

MATERNITY LEAVE

(See "Leaves of absence", this index)

MATRON

(See "Janitors" and "Tenure", this index)

MEDICAL INSPECTOR

(See also "Physical Examinations - Pupils", this index)

Board reliance on medical inspector's recommendation (78:135, R.P.)

Employment of (38:109) (38:114) (38:116) (38:120) (38:121)
(38:128) (38:133)

MILITARY LEAVE OR SERVICE

Abandonment of position to enter military service (75:343,
Dieffenderfer, aff'd St. Bd. 76:1137)

Amendment of petition to include new petitioners, credit granted
prospectively from date of amendment (84: January 23, Rush)

Change-over from salary range to salary guide in accordance with
negotiated agreement did not fail to take into account military
credit, which had previously been properly granted, simply
because it was not specifically designated as such in the salary
guide program (82: June 14, Trenton)

MILITARY LEAVE OR SERVICE

Credit awarded prospectively from date of petition, which was the
Board's first notice of petitioners' claims (84: September 14,
Cape May Vo-Tech Ed. Assn. v. Cape May County Vo-Tech Bd. of Ed.,
aff'd St. Bd. 85: March 6, rev'd and remanded 211 N.J. Super.
383 (App. Div. 1986), 87: June 1, aff'd St. Bd. 87: October 1,
aff'd unreported opinion App. Div. (Docket No. A-1353-87T7
decided June 24, 1988))

Credit on salary schedule (56-57:62) (75:297, Alfonsetti)
(76:356, Whidden, modified App. Div. 77:1312) (76:1041, Nelson)
(77:692, Watsula)

Longevity increments, credit given (76:269, Wall Twp. Ed. Assoc.
aff'd St. Bd. 76:273, aff'd 149 N.J. Super. 126 (App. Div.
1977))

Credit on salary schedule; petitioners not eligible for military
service credit where they are at the top of the salary schedule

(83: March 4, Laurie, aff'd St. Bd. 83: December 7) (84: September 14, Cape May Vo-Tech Ed. Assn. v. Cape May County Vo-Tech Bd. of Ed., aff'd St. Bd. 85: March 6, rev'd and remanded 211 N.J. Super. 383 (App. Div. 1986), 87: June 1, aff'd St. Bd. 87: October 1, aff'd unreported opinion App. Div. (Docket No. A-1353-87T7 decided June 24, 1988))

Double credit for military service held not to have occurred (84: March 23, Contardo, aff'd St. Bd. 84: August 8)

Emergency certificate; holder of emergency certificate is entitled to military service credit upon obtaining standard or provisional certificate (83: September 30, Camden County, aff'd St. Bd. 84: November 7, aff'd App. Div. 207 N.J. Super. 23 (1986), certif. denied 104 N.J. 376 (1986)) (84: September 14, Cape May Vo-Tech Ed. Assn. v. Cape May County Vo-Tech Bd. of Ed., aff'd St. Bd. 85: March 6, rev'd and remanded 211 N.J. Super. 383 (App. Div. 1986), 87:1171, aff'd St. Bd. 87:1183, aff'd unreported opinion App. Div. Docket No. A-1353-87T7 decided June 24, 1988)

"Field training" defined (75:532, Reutter) (77:1237, Tirri) (78:563, Tagliareni)

Fractional years of military service; one year of military service credit due if fractional military service meets or exceeds five months (83: September 30, Camden County, aff'd St. Bd. 84: November 7, aff'd App. Div. 207 N.J. Super. 23 (1986), certif. denied 104 N.J. 376 (1986))

Laches, but not statute of limitations, bars claims for retroactive credit for military service. Prospective credit available from time claim asserted, Lavin v. Hackensack Bd. of Ed., 90 N.J. 145 (1982) and Union Township Teachers Assn. v. Union Township Bd. of Ed., 90 N.J. 161 (1982) Compare earlier cases which, while consistent in result with the Supreme Court decisions, hold either that both the doctrine of laches and the statute of limitations bar claims for retroactive credit, or that only the statute of limitations does.

