

## KINDERGARTEN

(See "Pupils - Admission to school", this index)

## LABOR MATTERS

(See "Collective Negotiations", "Strikes" and "Unions", this index)

## LACHES

Acquisition of tenure is statutory, not contractual; estoppel and laches not available as a defense (77:976, Levitt, aff'd St. Bd. 78:1027, aff'd App. Div. 79:847) (87:183, Pezzullo, aff'd St. Bd. with opinion 89:3067)  
Affirmative defense (65:40)  
Appeals to Commissioner must be taken with reasonable promptitude, Garfield Bd. of Ed. v. St. Bd. of Ed., 130 N.J.L. 388 (Sup. Ct. 1943)  
Budget appeal, defense of laches upheld (74:1054 aff'd St. Bd. 75:1161)

## LACHES - continued

Challenge to land conveyance, defense of laches upheld, Fielding v. Paterson Bd. of Ed., 76 N.J. Super. 50 (Ch. Div. 1962) aff'd on other grounds 39 N.J. 85 (1963)  
Denial of "adjustment increment" for military service, four and one-half years delay held not to constitute laches (76:356, Whidden, modified App. Div. 77:1312)  
Denial of increment, one year delay constitutes laches (76:118, Quay) (77:120, Gregg)  
Election; three week delay constitutes laches (39-49:89)  
Generally, unreasonable delay coupled with prejudice to opposing party (50-51:61) (60-61:142, aff'd on other grounds App. Div. 61-62:203) (64:132) (64:134) (65:40) (66:77) (66:180, aff'd App. Div. 66:182) (67:78, aff'd St. Bd. 67:86) (75:261, Ringele) (76:365, Mina) (77:24, DiNunzio) (77:218, Hillman) (77:952, Shahbazian) (77:1008, Williams, aff'd St. Bd. 78:1050) (77:976, Levitt, aff'd St. Bd. 78:1027, aff'd App. Div. 79:847) (77:1096, DeOld, rev'd St. Bd. 78:1006) (77:1091, Frick)  
Inaction of counsel as excuse for delay (77:364, Crawford)  
But see (78:606, Bechtel, St. Bd. rev'g 78:604, decision on remand 81: December 16)  
Military service credit: laches bars assertion of claims for retroactive credit, Lavin v. Hackensack Bd. of Ed., 90 N.J. 145

(1982) and Union Twp. Teachers Assn. v. Union Twp. Bd. of Ed., 90 N.J. 161 (1982)  
Prejudice; if no prejudice to board, laches does not bar action (74:1261) (76:356, Whidden, modified App. Div. 77:1312) (77:1008, Williams, aff'd St. Bd. 78:1050) (77:976, Levitt, aff'd St. Bd. 78:1027, aff'd App. Div. 79:847) (83: March 14, Bogart) (87:2175, D'Alonzo)  
Remedy sought barred in part by laches, Bridgeton Ed. Assn. v. Bridgeton Bd. of Ed., 132 N.J. Super. 554 (Ch. Div. 1975)  
Salary claims  
Analogous to actions at law, since contractual in nature; laches is therefore unavailable as equitable defense, (39-49:51) (70:140) But see (76:751, DeChiaro)  
Salary placement is subject to laches, however, prospective relief is available if N.J.S.A. 18A:29-4.3 is found to be violated (87:183, Pezzullo, aff'd St. Bd. with opinion 89:3067)  
Tenure charges  
Laches defense against board's bringing of charges rejected (66:77 aff'd St. Bd. 66:106 aff'd App. Div. 67:351)

#### **Time**

**Generally**, there is no specific time period after which appeal is barred; depends on circumstances (60-61:142) (67:1)  
Eight month delay in appealing abolition of position held laches (78:214, Smith)  
Eight months to attack restoration of capital outlay funds, held untimely (77:288, Colozzi)

**LACHES** - continued

#### **Time** - continued

##### **Generally** - continued

Eleven month delay by reassigned janitor held laches (50-51:61)  
Eleven month delay by teacher held laches (38:618)  
Five year delay for retroactive compensation held laches (76:751, De Chiaro)  
Fourteen month delay by dismissed teacher held not to constitute laches (38:598)  
Four year delay by private school in tuition case held laches (79:136, Somerset Hills School)  
Four years and six months delay in teacher's salary claim held laches (80: April 30, Cunningham)  
Four years and two months delay in teacher's salary claim held laches (78:50, Brewington)  
Nine month delay by dismissed mechanic held laches (38:138)  
Nine month delay in administrator transfer case held not to

constitute laches (74:805)

No delay found; laches not upheld (75:737, Popovich)  
 (76:356, Whidden, modified App. Div. 77:1312) (77:24,  
DiNunzio) (77:218, Hillman) (77:952, Shahbazian)  
 (77:1008, Williams, aff'd St. Bd. 78:1050) (77:976,  
Levitt, aff'd St. Bd. 78:1027, aff'd App. Div. 79:847)  
 (77:1063, DeOld, rev'd St. Bd. 78:1006)

One year delay in appealing denial of increment held laches  
 (79:371, Albanese)

