510 (App. Div. 1987), certif. denied 109 N.J. 514

(1987))
Tenured supervisor had entitlement over non-tenured
supervisor to high school position (89:2878, Sahagian)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Tenure entitlement claims - continued

Tenured teacher whose full-time position is abolished has a claim to any position within his area of certification, and such claim is superior to that of any non-tenured teacher without regard to consideration of elementary and secondary experience. Bednar v. Westwood Board of Education, 221 N.J. Super. 239 (App. Div. 1987) rev' St. Bd. 86: December 3 and Commissioner 85:627, certif. den. 110 N.J. 512 (1988)

Tenure and seniority rights of RIF'd science teacher entitled her to full-time in-school suspension position although she had never taught in that area since the certificate required by the County Superintendent required no particular endorsement (88:107, Data-Samtak, aff'd St. Bd. 88:123)

Tenured teacher, properly certified, must be offered position over non-tenured personnel (83:847, Freeman)

Timeliness

Petitioner must file petition within 90 days of receiving sufficient notice that seniority credit improper (86:3094, Meyer, St. Bd. rev'g 83:1099, aff'd App. Div. unreported opinion (Docket No. A-3175-85T6, decided September 24, 1987))

Tenure entitlement/seniority claims must be filed within 90 days (89:2260, Chammings, aff'd St. Bd. 90:1706)

Violation of tenure/seniority rights is not a continuing violation, petition must be filed within 90 days of board action (85:1929, Gordon, St. Bd. rev'g 83:1141, aff'd App. Div. unreported opinion, (Docket No. A-3294-84T7, decided May 27, 1986), certif. denied 105 N.J. 534 (1986) (85: May 13, D'Alonzo, aff'd St. Bd. 85: September 4, aff'd App. Div. unreported (Docket No. A-780-85T1, decided November 13, 1986) (89: September 18, Cade, aff'd St. Bd. 90: January 3) But see (relaxation due to circumstances). Polaha v. Bd. of Ed. of Buena Regional, 84:1832, dismissed by St. Bd. 85:1982, rev'd in part, remanded 212 N.J. Super. 628 (App. Div. 1986), on remand Comm. opinion (reinstated Comm. 84:1832) (86: November 20, rev'd by St. Bd. with opinion 88:2517, aff'd App. Div. unreported op. (Dkt. No. A-3799-87T8, June 22, 1989)) (86:2191, Ackerman) (86:1479, Arena) (87:23, Miller) (87:1412, Williams, aff'd St. Bd. 87:1430) (88:2129, Williams, dec. on remand 89:118, aff'd St. Bd. 89:126)

ABOLITION OF POSITION - continued

Placement, seniority and preferred eligibility lists - continued

Transfer

(See also "Categories" this subtopic)

Refusal to accept following abolition of position,
held abandonment of tenure (74:678, aff'd St. Bd.
75:1082, aff'd App. Div. 76:1134)

Refusal of principal to accept teaching position
pendente lite constitutes forfeiture of right to back
pay (72:606)

Transfer at time of RIF, current salary may not be reduced in
violation of tenure (85: May 13, D'Alonzo, aff'd St. Bd.
85: September 4, aff'd App. Div. unreported (Docket No.
A-780-85T1, decided November 13, 1986)

Transfer at time of RIF triggers entitlement to be placed on
reemployment list for former position (85:264, Fallis, aff'd
St. Bd. 85:281)

Transfers (involuntary), prior to abolishment of position (80:
702, Reeves)

Uncertified position, no seniority (81: May 4, Foster)

Vesting of seniority rights occurs at time calculation of
seniority is necessitated by RIF (85:1756, Lachman)

Withdrawal of district from regional district; seniority
standards (80:553, Central Regional) (83: February 9,
Hartnett, aff'd St. Bd. 83: June 1)