MILITARY LEAVE OF SERVICE - continued

Leave of absence for military service

Active duty for field training, board liable for full salary (77:1200, Whittley)

Active duty in National Guard, board liable for 90 days pay (74:1081)

Reemployment rights (73:417); but see (75:343, Dieffenderfer, aff'd St. Bd. 76:1137)

Length of service: service of five months or greater equals one year of employment (85:1329, Ujhely)

Longevity credit; statute of limitations and doctrine of laches

apply to claims for (81: October 19, Koch, aff'd St. Bd. 82: March 24)

Longevity credit, pursuant to past practice clause of contractual agreements, to be given for actual service solely within the district (84:518, Accetta, aff'd St. Bd. 84:533) (84:1282, Carlson)

Military credit: holders of emergency certificate ineligible (80: July 14, Pinelli)

Military credit: may not be waived (80: December 11, Warr, aff'd St. Bd. 81: August 5, aff'd unpublished opinion App. Div. (Docket No. A-268-81T1, October 20, 1982))

Military service credit; board policy crediting one year for every two years military service is permissible where teaching experience outside district is credited in the same way (84: September 14, Cape May Vo-Tech Ed. Assn. v. Cape May County Vo-Tech Bd. of Ed., aff'd St. Bd. 85: March 6, rev'd and remanded 211 N.J. Super. 383 (App. Div. 1986), 87:1171, aff'd St. Bd. 87:1183, aff'd unreported opinion App. Div. Docket No. A-1353-87T7 decided June 24, 1988)

Military service credit may not be given for Peace Corps Service (80: July 7, Accetta, aff'd St. Bd. 81: March 4) aff'd with modif., unpublished opinion, App. Div. (Docket No. A-3190-80T2, 5/17/82) certif. denied 91 N.J. 526 (1982)

Military service; credit must be granted when rehired by district despite board policy to grant only once, Campbell v. Newark Bd. of Ed., App. Div., unpublished opinion (Docket No. A-1470-82T3, February 24, 1984) rev'g St. Bd. 82: October 6, rev'g 81: November 23)

Military service credit not available to employees of educational services commission which did not have salary schedule (87:2642, Middlesex, St. Bd. aff'g in part, rev'g in part 84: October 29)

Military service credit; where petitioner received the salary placement from present employer he would have received had he been given credit for service by former employer, petition dismissed (82: October 28, Cicconetti, aff'd St. Bd. 83:1513)

Military service credit; where received as required by law, credit not given for prior teaching experience because such was negotiable (82: October 25, Camden)

MILITARY LEAVE OR SERVICE - continued

Military service: prospective credit given if teacher has not reached maximum salary (81: August 5, Bergan)

New Jersey National Guard, service ineligible for credit on salary schedule (81: August 3, Blue, aff'd St. Bd. 81: November 10)

Retroactive credit denied to non-member of teachers' association who had claim but who had not been included in prior petition filed by association on behalf of its members only; credit granted from date of filing of petition (87:2535, Bickings, St. Bd. rev'g 85: September 23)

Seniority; military service does not count toward seniority unless teacher employed in district prior to such service (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) (86:3094, Meyer, St. Bd. rev'g other grounds 83:1099, aff'd App. Div. unreported opinion (Docket No. A-3175-85T6, decided September 24, 1987)) (RIF occurred after Corrado) (85:457, Marshall, rev'd St. Bd. 86:3087, aff'd with opinion App. Div. unreported opinion (Docket No. A-2595-85T1, decided March 10, 1987), overruling (79:245, Lang) (83: August 1, Davis) But see, L.1985, c.217 (N.J.S.A. 18A:28-11.1 and 12) effectively overruling the Corrado reasoning.

Seniority; rule of Corrado decision applies to cases pending at time of that decision (85: June 10, Noland)

Seniority and re-employment credit

Military service prior to employment in district counts toward re-employment and entitlement to vacancy under both L. 1985, c. 217 (N.J.S.A. 18A:28-11.1 and 12) and prior law (86:1, Nangle)

Military service prior to employment in district counted toward seniority credit in reductions in force effected prior to Corrado; Post - Corrado and prior to June 29, 1985, the effective date of L.1985 c.217 (N.J.S.A. 18A:28-11.1, 12), military service prior to employment in district does not count toward seniority. (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) (86:1, Nangle) (85:457, Marshall, rev'd St. Bd. 86:3087, aff'd with opinion App. Div. unreported opinion (Docket No. A-2595-85T1, decided March 10, 1987) (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)) (RIF occurred after Corrado)

Months of service: 10-12 months are equivalent to one academic year of seniority; less than 10 months, seniority based on exact months and days of service (86:1, Nangle)

Service found not to be "field training", board not liable for salary (77:1237, Tirri)

MILITARY LEAVE OR SERVICE - continued

Student in senior year who entered military held entitled to diploma (74:614)