One year delay in appealing denial of increment justifies  
 invocation of laches (76:118, Quay) (77:120, Gregg)

One year delay in appealing non-renewal justifies invocation  
 of laches (77:364, Crawford)

One year delay in teachers' salary and assignment case held  
 laches (72:444 aff'd St. Bd. 72:448)

Six month delay by dismissed janitor held not to constitute  
 laches (79:169, Kyler)

Six month delay by dismissed teacher held laches (38:593)

Six months delay in appealing non-renewal held laches (80:  
 May 16, Sheary)

Ten month delay in teacher non-renewal case held laches  
 (75:598, Ulozas, aff'd St. Bd. 75:604, certif. denied  
 74 N.J. 279 (1977))

Three week delay in election challenge held laches  
 (39-49:89)

Three year delay requesting rescission of certificate  
 held laches (77:908 Gilbert, aff'd St. Bd. 77:913  
 decision on motion St. Bd. 78:1017)

Two and a half year delay in teacher compensation case held  
 laches (72:469)

**LACHES** - continued

**Time** - continued

**Generally** - continued

Two and a half years in appealing non-renewal held laches  
 (77:1091, Frick)

Two and a half years in appealing withholding 2 days'  
 salary laches not upheld (77:990, Fitzgibbon, aff'd St.  
 Bd. 78:1009)

Two month delay in bidding case held laches (39-49:206)

Two year delay in nurses' salary case held not to  
 constitute laches (75:1007, Maykowski)

Two year delay in teacher's salary claim against board held  
 laches (75:98, Savoia, dismissed St. Bd. 75:102)

Two years delay in appealing withholding of increment held

laches (80: March 20, Rappaport)  
Transportation contract (39-49:206)  
Unfamiliarity of pro se litigant as excuse for delay (80:  
February 25, Dalley)

## **LAND**

(See also "Schools and buildings", this index)

Acquisition of land outside municipality permitted for recreation purposes, Winslow v. Camden Bd. of Ed., 108 N.J. Super. 215 (App. Div.) certif. denied 55 N.J. 450 (1970)

Gift of

Deed contained restriction that land be used solely for erection and maintenance of school; held, no possibility of reverter arose even though board closed school and used land for park, Hagaman v. Woodbridge Twp. Bd. of Ed., 117 N.J. Super. 446 (App. Div. 1971)

Restriction covenant in a deed of conveyance of property from a township to a board of education which limited use of the tract to public school purposes was a binding covenant running with the land. Springfield Township v. Springfield Board of Education, 217 N.J. Super. 570 (App. Div. 1987)

Where board of education and a purchaser of real property entered into a contract of sale in the mistaken belief that the board's property was not subject to a restrictive covenant, contract was properly ordered to be rescinded. Springfield Township v. Springfield Board of Education, 217 N.J. Super. 570 (App. Div. 1987) (89: October 18, Hunterdon Central, aff'd St. Bd. March 7, 1990)

Interest earned on deposit monies goes to putative purchaser where contract declared null & void and parties had not otherwise agreed. Green Springs Est. v. Bd. of Ed., 233 N.J. Super. 386 (App. Div. 1989)

## **LAND EXCHANGE**

Lands exchanged must not be needed for school purposes (71:493)

Lands received must be equal in value to lands given up  
(64:148) (71:493)

## **LAW ENFORCEMENT OFFICERS**

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

## LEASE PURCHASE

- Bonding insurance is a valid line item to be placed in lease purchase agreement (89:1103, C.A.R.E., appeal dismissed St. Bd. 90: July 5)
- Changes in previously approved lease purchase agreement may not be made without first obtaining written consent of Commissioner (89:1103, C.A.R.E., appeal dismissed St. Bd. 90: July 5)
- Inclusion of provisions for remedies upon lease's default does not invalidate lease purchase agreement (89:1103, C.A.R.E., appeal dismissed St. Bd. 90: July 5)
- Lease purchase may be used to purchase unimproved parcel of land when board intends to contract facilities thereon (89: October 18 Hunterdon Central, aff'd St. Bd. March 7, 1990) (89:2712, Township Committee of Delaware Township, aff'd St. Bd. 90:1708)
- Remedy against school district that defaults on lease-purchase payment may not have effect of preventing districts from carrying out educational purpose (89:1103, C.A.R.E., appeal dismissed St. Bd. 90: July 5)
- Validity of lease purchase statute upheld; since contractual payment obligation is paid from current revenues, subject to annual appropriation; it is not considered long-term debt that would violate debt restriction statute (89:1103, C.A.R.E., appeal dismissed St. Bd. 90: July 5)

## LEASES

- Board may not lease school buses (60-61:207 aff'd St. Bd. 61-61:247)
- Leasing of property, standing of bondholders and taxpayers to object, Silverman v. Millburn Twp. Bd. of Ed., 134 N.J. Super. 253 (Law Div.) aff'd o.b. 136 N.J. Super. 435 (App. Div. 1975)
- Cannot be for a term beyond the life of the board (77:462, Foote, stay denied and aff'd St. Bd. 77:477, jurisdiction released and aff'd St. Bd. 77:477)
- Ordered by Commissioner to alleviate overcrowding (77:488, South Amboy)