ABSENTEEISM

Attendance Improvement Plans may not provide for automatic warnings
or sanctions based solely on the number of absences (85:889,
Burlington, aff'd St. Bd. 85: November 8) Montville Ed. Assn. v.
Bd. of Ed., rev'd St. Bd. 84:559, rev'd and remanded App. Div.,
(Docket No. A-1178-84T7, decided 85:1972), certif. denied 103
N.J. 500 (1986) opinion on remand St. Bd. 86:3113)

Attendance Policy upheld, did not provide for automatic penalties
based on number of absences and did not apply to continuous
debilitating illness (86:1633, East Brunswick)

Increment withholding: Board may adopt policy to withhold increment
of any staff member absent 50 days in excess of accumulated sick
leave (85:988, Bialek, aff'd St. Bd. 85:1009)

Increment withholding: Chronic pattern of absenteeism, reasons
considered; action upheld (86: March 10, Meli, aff'd St. Bd.
with opinion 86:580, rev'd App. Div. unreported opinion (Docket
No. A-5820-85T7, decided May 21, 1987))

See other cases indexed under "Increment -- Good Cause - Excessive Absenteeism", "Leaves of Absence - Sick Leave", and "Tenure Dismissal - Excessive Absence"

ACADEMIC YEAR

Defined (54-55:94) (66:193) (71:460) (72:138) (80: March 24, Booth)

ADULT EDUCATION

Educational Services Commission student in LPN course entitled to partial refund after partially completing course found to be materially deficient in content and administration (82: August 30, Reinhart)

ADVERTISEMENTS

(See also "Bidding", this index)

Employment vacancies (78:59, Mason)

Newspapers, determination of where published, Schultz v. Wanaque Bd. of Ed., 105 N.J. Super. 165 (App. Div. 1969) C. dec. at 67:283, St. Bd. at 68:273)

AGENCY SHOP

N.J.S.A. 34:13A-5.5 allowing board and union to negotiate provision requiring non-union members to pay representation fee used in part for lobbying does not violate non-union member's First Amendment rights. Statutory system for return of fees used for non-employment related purposes held facially valid. Robinson v. State of New Jersey, 741 F.2d 598 (3d Cir. 1984), rev'g and remanding 565 F. Supp. 942 (D.N.J. 1983), cert. denied 105 S.Ct. 1228 (1985); (on remand, additional constitutional challenges rejected N.J. District Ct. (1985), dismissal aff'd 3rd Cir.) dismissed N.J. District Ct. (7/28/87). Matter of Board of Ed. of the Town of Boonton et al. and Boonton Education Association, 99 N.J. 523 (1985)

AID

(See "State Aid" this Index)

AIDES

Clerical aide cannot be reassigned to Math Lab teacher position which required unsupervised instruction (82: May 28, Englewood Cliffs, aff'd St. Bd. 82: December 3)

Clerical aide not entitled to job as instructional aide when position abolished (82: April 15, Salvati)

AIDES - continued

Duties limited to those in approved job description (80:1040, Parsippany-Troy Hills)

First aid, may perform (81: October 5, Wyckoff, aff'd St. Bd. 82: May 5)

Library aides: may perform clerical functions previously performed by librarian (84: August 9, Freed)

Medical assistants, may not supervise taking of medication (81:1070, Bernards Twp. Ed. Assn., aff'd St. Bd. 82:1443, aff'd App. Div. 83:1502 (A-4211-81T3, May 18, 1983)

AIDS AND AIDS RELATED COMPLEX

Regulations promulgated by Departments of Health and Education for admission to school of children with acquired immune deficiency syndrome upheld, Bd. of Ed. of Plainfield v. Cooperman, 105 N.J. 587 (1987) modifying, 209 N.J. Super. 174 (App. Div. 1986), rev'g (85: November 8, St. Bd. aff'g decision on motion 85: November 1) See N.J.A.C. 6:29-4.4 and 8:61-1.1 (18 N.J.R. 1509(a), 1512(a))

ANCESTRY

Discrimination on basis of, Whateley v. Leonia Bd. of Ed., 141 N.J. Super. 476 (Ch. Div. 1976)

