

DAMAGES

(See "Commissioner - Damages", this index)

DANCE

Board may make rules governing extracurricular school dances
which are binding on all participating students,
notwithstanding parental objection (73:97)

DEBT

(See also "Apportionment", "Regional Boards" and "Taxes", this index)
Allocation of debt upon annexation of portion of district by another
district (56-57:82) (73:609)
Allocation of debt upon separation into two districts (49-50:38)

DECLARATORY JUDGMENTS

(See "Commissioner - Declaratory judgments", this index)

DE FACTO SCHOOL BOARD MEMBER

Acts of board are valid and binding during period member
unlawfully sat (70:153)

DEMOTION

(See "Tenure - Dismissal or reduction in salary", this index)

DIPLOMA

Student held entitled to (74:614)
Student held not entitled to (76:619, Dooner)
Transfer of college credits toward diploma is discretionary (77:
724, Silverman)

DISABILITY

(See "Handicapped Children", "Retirement and Pensions" and "Workman's
Compensation", this index)

DISCRIMINATION

- Age discrimination claim rejected where senior student not selected for team in favor of junior student (86:1094, H.O. in favor of G.O., aff'd by St. Bd. 86:1123, aff'd App. Div. unreported opinion (Docket No. A-1624-86T6, decided June 29, 1987))
- Age discrimination - Forcible retirement of police, firefighters over age of 65 permitted under ADEA; no violation of N.J. Law Against Discrimination. Boylan v. State, 116 N.J. 236 (1989)
- Age discrimination not found in replacement of older "head teacher" with younger staff member; appointment based on need to have food services rather than cosmetology teacher fill position (86:1049, Maiorino, aff'd St. Bd. 86:1068)
- Alcoholism is a handicap under the N.J. Law Against Discrimination. Clowes v. Terminex International, 109 N.J. 575 (1988)

DISCRIMINATION - continued

Athletics

- Exclusion of male students from female athletic teams is not discriminatory where purpose is to promote equitability of female athletic program (86:1299, B.C., aff'd 220 N.J. Super. 214 (App. Div. 1987))
- Female student's exclusion from football team found to be discriminatory (85:1252, E.B., aff'd St. Bd. 86:1160) See also (86:1133, E.B., aff'd St. Bd. 86:1160, rev'd and remanded 225 N.J. Super. 221 (App. Div. 1988) rev'd and remanded 117 N.J. 434 (1990))
- Burden of proof (86:340, Olarte)
- Commissioner of Education has jurisdiction to hear dispute under law against Discrimination (86:2496, D'Alessandro)

Employment

- Age discrimination, collective bargaining agreement; absent intentional discrimination, neutral provision which adversely impacted upon older employee was not violative of ADEA or N.J.L.A.D., Giammario v. Trenton Bd. of Ed., 203 N.J. Super. 356 (App. Div. 1985) certif. denied 102 N.J. 336 (1985)
- Age discrimination, religious discrimination not found - increment withholding (89:1622, Kelsey)
- Affirmative action plan; (85:142, Brown, aff'd St. Bd. 85:174, aff'd App. Div. unreported opinion (Docket No. A-5252-84T1 decided March 26, 1986))
- Appointment of Affirmative Action Officers did not violate N.J. discrimination laws since the appointment did not constitute employment pursuant to N.J.S.A. 10:5-1, but rather

assignment of additional duties (88:433, D'Alessandro,
decision on remand)

Entire controversy doctrine; terminated employee, who failed
to raise claim of racial discrimination in arbitration
grievance, may raise claim of discrimination before Division
of Civil Rights; Thornton v. Potamkin Chevrolet, 94 N.J. 1
(1983)

Physically handicapped; standards of proof discussed; Anderson
v. Exxon Co., 89 N.J. 483 (1982)

Race discrimination:

Standards set forth; Commissioner has concurrent
jurisdiction to decide; affirmative action plan (Brown
v. Sussex County Vocational Bd. of Ed., 83: August 11,
rev'd St. Bd. 84: May 2, rev'd and remanded App. Div.
Docket No. A-4854-83T7, decided April 4, 1985, on
remand 86:1807, aff'd St. Bd. 86:1846)