## LEAVES OF ABSENCE

- (See N.J.S.A. 18A:30-1 et seq.)
- Advancement on salary guide denied (76:1019, Hussey) (88:2118, Donofrio)
- Board's duty to notify employees on leaves of absence of changes caused by negotiated agreement (78:50, Brewington)

Court appearance, collectively negotiated provision allowing time off with pay for court appearances includes petitioner's attendance at hearing before Commissioner (85:310, Meli)  
Credit toward tenure acquisition; none (72:526, aff'd St. Bd. 73:777, Mountain)  
Disability leave of absence; board's denial of, without reasons, is arbitrary and cannot stand (81: October 2, Friedman)  
Extended school year, leave provisions apply, (80: September 25, Colofranson)

### **Maternity leave**

Advancement on salary guide denied (76:1019, Hussey)  
Board may, in the interest of preserving continuity of instruction, refuse to renew contract of teacher who would be absent due to pregnancy-related disability in ensuing year, provided board does not treat other absences differently, Gilchrist v. Haddonfield Bd. of Ed., 155 N.J. Super. 358 (App. Div. 1978)  
Board need not grant employee's request as to beginning and/or end dates of maternity leave and may set dates to preserve continuity of instruction, Dyson v. Montvale Bd. of Ed., App. Div., unpublished opinion (Docket No. A-3182-80-T1, February 8, 1982); St. Bd. 81: March 4, C. dec. 80: July 21); but board action will not be upheld where applied in discriminatory fashion (81: December 28, Stephan, and 82: January 14, Stephan) (81: June 29, Hourdajian)  
Board not required to provide sick pay for disability arising from childbirth during an unpaid maternity leave of absence, when board has policy of not paying for sick days during any type of extended unpaid leave, Headley v. Jefferson Twp. Bd. of Ed., App. Div., unpublished opinion, (Docket No. A-2804-80-T1, November 17, 1981); St. Bd. 81: February 4, rev'g 80:672)  
Board's grant of maternity leave, binding on both parties, despite contract (81: January 16, Oxford)  
Board's unilateral change in dates of maternity leave, held arbitrary and capricious (81: January 16, Oxford)  
Choice; board must give employee choice of requesting unpaid maternity leave of absence, or use of accumulated sick days for pregnancy-related disability, followed by unpaid leave of absence (81: December 4, Slattery)  
Contractual provision on maternity leave, effect (81: January 16, Oxford)

**LEAVES OF ABSENCE - continued**

**Maternity leave - continued**

- Dispute over granting of maternity leave to be settled through contractual grievance procedure (80: June 30, Gallop)
- Employee presumed disabled one month before, one month after projected date of delivery certified by employee's physician; board may require further physician's certificate for greater period of disability (80:685, Hynes, aff'd St. Bd. 80:698, aff'd 190 N.J. Super. 36 (App. Div. 1983)) Farley v. Ocean Twp. Bd. of Education, 174 N.J. Super. 449 (App. Div. 1980), certif. denied 85 N.J. 140 (1980) (81: May 21, Derillo, aff'd with modification St. Bd. 82: January 6)
- Insurance coverage cannot be terminated during disability period (81: June 11, Boyle, aff'd St. Bd. with modification 81: October 7)
- Mandatory one year leave of absence for maternity prohibited (81: June 29, Hourdajian)
- Must be affirmatively granted by board (80: October 8, Nadler)
- Period of actual disability associated with pregnancy must be treated the same as any other physical disability; i.e., employee is entitled to be paid for sick leave up to number of days accrued; board may require proof of actual disability from physician and may also challenge such proofs, Miller v. Pequannock Twp. Bd. of Ed. (unreported decision of N.J. Div. on Civil Rights, March 23, 1973); Castellano v. Linden Bd. of Ed., 158 N.J. Super. 350 (App. Div. 1978) aff'd 79 N.J. 407 (1979); (76:739, Cinnaminson, aff'd St. Bd. 79:817) (78:919, Shokey, aff'd St. Bd. 79:869) (79:378, Logandro, aff'd St. Bd. 80: June 11, aff'd in part St. Bd. 80: May 1) (79:747, Slattery, remanded St. Bd. 80: November 5, dec. on remand 81: December 4) (80:407, Schultz, aff'd St. Bd. 80:428) Headley v. Jefferson Twp. Bd. of Ed., App. Div., unpublished opinion, (Docket No. A-2804-80-T1, November 17, 1981); St. Bd. 81: February 4, rev'g 80:672) (80:1393, Tchir) Farley v. Ocean Twp. Bd. of Education, aff'd 174 N.J. Super. 449 (App. Div. 1980), certif. denied 85 N.J. 140 (1980) (86:1425, Angersbach)
- Returning teacher need not be placed in same grade assignment (86:1394, Reimer)
- Salary level at which accumulated sick leave to be paid (88:50, Jennings)
- Sick leave provisions, requiring "absence due to personal disability due to illness or injury", may not be used for child-rearing purposes by a non-disabled teacher, Hackensack

