

OATH OF ALLEGIANCE

Constitutionality of, Thorp v. Bd. of Trustees, 6 N.J. 498 (1951)
vacated on other grounds 342 U.S. 803

OPEN PUBLIC MEETINGS ACT

(See also "Boards of Education - Meetings of - Open Public Meetings Act", this index)

Annual notice of board's regularly scheduled public meetings and workshop sessions is sufficient: no additional notice is necessary (88:2033, Edwing)

Council members and mayor violated spirit and intent of OPMA by refusing to attend meeting and preventing quorum at meeting to fill vacancy on council. Smith v. Ghigliotty, 219 N.J. Super. 531 (Law Div. 1987)

Rice notice not required where board action and discussion take place in open session (89:2192, Aragona, aff'd St. Bd. 89:2243)

Rice notice to affected employee required where discussion and action to reduce her position occurred at scheduled public meeting (89:2120, McGrath)

PAROCHIAL SCHOOLS

(See "Religion", this index)

PENDENTE LITE

(See "Commissioner - Preliminary relief", this index)

PENSIONS

(See "Retirement and Pensions", this index)

PETITIONS

(See "Boards - Change in classification", "Elections - Referenda" and "Elections - Nominating petitions", this index)

PHYSICAL EDUCATION

(See "Pupils - Physical education", this index)

PHYSICAL AND PSYCHIATRIC EXAMINATIONS

(See also "Leaves of Absence - Sick leave and other benefits", this index)

PHYSICAL AND PSYCHIATRIC EXAMINATIONS - continued

Pupils

Physical examination of pupils mandated by statute (N.J.S.A. 18A:40-4) need not include examination for drug addiction (67:17); but see N.J.S.A. 18A:40A-12 & 18A:40A-13

Psychiatric examination of pupil may be ordered (74:1006)

Pupil excluded from participation in interscholastic soccer based on report of medical inspector; Commissioner upheld exclusion pending plenary hearing (75:783, P.N.)

Teachers and other employeess

Board has authority under N.J.S.A. 18A:16-2 to require annual medical examination of all employees; the scope of exam may be based on the advice of its medical inspector, with the tuberculosis test required by N.J.A.C. 6:29-4.2 as a minimum; however, questions pertaining to personal health must avoid undue intrusions into private matters, Cedarville Teachers Assn. v. Bd. of Ed. of Twp. of Lawrence, unpublished opinion, App. Div., (Docket No. A-5068-82T3, decided February 9, 1984), aff'g 83:1510, St. Bd. aff'g with modification 82: July 22)

Board held liable for salary, sick leave, vacation leave when principal certified medically able to return to work and board prohibited (88:2118, Donofrio)

Board may constitutionally require employee to undergo psychiatric examination, provided that employee is given reasons therefor and a prior opportunity to be heard, Kochman v. Keansburg Bd. of Ed., 124 N.J. Super. 203 (Ch. Div. 1973); Hoffman v. Jannerone, 401 F.Supp. 1095 (D.N.J. 1975); (74:1150, aff'd St. Bd. 75:1085) (75:929, Hoffman, aff'd St. Bd. 76:1147, 76:1084) Gish v. Paramus Bd. of Ed., 145 N.J. Super. 96 (App. Div. 1976), certif. denied 74 N.J. 251 (1977) cert. den. 434 U.S. 879 (1977) (C. dec. 74:1150, aff'd St. Bd. 75:1085; (C. dec. 77: March, aff'd St. Bd. 77: June 1) (77:142, Scachetti, aff'd St. Bd. 77:153) (79:340, Griggs, aff'd with modification St. Bd. 80: March 5) (80: September 15, Loper) but see (84: December 31, O'Halloran) where exam ordered despite board failure to provide prior hearing

Board not required to pay for subsequent physical exams for employees found to be TB carriers (80: May 8, Buena Regional)

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)

Board statutoriously authorized to declare teacher ineligible for employment due to deviation from normal mental health (89: May 18, Spizzaro)

PHYSICAL AND PSYCHIATRIC EXAMINATIONS - continued

Teachers and other employees - continued

Delay of teacher in submitting to examination ordered by board held not to justify any reduction in salary under circumstances of case (73:657); see also (67:73) (75:616, Caputo)

