

FEES

Accident insurance (67:267)
Board may assess cost of food and lodging to students who attend voluntary two and one-half day outdoor education program but must provide for participation for needy students (78:735, Fair Lawn aff'd St. Bd. 79:827)
Class trips, fees prohibited (61-62:188) (77:522, Selfridg, consent order approved St. Bd. 77: October 11)
Field trips (60:202, aff'd St. Bd. 68:276) (77:522, Selfridg, consent order approved St. Bd. 77: October 11)
Field trips; board directed to adopt policy concerning fees (79:420, Matrick)
Field trips; board may charge fees for field trips per N.J.S.A. 18A:36-21 et seq. (81:140, Rhodes)
Lunchroom use fee held illegal for students who bring their lunches (75:65, Buchanan)
Summer school enrichment programs - boards may charge tuition for as per N.J.S.A. 18A:54B-2
Summer school programs (73:130, aff'd St. Bd. 73:138)
Testing of pupils (63:85, aff'd St. Bd. 63:89)

FIELD TRIPS

(See "Fees", this index)

FIFTH AMENDMENT AND SELF-INCRIMINATION

Refusal of business manager to testify before grand jury held grounds for dismissal, Hyland v. Smollock, 137 N.J. Super. 456 (App. Div. 1975)
Refusal to testify concerning communist party membership Laba v. Newark Bd. of Ed., 23 N.J. 364 (1957); Lowenstein v. Newark, 35 N.J. 94 (1961) and 33 N.J. 277 (1960) (C. dec. 55-56:128, 58-59:117 and 60-61:84); Zimmerman v. Newark Bd. of Ed., 38 N.J. 65 (1960) (C. dec. 60-61:128, St. Bd. 61-62:249)
Statute requiring public employees to testify upon matters relating to position held constitutional; no requirement to advise witness of rights, State v. Vinegra, 73 N.J. 484 (1977)

FIRST AMENDMENT RIGHTS

(See also "Religion", this index)

Applicant for aide position not rejected because of criticism of board (82: April 15, Salvati)

FIRST AMENDMENT RIGHTS - continued

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. Distr. Ct. (1985), dismissal aff'd 3rd Cir., dismissal N.J. Dist. 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)

Pupils

- Deletion of certain articles from a curriculum-related student newspaper not by First Amendment prohibited, where decision by principal was based upon legitimate concern for invasion of privacy in stories dealing with teen pregnancy and divorce. Kuhlmeier v. Hazelwood School District, 607 F.Supp. 1450, 25 Ed. Law 207 (E.D. Mo. 1985)
- Discipline of high school student for obscene gesture to teacher off school grounds and after school hours prohibited by First Amendment. Klein v. Smith, 635 F.Supp. 1440, 33 Ed. Law 217 (D. Maine 1986)
- No violation in requiring attendance in sex education classes (77:1134, J.B., aff'd St. Bd. 78:1021, held moot, App. Div. 79:843) (Superseded by N.J.S.A. 18A:35-4.7 "Parents Rights to Conscience Act of 1979.") (See also 86:2923, S.T., aff'd St. Bd. 87:2689) (See also "Pupils - Curriculum" this Index)
- Policy prohibiting teachers from answering pupils' questions regarding negotiations placed unconstitutional prior restraint on freedom of discussion, River Dell Ed. Assn. v. River Dell Bd. of Ed., 122 N.J. Super. 350 (Law Div. 1973)
- Policies regulating distribution of student literature and symbolic speech challenged (70:213) (70:319 aff'd St. Bd. 71:661) (71:18); Oxford v. St. Bd. of Ed., 68 N.J. 301 (1975) (C. decs. 69:88 and 71:106, St. Bd. 70:457, App. Div. 73:779)
- Right of minority union to names and addresses of newly appointed teachers upheld (75:227, Elizabeth, aff'd St. Bd. 75:230)
- School-sponsored speech (See Hazelwood School District v. Kuhlmeier, 108 S.Ct. 562 (1988); Bethel School District No. 403 v. Fraser, 478 U.S. 675 (1986); Tinker v. DesMoines Independent Community School District, 393 U.S. 503 (1969)).