Bd. of Ed. v. Hackensack Ed. Assn., 184 N.J. Super. 311  
(App. Div. 1982), certif. denied 91 N.J. 217 (1982)



**LEAVES OF ABSENCE - continued**

**Maternity leave - continued**

Teacher has no right to unpaid child-rearing leave; (80:1393, Tchir) may be granted at option of board but must be available to male and female employees on non-discriminatory basis, Demes v. Pascack Valley Reg. Bd. of Ed. (Div. on Civil Rights, February 5, 1976); (76:739, Cinnaminson Bd. of Ed., aff'd St. Bd. 79:817) see also (75:138, North Bergen); compare early Commissioner's decisions at 38:579, aff'd St. Bd. 38:581) 50-51:63, aff'd St. Bd. 51-51:62) (56-57:52, aff'd St. Bd. 56-57:55) (65:78) (68:183)

Use of accumulated sick leave during unpaid maternity leave (79:378, Logandro, aff'd in part St. Bd. 80: May 1) Headley v. Jefferson Twp. Bd. of Ed., App. Div., unpublished opinion, (Docket No. A-2804-80-T1, November 17, 1981; St. Bd. 81: February 4, rev'g 80:672) (81: December 4, Slattery) (88:50, Jennings)

**Military leave**

(See "Military Leave", this index)

**Personal leave**

Generally (80: September 25, Colofranson)

Denied by board, teacher took it anyway, salary withheld and reprimand placed in file (77:990, Fitzgibbon, aff'd St. Bd. 78:1009)

Local policy interpreted by Commissioner (76:2, Siegfried)

Rules governing personal leaves on day before holiday upheld (63:59)

Religious holiday leave; board may not grant paid leaves of absence solely for religious purposes, Hunterdon Central High School Bd. of Ed. v. Hunterdon Central High School Teachers' Assn., 174 N.J. Super. 468 (App. Div. 1980), aff'd 86 N.J. 43 (1981)

**Sabbaticals**

Approval of sabbatical to pursue certification does not bind board to offer future employment in that area of certification (80: April 7, Cyphers)

Policy must be clear (76:796, Lavin)

Tenured employee on approved leave must be offered position upon his return: cannot be terminated before less senior employees (81: May 21, Philbin)

Term and condition of employment, South Orange-Maplewood Ed. Assoc. v. South Orange and Maplewood Bd. of Ed., 146 N.J. Super. 457 (App. Div. 1977)

Transfer upon return from sabbatical, held arbitrary (80:1302, Goldstein)

### Sick leave and other benefits

Abandonment of tenure distinguished (71:403) (71:512, aff'd St. Bd. 72:672) see also 75:616, Caputo) (85: January 25, Spizziri)

### LEAVES OF ABSENCE - continued

#### Sick leave and other benefits - continued

Accident for purposes of N.J.S.A. 18A:30-2.1 means all work-related injuries; no requirement of outside impact or unusual stress, Theodore v. Dover Bd. of Ed., 183 N.J. Super. 407 (App. Div. 1982)

Accident occurring in the course of employment, not charged to sick leave (76:748, Kochman) (77:518, Barnarr)

Accident occurring in the course of employment, petitioner has burden of proving that illness was work-related (78:24, Macaulay) (79: May 7, Cook, unpublished opinion)

Accumulation of additional sick leave, vacation leave during period of unpaid medical leave denied (88:2118, Donofrio)

Additional sick leave, (76:1045, Taccone)

Annual sick leave in excess of 10 day minimum may be negotiated based on length of service, Hoboken Bd. of Ed. v. Hoboken Teacher's Association, unpublished opinion, App. Div. (Docket No. A-3379-80T2, April 5, 1982), certif. granted 91 N.J. 242 (1982), appeal dismissed as improvidently granted, 93 N.J. 263 (1983), disapproving King v. Woodcliff Lake Bd. of Ed., 1972 S.L.D. 449 and Woodbridge Twp. Federation of Teachers Local 822 v. Woodbridge Twp. Bd. of Ed., 1974 S.L.D. 1201

Available in toto from outset of school year (49-50:57) (80: April 30, Reilly) but employees who start work in mid-year must receive pro-rated sick leave, Schwartz v. Dover Public Schools, 180 N.J. Super. 222 (App. Div. 1981) disapproving reasoning in 74:1201, But c.f. 87:1883, Partus

Auxiliary teachers and Educational Services Commission employees entitled to accumulation of annual sick leave for six years prior to Rutherford decision; part-time teachers' accumulation must be based on amount of time in the day teacher was scheduled to work (87:2642, Middlesex, St. Bd. aff'g in part, rev'g in part 84: October 29) (87:2576, Comstock, St. Bd. aff'g in part, rev'g in part 83: September 15) (87:2664, Piscataway, St. Bd. aff'g in part, rev'g in part 83: October 13)