ANNEXATION

Portion of district annexed by another district, effect on debt service obligation (56-57:82) (73:609)

APPEAL

(See "State Board of Education" and "Judicial Review",
this index)

APPOINTMENTS

(See particular job titles and "Boards - Duties and Powers",
this index)

APPORTIONMENT

(See also "Regional Boards" and "Taxes", this index)

Appropriations per pupil, based on "preceding school year"

Matawan v. Monmouth City Bd. of Tax., 51 N.J. 291 (1968)

Meadowlands legislation upheld against claim that method of
tax sharing failed to allow for increased school costs,
Meadowlands Reg. Dev. Agency v. State, 63 N.J. 35 (1973)

Moneys

Illegal use of funds (38:842)

Liability for deficit (38:840)

Pupil apportionment (38:834)

Teachers, classification (38:845)

School costs, legislative scheme overturned, Alfred Vail Must. Assoc.
v. New Shrewsbury, 58 N.J. 40 (1971)

Taxes by Commissioner as result of annexation of a portion of school
district (56-57:82) (73:609)

Transportation (38:807)

APPROPRIATIONS

(See generally "Budgets" and "Taxes", this index)

Clerical staff in secretary's office (38:84)

Excess statutory limitation discretionary with city government
(38:217)

Moneys

Common Council (38:846) (38:848) (38:850) (38:852)

Transfer, legality of (38:855)

Obligation of city government to raise (38:206)

Refusal of council to raise (38:208) (38:210) (38:219)

Transfer of monies to school district, timing of, Board of Education
of Fair Lawn v. Fair Lawn, 143 N.J. Super. 259 (Law Div. 1976)

Type I districts, calendar year basis (73:12)

ARBITRATION

- (See also "Collective Negotiations - Scope of", this index)
- Advisory arbitration of military credit claim (80: January 29, Seiple, aff'd St. Bd. 81: November 10)
- Advisory award rejected by Commissioner (73:513, dismissed St. Bd. 74:1435)
- Arbitrability of issue is matter for the courts, Clifton Bd. of Ed. v. Clifton Teachers Assoc., 154 N.J. Super. 500 (App. Div. 1977); Newark Teachers Union v. Newark Bd. of Ed., 149 N.J. Super. 367 (Ch. Div. 1977)
- Arbitrator exceeded his authority by granting full year's salary for late notice of RIF. Old Bridge Twp. Board of Education v. Old Bridge Ed. Ass'n, 98 N.J. 523 (1985)

ARBITRATION - continued

- Arbitrator exceeded his authority by interpreting contract provision to include a situation not agreed to by the parties, North Hudson Jointure Commission Ed. Assn. v. North Hudson Jointure Commission Bd. of Ed., unpublished opinion, App. Div. (Docket No. A-3044-82T2, January 25, 1984)
- Arbitrator exceeded his authority by reading a requirement of "progressive discipline" into contract authorizing dismissal for just cause; County College of Morris Staff Association et al. v. County College of Morris, 100 N.J. 383 (1985), Local 462 v. C. Schaefer and Sons, 223 N.J. Super. 520 (App. Div. 1988) See also, Local 153 v. Trust Co. of New Jersey, 105 N.J. 442 (1987)
- Arbitrator exceeded his authority; closed hearing two months after submission of briefs without agreement of parties. Zervos v. Freedman Properties Ltd., 223 N.J. Super. 599 (App. Div. 1987)
- Arbitrator's award renders issue res judicata; no further proceeding before Commissioner (80: March 17, Lenk, aff'd St. Bd. 80: June 11)
- Arbitrator's factual finding unchallengeable, except for fraud, undue means or mistake. N.J.S.A. 2A:24-8. Passaic Ed. Assn. v. Passaic Board of Education, 166 N.J. Super. 250 (App. Div. 1977)
- Arbitrator's failure to follow substantive law may constitute "undue means" and require that arbitration award be vacated. Jersey City Ed. Ass'n v. Board of Education, 218 N.J. Super. 177 (App. Div. 1987)
- Assignment of additional teaching period held arbitrable, Red Bank Bd. of Ed. v. Warrington, 138 N.J. Super. 564 (App. Div. 1976)