DISCRIMINATION - continued

Extension of ADEA to states effectively repealed mandatory retirement clauses in New Jersey statutes. After 1986 federal amendments to Act, New Jersey's public employee pension law was substantially reinstated. Police and firefighters retirement age controlled by State statute/ADEA. Boylan v. State, 222 N.J. Super. 313 (App. Div. 1988)

Recruitment of minority pupils for two programs was authorized as affirmative action (89: December 20, Pigut)

Salary schedule which establishes different annual longevity increments based on whether employees attained anniversary dates -- e.g. 20, 25th year of service -- before or after effective date of contract does not discriminate on the basis of age, Giammario v. Trenton Bd. of Ed., 203 N.J. Super. 356 (App. Div. 1985), certif. denied 102 N.J. 336 (1985)

Sex discrimination found (84:1297, Figurelli, aff'd St. Bd. 84:1319)

Tort Claims Act does not apply to claims of employment discrimination, Law against Discrimination governs claims to exclusion of any other time or notice provisions. Fuchilla v. Layman, 210 N.J. Super. 574 (App. Div. 1986)

Transfer from high school principal to elementary principal not sufficient to prove discrimination claim (89:2192, Aragona, aff'd St. Bd. 89:2243)

Under New Jersey Law Against Discrimination employer's decision not to employ handicapped person must be justified by a "probability" rather than a "possibility" of injury to handicapped person or others. Jansen v. Food Circus Supermarkets, 110 N.J. 363 (1988).

DISMISSAL

(See "Tenure - Dismissal" and "Non-tenured teaching staff", this index)

DISTRICT

Secession of municipality from (57-58:96) (59-60:115)
Separation as affecting debt (49-50:38)

DOMICILE

(See "Boards - Membership on - Residence" and "Pupils - Residence",

this index)

DOUBLE JEOPARDY

Held inapplicable where administrative action against student followed criminal acquittal (72:555)
Student's expulsion after a series of suspensions does not constitute double jeopardy (78:870, R.S.)
Teacher's five-day suspension and subsequent withholding of increment does not constitute double jeopardy (78:844, Kriss)

DRESS

(See "Pupils - Dress and appearance" and "Teachers - Dress and appearance," this index)

DURESS

Claim of by student (67:14)
Claim of by teacher
Denied (67:11)
Upheld (70:207) (72:340 and 73:51 aff'd St. Bd. 74:1433 aff'd App. Div. 75:1157 certif. denied 75: June 4) (72:432)

DYFS

Commissioner recommends inservice education on behavioral management of handicapped preschoolers (89:1266, Jamrogowicz)
Contents of a confidential DYFS report may not be released without a court order. Remand by Commissioner to adduce testimony from DYFS investigation regarding contents of report was improper. (88:459, Thomas, aff'd with modification St. Bd. 89:3090)
Evaluation upheld, parental consent not necessary where child was in custody of DYFS at the time (86: October 17, J.P.)
Failure of Board to classify; DYFS may classify and place child (77:342, Harbor Hall School)
Present district of resident under N.J.S.A. 18A:7B-12 is governed by N.J.A.C. 6:20-5.3(a)(2), not (a)(1), where the child is placed by DYFS in a private school placement; moreover, foster placements should not be considered in determining relevant date for district of residence determination (87:2217, Orange)

Residential placement and special education of student is
responsibility of board, not DYFS (88: March 3, A.N.)
Sexual Molestation: Matter remanded for entry into evidence of DYFS
investigation excluded below improper. DYFS report is
confidential and may not be admitted without court order (88:459,
Thomas, aff'd with modification St. Bd. 89:3090)

DYFS - continued

Testimony of DYFS investigator inadmissible. Whether information is sought by way of investigator's report, through use of the report to refresh the investigator's recollection or through the investigator's independent testimony, the information is confidential and may not be released absent a court order. Neither OAL, Commissioner nor State Board had authority to order disclosure. N.J.S.A. 9:6-8.10a (87:1895, Tyler, decision on remand 88:293, aff'd with modification St. Bd. 88:308, aff'd 236 N.J. Super. 478 (App. Div. 1989) (88:459, Thomas, aff'd with modification St. Bd. 89:3090) (88:695, Jackson, aff'd with modification St. Bd. 88:721)