Auxiliary teachers entitled to accumulated sick leave retro-active to six years prior to Rutherford decision, to be used on prospective basis only (86:1959, Fair Lawn Ed. Assn., aff'd St. Bd. 86:1972, aff'd App. Div. unreported)

opinion (Docket No. A-1698-86T8, A-3639-86T8 decided  
December 24, 1987))  
Benefits prorated where board certified tenure charges mid-year  
(85:401, Bates, aff'd in part, rev'd in part, St. Bd.  
86:2988, aff'd App. Div. unreported opinion (Docket No.  
A-2700-86T7, decided November 16, 1987))

**LEAVES OF ABSENCE - continued**

**Sick leave and other benefits - continued**

- Benefits under N.J.S.A. 18A:30-2.1 barred by collateral estoppel and waiver after Workers Compensation settlement of temporary disability benefits (87: January 21, Cook)
- Benefits under N.J.S.A. 18A:30-1 et seq. denied; no proof that absence necessitated by medical condition (85:401, Bates, aff'd in part, rev'd in part, St. Bd. 86:2988, aff'd App. Div. unreported opinion (Dkt. No. A-2700-86T7, decided November 16, 1987))
- Benefits under N.J.S.A. 18A:30-2.1 denied: no proof that work-related injuries direct cause of inability to work (81: November 23, Forgash, aff'd St. Bd. 82: February 3)
- Benefits under N.J.S.A. 18A:30-2.1 stop when employee leaves board service (81: July 20, Finnegan)
- Benefits under N.J.S.A. 18A:30-2.1: Commissioner must determine whether injury is work-related; benefits not contingent on worker's compensation award (81: July 1, Masino, St. Bd. rev'g 80: November 20)
- Board had authority to place janitor, who remained unable to perform full duties after exhausting all paid leaves, on unpaid leave of absence (82: June 24, Still, aff'd St. Bd. 82: December 1)
- Board ordered to file application for disability for teacher dismissed for abuse of sick leave (81: April 24, Canzonier)
- Calculation of salary after sick leave exhausted (80:954, Oteri, aff'd St. Bd. 80:966)
- Challenge to employee's proof of illness upheld; board need not accept physician's certificate (67:287) (75:616, Caputo) (76:980, Warren)
- Credit for sick days from other district; board may adopt policy granting such credit at its discretion, policy must apply uniformly to all employees (86:1537, Keller)
- Credit for sick days from another district, board policy granting such applies prospectively from date adopted; individual employed prior to adoption not entitled to credit (86:1537, Keller)
- Doctrine of unclean hands estopped teachers, who had participated in job action by calling in sick, from recovering sick day for which they were charged on claim that school had later been officially closed for the day, since the job action was the cause of the school closing (82: August 25, East Brunswick)
- Early return from unpaid medical leave denied for reasons of educational continuity (81: June 29, Wyatt)

Educational Services Commission employees entitled to payment for days not worked due to illness from six years prior to Rutherford decision (87:2642, Middlesex, St. Bd. aff'g in part, rev'g in part 84: October 29)

**LEAVES OF ABSENCE - continued**

**Sick leave and other benefits - continued**

Employee on unpaid leave of absence ineligible to accrue or utilize sick leave benefits once unpaid leave commences; eligibility resumes upon teacher's return from unpaid leave (87:, Partus) (88:780, Sacharoff) (88:2118, Donofrio)

Estoppel denied, employees could not rely on unauthorized representations of vice principal that absences would not be deducted as sick leave (82: November 15, Cimino)

**Extended paid sick leave under N.J.S.A. 18A:30-2.1** (Payment of sick leave for service connected disability)

"Arising out of and/in the course of employment", teacher who sustained injury from hot tea while discussing student with social worker, entitled to extended benefits (84:1664, Sussman)

Benefits awarded (83: October 11, Rutherford, aff'd St. Bd. 84: April 4)

Board discretion to grant, must be based upon individual case (83:1325, Matawan Regional Teachers Assn., aff'd St. Bd. 84:1963, aff'd App.Div. 202 N.J. Super. 142 (App. Div. 1985) on remand 86:2320)

Board's denial without a determination of whether petitioner qualified as a "special case" under board's own policy guidelines held improper (83: May 3, Molina, aff'd St. Bd. 83: September 7)

Calendar year, N.J.S.A. 18A:30-2.1, each re-injury constituted an accident arising out of or in the course of employment, triggering new calendar years, Theodore v. Dover Bd. of Ed., 183 N.J. Super. 407 (App. Div. 1982) (82: November 15, Cimino)

Calendar year under N.J.S.A. 18A:30-2.1 is 12 consecutive months from the date of the work related injury (83: September 15, Bergmann, aff'd St. Bd. 86: January 8)

Denial of extended sick leave must be based upon standard of uniformity under substantially similar circumstances (83: May 3, Molina, aff'd St. Bd. 83: September 7)

Denied because of claimant's lack of credibility (86:117, McKnight)

Employee must remain entitled to sick leave in order to continue to receive salary under the statute (83: July 21, Verga)