Board's refusal to comply with negotiated agreement, following non-binding arbitration; forum for enforcement is the courts, not the Commissioner of Education. Belleville Ed. Assn. v. Belleville Bd. of Ed., 209 N.J. Super. 93 (App. Div. 1986)

Contractual provision requiring arbitration of decision to abolish positions held ultra vires (74:488)

Courses of study taught not grievable, Rockaway Twp. Bd. of Ed. v. Rockaway Twp. Ed. Assn., 120 N.J. Super. 564 (Ch. Div. 1972)

Evaluation criteria not arbitrable, Wyckoff Bd. of Ed. v. Wyckoff Ed. Assoc., 168 N.J. Super. 497 (App. Div. 1979) certif. denied 81 N.J. 349 (1979)

Evaluations; phrase "without just cause" made issue arbitrable, Clifton Bd. of Ed. v. Clifton Teachers Assoc., 154 N.J. Super. 500 (App. Div. 1977)

Failure to object to delay constituted waiver of right to object to award confirmation. Zervos v. Freedman Props. Ltd., 223 N.J. Super. 599 (App. Div. 1987)

Hours and compensation of teachers arbitrable, Englewood Bd. of Ed. v. Englewood Teachers Assn., 64 N.J. 1 (1973)

Increase in duties of department chairman held negotiable and arbitrable, West Orange Bd. of Ed. v. West Orange Ed. Assn., 128 N.J. Super. 281 (Ch. Div. 1974)

ARBITRATION - continued

Institution of sign-in, sign-out procedure not subject to arbitration, Galloway Twp. Bd. of Ed. v. Galloway Twp. Ed. Assn., 135 N.J. Super. 269 (Ch. Div. 1975) aff'd o.b. 142 N.J. Super. 44 (App. Div. 1976)

Joint arbitration desirable where common subject matter affected by multiple collective bargaining agreements, City Assn. of Supervisors v. Bd. of Ed. of Newark, 168 N.J. Super. 184 (App. Div. 1979)

Judicial review of an arbitrator's decision by a court requires a transcript of the arbitration hearing. Trial court's remand for a new transcribed hearing was affirmed. Holland Twp. Bd. of Ed. v. Holland Twp. Ed. Assn., aff'd App. Div. unpublished opinion (Docket No. A-1513-86T7, decided September 30, 1987)

Non-renewal of non-tenured teachers is not arbitrable; Commissioner has sole jurisdiction to review board's action (73:684)

Past practice of board is part of negotiated agreement and grievance based on such is arbitrable, Sayreville Ed. Assn. v. Sayreville Borough Bd. of Ed., aff'd App. Div., unpublished opinion (Docket No. A-373-80-T4, December 28, 1981)

Placement of letter in personnel file which was disciplinary in nature and not evaluation, proper matter for arbitration. Union Beach

Bd. of Ed. v. Union Beach Ed. Assn., aff'd App. Div. unreported opinion (Docket No. A-1714-86T7, decided October 2, 1987)
(Holland Township Bd. of Ed. v. Holland Twp. Ed. Assn., aff'd App. Div. unpublished opinion (Docket No. A-1513-86T7, decided September 30, 1987)

Placement on salary schedule (80: September 19, Grossman)

Reduction in force not subject to negotiations or arbitration,
In re Englewood Bd. of Ed., 150 N.J. Super. 265 (App. Div. 1977)
clarifying 135 N.J. Super. 120 (App. Div. 1975)

Scope of arbitrability; court has jurisdiction to determine (80:
November 3, Brindisi)

Scope of review by courts of award, Local 866 v. Lodi Bd. of Ed.,
149 N.J. Super. 147 (Ch. Div. 1977)

Seniority, not proper subject for, (80:943, Gincel, aff'd St.
Bd. 80:953, aff'd App. Div. 82:1503)

Stay of arbitration, Commissioner lacks jurisdiction to order (80:
September 8, Lower Twp.)