Time claim asserted; teacher made initial claim in 1977 but did not raise claim again until December 1981, credit granted from 1982-83 forward (84: January 12, German, aff'd with opinion St. Bd. 84: August 8)

MILK CONTRACTS

(See "Bidding", this index)

MITIGATION

(See Commissioner - Damages - Mitigation, this Index)

Of damages and claims for back salary (66:219) (72:650)

Unemployment compensation may be considered in mitigation of damages Willis v. Dyer, 163 N.J. Super. 152 (App. Div. 1978). However, if back pay award is reduced by unemployment compensation received, the Department of Labor is entitled to recover those monies from the employer. Dept. of Labor v. Smalls, 153 N.J. Super. 411 (App. Div. 1977) See also Sporn v. Celebrity Inc., 129 N.J. Super. 449 (Law Div. 1974) and Caldwell v. Div. of Unemployment Dis. Ins., 145 N.J. Super. 206 (App. Div. 1976)

MONITORING

(See "Thorough and Efficient", this index)

MOOT ISSUES OR QUESTIONS

Appeal dismissed as moot where board certified tenure charges against suspended teacher (88: September 1, Fargo)

Challenge to board regulation on student distribution of handbills held moot because of graduation of plaintiff students, Oxfeld v. St. Bd. of Ed., 68 N.J. 301 (1975) (C. dec. 69:88 and 71:106, St. Bd. 70:457, App. Div. 73:779)

Commissioner generally will not consider (55-56:69) (56-57:50) (58-59:101) (59-60:198) (61-62:76) (61-62:173) (64:126) (64:130) (64:140) (64:142) (64:164) (65:82) (66:213) (67:93) (68:26)

(68:217) (70:167) (71:297) (72:248) (73:701) (74:1103, modified
and aff'd St. Bd. 75:1119) (75:1, Henry) (75:502, G.G.)

MOOT ISSUES OR QUESTIONS - continued

Commissioner generally will not consider - continued

(75:716, Hancock) (76:582, F.G.) (74:299, aff'd St. Bd. 74:315, aff'd App. Div. 75: April 2, dismissed as moot 77: May 31) (77:962, Donaldson) (78:59, Mason) (78:924, Weehawken) (79: August 3, Rey, unpublished opinion) (80: May 12, Hulej) (80: August 11, Lobis, aff'd St. Bd. 80: November 5)

Graduation dispute held not to be moot (85: June 17, Connolly)

Graduation dispute: State Board upholds denial of graduation but states it should have been dismissed for mootness (81: August 11, Rosen, aff'd St. Bd. 81: November 10, aff'd App. Div. 83:1629)

Mootness found in coaching contracts dispute, City Assoc. of Supervisors v. Bd. of Ed. of Newark, 168 N.J. Super. 184 (App. Div. 1979)

Mootness found in expulsion case (80:20, G.F.)

Petitions dismissed as moot (80: June 23, Dziedzic) (80: November 24, Green) (81: February 11, Willingboro) (81: June 3, M.R.) (81: November 13, Princeton Regional) (82: January 5, Victoria) (82: November 9, Finucane) (87:891, G.L.H., aff'd St. Bd. 87: 906) (87: September 23, Yorke)

MUNICIPALITIES

(See also "Budgets" and "Governing body", this index)

Adoption of Optional Charter Act, county community colleges and vocational schools are agencies within meaning of Act, Board of Trustees of Mercer County Community College v. Sypek, 151 N.J. Super. 1 (Law Div. 1977)

Local school board is free from control of municipal governing body except to extent provided by education statutes, Kaveny v. Montclair Bd. of Comm., 71 N.J. Super. 244 (App. Div. 1962) certif. denied 36 N.J. 597 (1962) (71:397)

School bus driver may utilize defense of qualified municipal immunity where damages sought against him resulted from accident which occurred while on duty, Rivera v. Gerner, 89 N.J. 526 (1982)

School districts of any classification, even if coterminous with municipal boundaries, are local governmental entities and are free from municipal control except to the extent legislature had provided for connection or interdependence; Gualano v. Bd. of School Estimate, 39 N.J. 300 (1963); Botkin v. Westwood Mayor and Council, 52 N.J. Super. 416 (App. Div. dismissed 28 N.J. 218 (1958))

MUSEUMS

Board may provide for the support of (77:462, Foote, stay denied and aff'd St. Bd. 77:477, jurisdiction released and aff'd St. Bd. 77:477)