Granted following determination by Division of Workers Compensation that injury was work-related and prevented employee from performing duties (86:2554, Forgash) (87:690, Amos, aff'd with opinion St. Bd. 88:2434)  
Granted: head injury on job caused epilepsy and psychiatric problems (86:152, Lopez)  
Injury within statute includes allergic reaction (83: September 15, Bergmann, aff'd St. Bd. 86: January 8)

**LEAVES OF ABSENCE - continued**

**Sick leave and other benefits - continued**

**Extended paid sick leave under N.J.S.A. 18A:30-2.1 - continued**

Interest awarded on amount due to petitioner where board inordinately delayed referring her to board medical inspector (86:209, Sirianni)  
Jurisdiction of Commissioner re: application of statute, independent of findings of Division of Workers' Compensation (83: September 15, Bergmann, aff'd St. Bd. 86: January 8)  
Liability for salary under N.J.S.A. 18A:30-2.1 applies from date of injury and during the twelve month period thereafter only (82: November 15, Cimino)  
Medical "investigation": board must investigate claim independently of its workers compensation carrier's investigation (86:209, Sirianni)  
Reimbursement of salary paid to employee pending workers compensation claim upheld N.J.S.A. 18A:30-2.1 (89:1733, Pemberton)  
Supplemental teachers/Title I  
Part-time remedial teachers are entitled to sick leave pursuant to N.J.S.A. 18A:30-2 (87:370, Cosmas)  
Worker's Compensation judge not barred from awarding worker's compensation temporary disability although Commissioner determined that injuries were not work-related and denied benefits under N.J.S.A. 18A:30-2.1. Forgash v. Lower Camden County School District, 208 N.J. Super. 461 (App. Div. 1985) But see (86:2554, Forgash)  
**Extended sick leave pursuant to N.J.S.A. 18A:30-6** (prolonged absence beyond sick leave period)  
Board must consider claims on a case by case basis (71:512 aff'd St. Bd. 72:672) (80:64, Adell) (80: April 30, Reilly) (80: September 11, Reisman) (80: October 20, Goetsch) (80: November 7, Rossi, aff'd St. Bd. 81: August 5) (85: February 22, Liebeskind, aff'd St. Bd. 86:3077, aff'd App. Div. unreported opinion (Docket No.

A-5078-85T6, decided May 22, 1987))  
Denial of request as disciplinary action improper where  
petitioner attendance was unsatisfactory and board had  
not taken appropriate disciplinary action (84: October  
11, Weiss)  
Discretion of board must be exercised according to a  
standard of uniformity under similar circumstances.  
(86:2320, Matawan Regional Teachers Ass'n.)

**LEAVES OF ABSENCE - continued**

**Sick leave and other benefits - continued**

**Extended sick leave pursuant to N.J.S.A. 18A:30-6 - continued**

Failure to provide statement of reasons for denial of extended sick leave does not constitute an abuse of board discretion (85:232, Liebeskind, aff'd St. Bd. 86:3077, aff'd App. Div. unreported opinion (Docket No. A-5078-85T6, decided May 22, 1987)) See also 83:1325, Matawan Regional Teachers Assn., aff'd St. Bd. 84:1963, aff'd App. Div. 202 N.J. Super. 142 (App. Div. 1985), on remand 86:2320)

Negotiation of uniform extended sick leave provisions not permitted Piscataway Bd. of Ed. v. Piscataway Main & Cust. Assoc., 152 N.J. Super. 235 (App. Div. 1977) (79:862, Ramsey, aff'd App. Div. 80:1528; C. dec. 78:518)

Reasons for request must be provided by employee; denial upheld (85:232, Liebeskind, aff'd with opinion St. Bd. 86:3077)

Involuntary leave of absence; placement of petitioner on such held improper where no reasons were given for requiring full psychiatric examination (82: May 3, Improta) see also, appeal dismissed as filed out of time, Improta, unpublished opinion, App. Div. (Docket No. A-5138-81T2, decided March 26, 1984), aff'g St. Bd. 82: July 9)

Manpower Development Training Program (79: December 31, D'Angelo, unpublished opinion)

Maternity leave, child rearing is not a disability within meaning of sick leave statute, Hackensack Bd. of Ed. v. Hackensack Ed. Assn., 184 N.J. Super. 311 (App. Div. 1982), certif. denied 91 N.J. 217 (1982)

**Mental abnormalities**

(See "Physical and Psychiatric Examinations", this index)

Non-tenured teacher may get additional sick leave with full pay (76:1045, Taccone)

Part-time employees, if "steadily employed", entitled to sick leave on pro rata basis (74:1201)

Payment for unused sick leave upon retirement: provision in teacher's contract does not apply to superintendent (86:1537, Keller)

Permanent substitutes (80: August 27, Kearny)

Physical examination required by board, absence to have examination not to be charged to the annual or accumulated sick leave of employee, N.J.S.A. 18A:16-3, 18A:30-2.1 (82: November 15, Cimino)



**LEAVES OF ABSENCE - continued**

**Sick leave and other benefits - continued**

Policies to control excessive absenteeism

Generally (84:550, Montville, rev'd St. Bd. 84:559, rev'd and remanded App. Div. unreported opinion (Docket No. A-1178-84T7 decided December 6, 1985) certif. denied 102 N.J. 500 (1986), opinion on remand St. Bd. 86:3113) (85:889, Burlington, aff'd St. Bd. 85:912) (85:988, Bialek, aff'd St. Bd. 85:1009) (86: June 24, East Brunswick)

Board may not adopt attendance policy which imposes sanction based on sheer number of absences and does not consider nature of absence (89:2086, Neptune Twp.)