Unilateral reduction of duty-free lunch period held arbitrable
Neptune City Bd. of Ed. v. Neptune City Ed. Assoc., 153 N.J.
Super. 406 (App. Div. 1977)

ARCHITECTS

Board of education has implied power to hire Sleight v. Paterson Bd. of Ed., 112 N.J.L. 422 (E&A 1934); (61-62:137) (67:251)

Capital appropriation is unnecessary to hire architect and successor boards are bound by contract Union County Vocational School Bd. of Ed. v. Finne, 88 N.J. Super. 91 (Law Div. 1965)

Compensation, Harson v. W. Milford Bd. of Ed., 132 N.J. Super. 365 (Law Div. 1975)

No liability to contractors for any breach of contract Gherardi v. Trenton Bd. of Ed., 53 N.J. Super. 349 (App. Div. 1958)

Records of, ordered produced, Union City Bd. of Ed. v. Union City, 112 N.J. Super. 493 (Law Div. 1970) aff'd o.b. 118 N.J. Super. 435 (App. Div. 1972)

Revision of plans, Hankin v. Hamilton Twp. Bd. of Ed., 47 N.J. Super. 70 (App. Div. 1957)

ASSIGNMENT

Of pupils (See "Boards - Duties and powers - Attendance areas", this index)

Of teachers (See "Teachers", this index)

ASSISTANT SUPERINTENDENT

Abolishment of, found not in good faith (74:805)

Appointment invalid without nomination by superintendent (50-51:57) (88:221, Napoli, aff'd w. modification St. Bd. 88:284, stay denied St. Bd. 89: Feb. 1, aff'd App. Div. unpublished op. (Dkt. No. A-2301-88T3, March 2, 1990))

Assistant superintendent positions with different responsibilities are separate categories for purposes of seniority (81: December 16, Bechtel)

Reinstatement improper where uncertified during prior service (59-60:44)

Seniority presumes proper appointment (55-56:91)

ATHLETICS

(See "Pupils - Physical Education" and "Extracurricular Activities", this index)

ATTENDANCE AREAS

(See "Boards of Education - Duties and powers - Attendance areas", this index)

ATTENDANCE OFFICER

Combination of duties with those of social worker (78:207,
Arangio dismissed as out of time St. Bd. 78: May 3)
Dismissal during time of contract (38:141)
Dismissal from tenured position for unbecoming conduct (88:582,
Woolard, aff'd St. Bd. 88:601, aff'd App. Div. unreported op.
(Dkt. No. A-878-88T1, June 12, 1989))
Non-renewal of, upheld (80: December 15, Molnar, aff'd St. Bd. 81:
April 1)
Position combined with school nurse (64:145)
Reduction of salary (38:143)
Tenure (59-60:113)

ATTORNEYS

(See also "Tenure - Board attorneys", and "Commissioner of Education - Attorneys Fees", this index)
Attorney not automatically prohibited from representing multiple defendants in Federal 1983 action, Petition for Review of Opinion 552, 102 N.J. 194 (1986)
Board attorney, estopped by own conduct from contesting board's decision to dismiss him (81: May 4, Taylor)
General Counsel - Newark - may not be dismissed without recommendation by Executive Superintendent (85:70, Gibson, consolidated and remanded I and II, 205 N.J. Super. 48 (App. Div. 1985), aff'd in part, rev'd in part on remand St. Bd. 86:3044)
Professional services compensated by a fixed annual retainer are eligible services for PERS. Atty. Gen. Formal Op. No. 27 (1976)

AUDIO-VISUAL COORDINATOR

Not a teaching staff member (73:91)

AUDITOR

Appointment of, effective date (72:20)
Duty to countersign warrants (38:198)
Powers of in school district (38:196)

Refusal to countersign warrants (38:200)