

LABOR MATTERS

(See "Collective Negotiations" this index)

LACHES

Board action for back tuition alleging non-residence of pupils not barred by laches; no showing that delay by board was prejudicial to family (92 N.J.A.R.2d (EDU) 96, Bd. of Ed. of Boro of Fort Lee v. Kintos, dec. on remand 93 N.J.A.R.2d (EDU) 837, stay denied 93:Dec. 16, aff'd St. Bd. 94 N.J.A.R.2d (EDU) 316, aff'd as mod. App. Div. 96 N.J.A.R.2d (EDU) 1. Motion for Reconsideration granted Dkt. No. A-4944-93T5, Nov. 15, 1995 - Board barred from recovery 87-88, 88-89, 89-90)

Neither estoppel or laches is applied against the State to the same extent as against private parties (92 N.J.A.R.2d (EDU) 96, dec. on remand 93 N.J.A.R.2d (EDU) 837, stay denied 93:Dec. 16, aff'd St. Bd. 94 N.J.A.R.2d (EDU) 316 mod. o.g. App. Div. 96 N.J.A.R.2d (EDU) 1 (Kintos)

Remand ordered to determine whether 1989 tenure charges were barred by laches where board had considered parents' previous complaint about conduct underlying charges in 1987 (90:Jan. 23, L.G.)

The doctrine of laches focuses on an unexplained and inexcusable delay in enforcing a known right, and prejudice resulting to the other party (92 N.J.A.R.2d (EDU) 96, Bd. of Ed. of Fort Lee v. Kintos, dec. on remand 93 N.J.A.R.2d (EDU) 837, stay denied 93:Dec. 16, aff'd St. Bd. 94 N.J.A.R.2d (EDU) 316 mod. o.g. App. Div. 96 N.J.A.R.2d (EDU) 1 (Kintos)

LAND

(See "Schools and Buildings" this index)

LAND EXCHANGE

LAW AGAINST DISCRIMINATION

Forty-eight year old teacher established a *prima facie* case of age discrimination under the New Jersey Law Against Discrimination when she was not re-hired in her third year of employment. Material issue of fact regarding defendant's claim of legitimate nondiscriminatory rationale precluded summary judgment. Reversed and remanded. Evelyne Greenberg v. Camden County Vocational and Technical Schools, 310 N.J. Super. 189 (App. Div. 1998)

LAW ENFORCEMENT OFFICERS

LEASE PURCHASE

- Active Lessor who selects contractors and controls all aspects of construction with only incidental participation by board is not required to put the construction contract out to bid (91:100, Biehn)
- Commissioner erred in dismissing petition based on faulty notion that she lacked jurisdiction to determine validity of lease purchase transaction (94:Apr. 20, Branchburg, aff'd in part & rem'd St. Bd. 94:Oct. 5)
- Failure to timely file brief; appeal dismissed (St. Bd. 97:June 4, In the Matter of the Refinancing of the 1994 Lease Purchase)
- Governing body lacks standing to challenge Commissioner's approval of lease purchase agreement (94:Apr. 20, Branchburg, aff'd in part & rem'd St. Bd. 94:Oct. 5)
- Lease purchase is not a debt requiring voter approval (ALJ analysis 95:April 24, Branchburg, dismissed by Comm'r as moot)
- Lease purchase statute is not in contravention of Abbott v. Burke and the Quality Education Act of 1990 (91:230, Brower, aff'd St. Bd. 91:251)
- Public bidding issue dismissed as moot in light of 1992 amendment to N.J.S.A. 18A:20-4.2(f) and completion of building project (O'Shea v. Franklin, 127 N.J. 244 (1992))
- Public's constitutional right to determine school budget not compromised by lease purchase (91:230, Brower, aff'd St. Bd. 91:251)

LEASES

LEAVES OF ABSENCE

Board did not violate tenure laws by placing tenured teacher on unpaid involuntary administrative leave following a psychiatric examination it ordered him to undergo; board may keep teacher out until it is satisfied that he has recovered from behavior which caused difficulties in the classroom; teacher's motion for emergent relief is denied (St. Bd. 96:Nov. 6, Hopewell)

Involuntary leave of absence because of work-related disability is employment creditable towards acquisition of tenure (90:1126, Kletzkin, aff'd w/modif. St. Bd. 92 N.J.A.R.2d (EDU) 367, aff'd 261 N.J. Super. 549 (App. Div. 1993), aff'd 136 N.J. 275 (1994))