"Deviation from normal mental health" as used in N.J.S.A. 18A:16-2, interpreted and found not overly vague, Kochman v. Keansburg Bd. of Ed., 124 N.J. Super. 203 (Ch. Div. 1973); definition applied (74:1150, aff'd St. Bd. 75:1085) (75:382, Crews) (75:929, Hoffman, aff'd St. Bd. 76:1147, 76:1084) Gish v. Paramus Bd. of Ed., 145 N.J. Super. 96 (App. Div. 1976) certif. denied 74 N.J. 251 (1977) (cert. den. 434 U.S. 879 (1977) (C. dec. 74:1150, aff'd St. Bd. 75:1085; C. dec. 77: March 3, aff'd St. Bd. 77: June 1, aff'd St. Bd. 79:830)

"Deviation from normal mental health;" where such evidence is not present, board may not order psychiatric exam (84:1520, Volpe)

Failure to submit to examination (67:73) (75:616, Caputo)

Hearing before board; notice of, procedure during and confidentiality of (74:1150 aff'd St. Bd. 75:1085) Gish v. Paramus Bd. of Ed., 145 N.J. Super. 96 (App. Div. 1976) certif. denied 74 N.J. 251 (1977) cert. den. 434 U.S. 879 (1977) (C. dec. 74:1150, aff'd St. Bd. 75:1085; C. dec. 77: March 3, aff'd St. Bd. 77: June 1); (77:142, Scachetti, aff'd St. Bd. 77:153)

If mental abnormality established, teacher remains ineligible for service until proof of recovery established (67:73) (75:382, Crews)

Maternity leave (76:739, Cinnaminson Bd. of Ed., aff'd St. Bd. 79:817)

Physician or psychiatrist must be approved by board (75:382, Crews)

Procedural deficiencies relative to time of observation and subsequent conference with employee would not void order to submit to psychiatric evaluation (84:642, Mahan)
Psychiatric examination; board's order unjustified (86:1161, Punko) (87:1147, Tave, aff'd St. Bd. 87:1170)
Psychiatric examination ordered (73:464) (73:657) (74:1150, aff'd St. Bd. 75:1085) (75:929, Hoffman, aff'd St. Bd. 76:1147, 76:1084) Gish v. Paramus Bd. of Ed., 145 N.J. Super. 96 (App. Div. 1976) certif. denied 74 N.J. 251 (1977) cert. denied 434 U.S. 879 (1977) (C. dec. 74:1150, aff'd St. Bd. 75:1085; C. dec. 77: March 3, aff'd St. Bd. 77: June 1, aff'd St. Bd. 79:830); (77:142, Scachetti, aff'd St. Bd. 77:153) (77:960, Ivens) (79:340, Griggs, aff'd with modification St. Bd. 80: March 5) (80:136, Griggs)

PHYSICAL AND PSYCHIATRIC EXAMINATIONS - continued

Teachers and other employees - continued

Psychiatric examination ordered - continued

(84:642, Mahan) (84: December 31, O'Halloran) (85:1800 Martin, aff'd St. Bd. 86:3093, decision on remand 87: September 2) (89:2482, Leo, interlocutory appeal denied St. Bd. 89: December 6)
Reinstatement after expiration of leave of absence due to psychiatric illness; board has authority to require proof of recovery before granting request for reinstatement (84: January 23, Bybel, rev'd St. Bd. 85: March 6, dismissed App. Div. unreported opinion (Docket No. A-3405-84T7, decided December 3, 1985) certif. denied 103 N.J. 499 (1986))
Sick leave; held, absent negative psychiatric report board could not charge accumulated sick leave of teacher for absence due to psychiatric exam, where it was determined that board had agreed not to charge sick leave if report favorable (83: September 23, Engelke)
Superintendent has no authority to order; sole power rests with board (71:13)
Suspension pending results set aside (77:142, Scachetti, aff'd St. Bd. 77:153)
Teacher refusal to undergo: summary judgment for board on tenure charges of incapacity (81: May 21, Maxwell)
Tenure charges based on same grounds for which psychiatric exam was ordered may not be prosecuted until exam is completed (74:1168)

PLUMBER

Employment of (38:138)

POLICY

(See "Boards - Duties - Rules and regulations", this index)

PREFERRED ELIGIBILITY LIST

(See "Abolition of position", this index)

PRINCIPALS

(See also "Tenure", "Non-tenured teaching staff", "Increments", etc., this index)

PRINCIPALS - continued

Administrative principal, not entitled to pro-rated vacation or salary in lieu thereof if not provided in contract (67:255) (68:77)

Assessment center: board not bound to use when hiring principal (89:1243, Gayeski)

Duty to investigate possible mishandling of pupil activity class funds (76:984, Palydowycz)

Limited educational programs offered in administration building does not render that facility a "school" which requires a principal, within the meaning of N.J.A.C. 6:8-4.3 (84: November 5, George)