Failure of board to adopt policy, board refusal to allow use of accumulated leave for elective surgery reversed (86:1855, Cole)

Prior approval, board's ability to disapprove request for long term sick leave in order to obtain "elective" surgery (85: September 18, Cole)

Proof of illness, board may require (67:287) (75:616, Caputo) (83:71, Dunellen Ed. Assn., aff'd with opinion St. Bd. 83:83)

Proof of illness required of three specific employees held valid in view of employees' attendance records (83:71, Dunellen Ed. Assn., aff'd with opinion St. Bd. 83:83)

Psychiatric exam

Objections to board's choice of psychiatrist unsubstantiated (86:527, Spizziri)

Return from leave can be conditioned upon (85: January 25, Spizziri)

Psychiatric exam under N.J.S.A. 18A:16-2; board may not charge accumulated sick time of employee where employee at board request agreed to go on sick leave "without prejudice" toward sick time during period of psychiatric evaluation, and where final evaluation determined him fit for duty (83: September 23, Engelke)

Psychiatric exam under N.J.S.A. 18A:16-2; board ordered to reinstate employee following recent favorable exam, but back pay was denied where employee failed to request statement of reasons from board for failure to reinstate him after previous exam (83: December 22, Amorosa)

Psychiatric exam, return from leave can be conditioned upon (85: January 25, Spizziri)

Reinstatement after (38:584) (72:526, aff'd 73:777)

Reinstatement: Tenured teacher must be allowed to return to

position after paid leave ends (89:152, Garbos)

**LEAVES OF ABSENCE - continued**

**Sick leave and other benefits - continued**

- Sick leave could not be used or accumulated by employee who did not submit physician's certificate along with request for leave of absence (86:2988, Bates, St. Bd. aff'g in part, rev'g in part 85:401, aff'd App. Div. unreported opinion (Docket No. A-2700-86T7, decided November 16, 1987))
- Statute of limitations, laches, estoppel apply to claims for sick leave (80: August 6, Schwartz, St. Bd. rev'g 79: December 24)
- "Steadily employed" does not include assistant football coach (89:16, DeGroot, aff'd St. Bd. 89:31, with opinion)
- "Steadily employed" includes lunchroom aides who work less than full day and approximately two weeks less than full year (85: June 3, South Orange-Maplewood)
- "Steadily employed" persons are entitled to sick leave (65:40) (72:266 aff'd in part, rev'd in part 73:777) (72:449) (74:890, aff'd St. Bd. 75:1074, aff'd in part, rev'd in part App. Div. 76:1124) (74:1201) (88:780, Sacharoff)
- Substitutes versus regularly employed teachers (Driscoll, 165 N.J. Super. 241 (App. Div. 1977), aff'd 79 N.J. 126 (1976), rev'g 76:7, aff'd St. Bd. 76:14); but see Sayreville Ed. Assn., 193 N.J. Super. 424 (App. Div. 1984) rev'g (83:1632, St. Bd. aff'g with modification 82: June 18)
- Substitute teachers appointed to fill vacancies for a substantial balance of the academic year were to be considered teaching staff members during the time they served, and consequently entitled to all of the rights and benefits of that status. Sayreville Ed. Assn. et als. v. Bd. of Ed. of Borough of Sayreville, 193 N.J. Super. 424 (App. Div. 1984), rev'g (83:1632, St. Bd. aff'g with modification 82: June 18)
- Supplemental teachers/Title I entitled to sick leave per N.J.S.A. 18A:30-2 (84: February 23, West Orange, decision on remand 84: August 10 aff'd in part, rev'd in part St. Bd. 87:2758) Reasoning in cases decided prior to Spiewak and Rutherford, Spiewak v. Rutherford Bd. of Ed., 90 N.J. 63 (1982) and Rutherford Ed. Assn. v. Rutherford Bd. of Ed., 99 N.J. 8 (1985); disapproved, see, e.g. (80: August 27, Kearny) (80: November 3, Garretson) (81: February 2, Woodbridge) (81: March 10, Hasbrouck Hts.)
- Termination of employment and application for deferred retirement constituted resignation; PERC, not Commissioner, has jurisdiction to determine rate of pay for sick days

under bargaining agreement (89:87, Sathan)