Maternity leave

One year leave of absence does not create a vacancy; RIF'd teacher not entitled to temporary position over long term substitute (Lammers, 134 N.J. 264 (1993) rev'g 260 N.J. Super. 390 (App. Div. 1992), rev'g St. Bd. 91:2570, rev'g 90:1500)

Sick leave and other benefits

"Steadily employed" does not include assistant football coach (89:16, DeGroot, aff'd St. Bd. 89:31, aff'd App. Div. unpub. op. Dkt. No. A-381-89T2, Dec. 3, 1990)

Teacher absent from duties because of illness/injury entitled to use accumulated sick leave during recuperation period; awarded prejudgment interest because board wrongfully withheld sick leave after Division of Pensions denied teacher's pension request (95 N.J.A.R.2d (EDU) 502, Brockmann)

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

(Payment of sick leave for service-connected disability)

Denial of employee's request for extended sick leave is arbitrary when it is not based on adequate medical evidence of employee's fitness for work (95 N.J.A.R.2d (EDU) 471, Zarzaca)
Division of Worker's Compensation has "exclusive original jurisdiction" over a teacher's controverted claim for work related injuries (90:447, Bracoloni)

Injured employee only has 90 days from the date of the discontinuance of statutory benefits to appeal to Commissioner. Must be done independently of workers compensation court (97 N.J.A.R.2d (EDU) 120, McKeon, aff'd St. Bd. 97 N.J.A.R.2d (EDU) 319)

LEAVES OF ABSENCE

Restoration of sick leave on worker's comp claim due to principal's harassment affirmed (97 N.J.A.R.2d (EDU) 512, Dorfman)

Where casual connection between an injury and the workplace is disputed, the Commissioner has no authority to award benefits under N.J.S.A. 18A:30-21 until there is a Worker's Compensation determination (90:447, Bracoloni)

Involuntary leave of absence counts towards tenure where board had 28 months to observe and evaluate teacher (90:1126, Kletzkin, aff'd w/modif. St. Bd. 92 N.J.A.R.2d (EDU) 367, aff'd 261 N.J. Super. 549 (App. Div. 1993), aff'd 135 N.J. 275 (1994))

Involuntary sick leave; without medical justification, board may not place tenured teacher who refuses to submit to a psychiatric exam on involuntary sick leave and suspend teacher's salary when accumulated sick leave expires (91:751, Roberts, aff'd St. Bd. 91:767)

"Steadily employed" teacher who taught 45 out of 50 months entitled to accumulated sick leave; intent of statute is to reward long term, faithful employees (93 N.J.A.R.2d (EDU) 45, Argoe)

Workers Compensation

N.J.S.A. 18A:30-2.1 does not require payment of salary for employee suspended without pay after indictment until indictment is dismissed and Division of Workers Compensation issues determination of compensable injury (90:Nov. 9, Innocenzi)

No waiver of benefits under N.J.S.A. 18A:30-2.1 resulted from settlement agreement's broad waiver solely reserving right to pursue Workers Comp claim (96 N.J.A.R.2d (EDU) 471, Sweet, St. Bd. aff'g with mod. 95:May 26)

Where employee's claim for benefits under N.J.S.A. 18A:30-2.1 is denied by a board of education prior to Workers Comp determination, the employee must file with the Commissioner within 90 days of the board's denial of benefits, and may not wait until 90 days after the Workers Comp decision (relying on Veneret, St. Bd. 1/11/95) (96 N.J.A.R.2d (EDU) 471, Sweet, St. Bd. aff'g with mod. 95:May 26)

LEAVES OF ABSENCE

Where employee's claim for benefits under N.J.S.A.
18A:30-2.1 is denied by board of education subsequent to
Workers Comp determination, the 90-day filing period runs
from the date of the board's denial, not from the Workers
Comp determination (96 N.J.A.R.2d (EDU) 471, Sweet, St.
Bd. aff'g with mod. 95:May 26)

LEGAL EXPENSES

(See "Commissioner of Education - Jurisdiction of Commissioner -
Attorney's Fees" and "Indemnification" this index)

LIBEL

(See "Indemnification" this index)

LIBERTY INTEREST**LIBRARY****LUNCH PROGRAMS**