Necessity for; each school must have a principal (38:320 aff'd St. Bd. 38:323) (65:134) (69:40)

Principal with pre-1969 secondary endorsement eligible to serve in middle school having both elementary (K-6) and secondary (7-12) grades (e.g., 6-7-8), however, seniority is as secondary principal only (83:248, Liggett) (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))

Promotions

(See "Teachers - Promotions" and "Tenure - Acquisition of", this index)

Promotion to, procedures negotiable (77:812, Lane)

Solicitation of applicants not required (63:70)

Supervising principals (38:309) (39-49:23)

Tenure in category of principal; no tenure as secondary or elementary principal (77:24, DiNunzio, re-opened 78:843, aff'd St. Bd.)

79:819) (80: April 11, Stranzel)
Tenure in position of principal; no tenure as secondary or elementary principal (82: December 20, Howley, aff'd St. Bd. 83:1554)

Transfers

Assistant principal of high school transferred to position of assistant principal of middle school at time of RIF remains on reemployment list for high school position (85:264, Fallis, aff'd St. Bd. 85:281)

Elementary to junior high acting assistant principal upheld, Morrell v. Parsippany-Troy Hills Bd. of Ed., unpublished opinion, App. Div., (Docket No. A-1619-80-T2), certif. denied 89 N.J. 419 (1982); St. Bd. 80:533, C. dec. 80:528)

Elementary to secondary upheld (80: April 11, Stranzel)

Elementary to smaller elementary upheld (79:279, Ward)

Principal to administrative assistant deemed invalid (77:24, DiNunzio) (St. Bd. 80: January 11, Williams, aff'g 79:220)

Principal to unrecognized job title invalid without approval of county superintendent (79:80, Morra, aff'd St. Bd. 79:89)

PRINCIPALS - continued

Transfers - continued

Principal to vice principal

Violation of tenure (Colella, 83:149, aff'd St. Bd. 83:172, 84:1921, aff'd App. Div. (Docket No. A-6090-82T3, decided July 19, 1984)) (83:1090, Schifano) (88:977, Forte, aff'd St. Bd. 88:992); but see St. Bd. 83: October 26, Miscia, rev'g 83:269 (no violation of tenure; elementary principal transferred to middle school assistant principal).

Secondary to elementary upheld, Williams v. Plainfield Bd. of Ed., 176 N.J. Super. 154 (App. Div. 1980) certif. denied 87 N.J. 306 (1981) (St. Bd. dec. 80: January 11; C. dec. 79:220) Williams overrules 76:509, Gamvas (80: October 8, Spence) (82: March 2, Campanile) (89:2192, Aragona, aff'd St. Bd. 89:2243)

Taxpayers lack standing to challenge transfers of principals (81: December 21, Bott)

Vice principal to principal - tenure as principal acquired in 2 years - N.J.S.A. 18A:28-6 (88:2247, Sitek, aff'd St. Bd. 89:3079)

PRIVATE SCHOOLS

(See "Handicapped Children" and "Transportation", this index)

Administrative rules regarding tuition rate limitations for private

school applicable where private school shares same board of directors as building owner (88:1693, Cerebral Palsy School)
Certificate Approval denied (88: November 15, School of Business Machines)
Certification of approval (72:1) (75:704, Health Careers Institute, dismissed St. Bd. 76: January 7)
Commissioner has authority to audit private school providing services to handicapped pupils and to use standards applied to public schools (82: February 25, Archway, aff'd St. Bd. 82: June 2, aff'd App. Div. 83:1493)
Commissioner's audit, applying public school standards to private school providing services to handicapped pupils is not binding until tested in the context of a dispute in which reliance is placed on the audit; Archway School v. State of New Jersey, aff'd App. Div. 83:1493 (82: February 25, aff'd St. Bd. 82: June 2)
Grant of certificate of approval for private vocational school not arbitrary, capricious or unreasonable (89:Sept. 25, Steno Tech, aff'd St. Bd. 90:1703)
Salaries of two uncertified teachers - non-allowable cost for tuition purposes (88:2397, Clearview)
State Board regulation limiting reimbursement upheld; constitutional on its face and as applied (89:1682, Penta Assoc., aff'd w/modif. St. Bd. 90:1784)