**LEAVES OF ABSENCE - continued**

**Sick leave and other benefits - continued**

- Title I, compensatory education teachers  
Entitled to accumulated sick leave retroactive to six years prior to decision, prospective application only (86:1959, Fair Lawn Ed. Assn., aff'd St. Bd. 86:1972, aff'd App. Div. unreported opinion (Docket No. A-1698-86T8, A-3639-86T8 decided December 24, 1987))
- TPAF and sick leave: standards of "traumatic event" or a "causal connection" may not be the same (83: October 11, Rutherford, aff'd St. Bd. 84: April 4)
- Unemployment compensation; person on leave of absence considered employed for unemployment compensation purposes Halenar v. Sayreville Bd. of Ed., 177 N.J. Super. 157 (App. Div. 1981)
- Unexcused leave of absence, sanction for, Demarest Bd. of Ed. v. Demarest Ed. Assn., 177 N.J. Super. 211 (App. Div. 1980)
- Unused sick leave; board is not prevented from terminating non-tenured janitor who remains unable to work following extended leave for work-related injury and who has unused sick leave available (86:622, Hardgrove, aff'd St. Bd. 86:633, aff'd App. Div. unreported opinion (Docket No. A-25-86T8, decided March 25, 1987))
- Unused sick leave may be used in calculating compensation upon retirement, Maywood Ed. Assn. v. Maywood Bd. of Ed., 131 N.J. Super. 551 (Ch. Div. 1974); (80: September 5, Costanzo) compare (72:456) (78:807, Sharp)
- Use of accumulated sick leave and other benefits during unpaid maternity leave (79:378, Logandro, aff'd in part St. Bd. 80: May 1) (79:747, Slattery, remanded St. Bd. 80: November 5, decision on remand 81: December 4, Slattery)
- Use of sick leave for child-rearing prohibited: available only for sickness or disability, In the Matter of Hackensack Bd. of Ed. and Hackensack Education Assn., 184 N.J. Super. 311, (App. Div. 1982), certif. denied 91 N.J. 217 (1982)
- Worker's Compensation and sick leave (87:690, Amos, aff'd w/opinion St. Bd. 88:2434)
- Worker's compensation and sick leave; interrelationship (See also "Worker's Compensation", this index) Theodore v. Dover Bd. of Ed., 183 N.J. Super. 407 (App. Div. 1982) (81: July 1, Masino, St. Bd. rev'g 80: November 20) (82: November 15, Cimino) (83: October 11, Rutherford, aff'd St. Bd. 84: April 4)
- Cardiovascular or cerebral vascular causes (83: October 11, Rutherford, aff'd St. Bd. 84: April 4)
- Wrongful discharged state employee entitled to sick leave and

vacation time for period of discharge Eddy v. Department  
of Transportation, 208 N.J. Super. 156 (App. Div. 1986)

**LEAVES OF ABSENCE** - continued

State holidays; N.J.S.A. 36:1-1, 1.2, declaring January 15, Martin Luther King's Birthday applies to state employees; held board employees were properly docked one day's pay for improperly taking Friday preceding Martin Luther King's Day as holiday (84:166, Rumson-Fair Haven)

Unauthorized leaves of absence

(See "Tenure - Dismissal or reduction", "Increments" and "Salary - Reduction", this index)

Vacation leave (76:835, Arzberger, aff'd St. Bd. 77:1271)

Vacation leave for civil service employees may be accumulated in the following year only under N.J.S.A. 11A:6-3 (89:2603, Mayo, aff'd St. Bd. 91:2542)

Withholding of pay for unauthorized absence, permissible (80: December 4, Philbin)

**LEGAL EXPENSES**

(See "Indemnification" and "Commissioner - Attorneys fees", this index)

**LIBEL**

(See "Indemnification - Civil actions - Libel", this index)

**LIBERTY INTEREST**

Deprivation of liberty without due process found in statements made on superintendent's evaluation form (74:269 aff'd St. Bd. 74:275 aff'd App. Div. 76:1137)

**LIBRARY**

Designation as area library, factors (76:484, Board of Trustees of East Brunswick Pub. Library)

**LUNCH PROGRAMS**

Closed lunch policy valid: request for exemption not supported by reasons (85: January 28, M.H. et al.)

Lunchroom duty for teachers, Long Branch Ed. Assoc. v. Long Branch Bd. of Ed., 150 N.J. Super. 262 (App. Div. 1976) aff'd 73

N.J. 461 (1977) (C. dec. 74:1189 aff'd St. Bd. 75:1098); In re Byram Twp. Bd. of Ed., 152 N.J. Super. 12 (App. Div. 1977); (77:1080, Parsippany-Troy Hills, aff'd St. Bd. 78:1033, appeal dismissed as moot App. Div. 79:854)

**LUNCH PROGRAMS** - continued

Lunchroom use fee held illegal for students who bring their lunches (75:65, Buchanan)  
Part-time French teacher entitled to same fall lunch period as full-time teachers (88:2053, Papaliliou)  
Policy permitting students to remain on school property during lunchroom recess without properly certified personnel set aside (77:393, Cieri)  
Policy requiring all students to return home for one hour after eating lunch in school held valid (78:98, Cieri)  
Policy requiring students residing within one mile to go home for lunch (with certain exceptions) held not to discriminate against working mothers (75:692, Manning), see also (74:551)  
Summer lunch programs (78:354, Mastorelli)  
Teacher aides may supervise students on the playground during lunch recess (78:98, Cieri)  
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)