Sarcastic comments written on administration memo are not comments on matters of public concern which are protected by First Amendment; increment withholding upheld (87:2713, Smith, St. Bd. aff'g 85: April 1)

FIRST AMENDMENT RIGHTS - continued

Teachers

Balance must be struck between teachers' interest in speaking freely and state interest in promoting efficiency of educational system, Winston v. So. Plainfield Bd. of Ed., 64 N.J. 582 (1974) aff'g 125 N.J. Super. 131 (App. Div. 1973) (C. dec. 72:323, St. Bd. 72:327, C. on remand 74:999); Pietrunti v. Brick Twp. Bd. of Ed., 128 N.J. Super. 149 (App. Div.) certif. denied 65 N.J. 573 cert. denied 419 U.S. 1057 (1974) (C. decs. 72:387 and 73:9, St. Bd. 73:782); see also (74:260 supplemented 75:191, aff'd St. Bd. 75:199) (75:943, Haratz); Gish v. Paramus Bd. of Ed., 145 N.J. Super. 96 (App. Div. 1976) (C. dec. 74:1150, St. Bd. 75:1085) (74:260, supplemented 75:199, aff'd St. Bd. 75:199, aff'd App. Div. 76:1167) (76:1032, Kaprow) (77:197, Sciarrillo) (77:265, Saccenti) (77:892, O'Biso, aff'd St. Bd. 77:900) Wichert v. Walter, 606 F.Supp. 1516 (D.N.J. 1985)

Board action abolishing position held not in reprisal for exercise of first amendment rights (76:767, Marotta)

Communist party membership

(See "Communism", this index)

Constitutional protection extends to derogatory comments in evaluation (80:483, Piscataway, aff'd St. Bd. 80:499)

Petition of Appeal, board terminated offer of employment upon employees filing of petition of appeal; ordered reinstated with back pay (84:1113, Boehm)

Policy prohibiting teachers from answering pupils' questions regarding negotiations placed unconstitutional prior restraint on freedom of discussion, River Dell Ed. Assn., 122 N.J. Super. 350 (Law Div. 1973)

Right of expression upheld, posting of letter on bulletin board (75:461, North Bergen)

Tenure proceedings adequate to resolve teacher's claims that charges were filed in retaliation for exercise of First Amendment rights: Federal courts will apply abstention doctrine but will retain jurisdiction for part of complaint requesting damages and attorney's fees, Williams v. Red Bank Bd. of Ed., Docket No. 81-1275 (3rd Cir. October 26, 1981) Tenure proceeding (81: August 27, Williams, aff'd St. Bd.)

82: February 3, aff'd App. Div. 82:1594)
Tenure proceedings restrained where charges were brought by
board president for purposes of harassment and retaliation
for teachers' exercise of First Amendment right of free
speech (Wichert v. Walter, 606 F.Supp. 1516 (D.N.J. 1985))

FIREARMS

School law enforcement officials may not carry in schools (74:135)

FIREMAN

Reduction in salary for violation of safety procedures (67:181)

FLAG

Display of black liberation flag (72:10, aff'd St. Bd. 72:15)

Display of and salute to flag. N.J.S.A. 18A:36-3 et seq.

POW-MIA - See N.J.S.A. 52:309 et seq.

Salute to flag, religious objections sustained, Holden v.

Elizabeth Bd. of Ed., 46 N.J. 281 (1966); In re Lattrechia, 128 N.J.L. 472 (Sup. Ct. 1942); (38:827) (38:828)

FORFEITURE

(See also "Tenure - Dismissal and Reduction in Salary - Criminal conduct" this index)

Bus-driver/custodial-security who was convicted of drug related offense forfeited position (84: August 16, Arocha and Gonzalez, rev'd St. Bd. 85: April 3)

Certification of charges; tenured employee, convicted of fraud, a crime involving moral turpitude, forfeited the position immediately upon conviction, board need not certify charges. Cox v. State Board of Examiners - unpublished opinion, App. Div. (Docket No. A-3527-81T3, decided November 18, 1983)) (83:173, Kendall, aff'd St. Bd. 83:182)

Conviction for theft-violation of N.J.S.A. 2C:20-9 (88:1433, Gervasio)

Conviction for violation of N.J.S.A. 2C:14-4 - Lewdness, does not involve dishonesty or a crime of the third degree or higher and does not compel automatic forfeiture of public office (85:933, Lieb) (88:542, Pappa)

Guilty plea to distribution of CDS constituted crime of third degree. Forfeiture of position of employment occurred pursuant to N.J.S.A. 2C:51-2a(1) (88: May 5, Stater, aff'd St. Bd. 88: October 5) (87:2212, Breece) (89: January 5, Noll (decision on remand)

Guilty person shall forfeit his/her position following conviction when crime involves dishonesty or crime of third degree (83:173, Kendall, aff'd St. Bd. 83:182) (83: June 1, Grover) (85:1641,

McGuire, aff'd St. Bd. 86:3086) (86:1848, DeGeorge)

FRATERNITIES

Board's authority to control membership in (61-62:97) (64:74)

FUEL OIL PURCHASE

(See "Bidding", this index)

FUNDING

(See "State Aid", "Taxes" and "Transportation", this index)