PRIVATE SCHOOLS - continued

Transportation

Regulatory scheme - N.J.A.C. 6:20-4.1 et. seq. - deemed facially valid Council of Private Schools v. Cooperman, 205 N.J. Super. 548 (App. Div. 1985) (89:2750, Deron School, aff'd St. Bd. 90:1710)
Regulations valid as applied; 2.5% surcharge ensured reasonable return as investment (89:2750, Deron School, aff'd St. Bd. 90:1710)
Denial of afternoon transportation to private school was proper where pupils resided more than 20 miles from school and cost of transportation exceeded statutory limits (83:1300, S.P.)
Denial of transportation to out of state private school was proper under N.J.S.A. 18A:39-1 (83: April 15, A.S.R.)
"Per pupil cost" under N.J.S.A. 18A:39-1 means the cost per pupil per bus (83:1300, S.P.)
Tuition rate in school for handicapped may not include teachers lacking certification (89:97, Pineland Learning Center)

PROMOTIONS

(See "Teachers - Promotions", this index)

PSYCHIATRIC EXAMINATIONS

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

PSYCHOLOGIST

Tenure status (67:78)

PUBLIC FUNDS

(See also "Commissioner - Jurisdiction of Commissioner - Settlement Agreements" and "Elections - Literature", this index)

Use of school children to distribute to their parents statement from school board opposing pending legislation which would permit things such as student testing, class size, assignments, promotions and the like to be determined through collective bargaining. Robert Morris Ed. Assoc. et al. v. Bd. of Ed. of the Boro. of South Bound Brook et al., unreported decision (U.S. Dist. Ct., D.N.J. (Docket No. 83-2365 decided November 23, 1983)

PUBLIC HOLIDAYS

List of, see N.J.S.A. 36:1-1; (71:246)

Board may not require any teaching staff member to work on a public holiday (83:1022, Penns Grove-Carneys Point, aff'd St. Bd. 85:1981, aff'd App. Div. 209 N.J. Super. 115 (App. Div. 1986) certif. denied 104 N.J. 439 (1986)

N.J.S.A. 18A:25-3 applies to teaching staff members employed by educational services commission but no relief available to employees because they were not required to work on public holidays; statute does not grant right to compensation for holidays on which teachers did not work (87:2642, Middlesex, St. Bd. aff'g in part, rev'g in part 84: October 29)

Saturday; generally a Saturday is not a public holiday, a board may assign its employees to work thereon (83:1022, Penns Grove-Carneys Point, aff'd St. Bd. 85:1981)

School sessions may be held on public holidays, but teaching staff members may not be required to work on those days and no

deduction from salary is permitted, N.J.S.A. 18A:25-3; (71:246) (78: June 22, Willingboro, unpublished opinion) (78:597, Levitt, aff'd St. Bd. 79:847, aff'd App. Div. 80:1510, certif. denied 84 N.J. 483 (1980))

Teaching staff members may not be required to work on public holidays (77:1057, Freehold Reg. H.S. Ed. Assoc.)

Teaching staff members may not be required to work on public holidays, however, where collective bargaining agreement requires 185 reporting days, employees may be required to work at end of school year or be docked pay to satisfy said agreement without violating N.J.S.A. 18A:25-3 (83:13, Dohm) (87:1548, Middletown)

Teaching staff members were properly docked one day's pay for improperly taking Friday preceding Martin Luther King's Day as a holiday as N.J.S.A. 36:1-1, 1.2 applies to State employees (84:166, Rumson-Fair Haven)

PUBLIC RECORDS

(See "Boards - Meetings - Minutes" and "Right to Know Law", this index)

PUNITIVE DAMAGES

(See "Commissioner - Damages", this index)

PUPILS

Absenteeism (80:1178, C.G., aff'd St. Bd. 81: April 1)

Admission to school

Age may be made sole criterion for admission to kindergarten and first grade (64:107) (71:549) (74:772, aff'd St. Bd. 75:1157) (79:499, Turtz)

Board policy consistent with N.J.S.A. 18A:38-5; valid exercise of board's authority

Denial upheld as consistent with Board policy (88:647 A.H.A. and I.J.A.) (88:2321, Supuran)

Discretionary with board (71:449) (71:546); handicapped child (70:296)

May be based on testing, but board may not charge fee therefor (63:85 aff'd St. Bd. 63:89)

Resolution granting early admission to one child may not be later rescinded (74:1316)

Transfer of five year old pupil from other school; held board is required to accept, regardless of actual

birth date (54-55:75) (55-56:133 aff'd St. Bd.
56-57:102) but board need not accept five year old
transfer from nursery class (61-62:155)
Early admission to kindergarten and/or first grade
Preliminary injunction, barring board from applying policy on
entrance to kindergarten, denied (81: October 19, B.D.G.)
Residence requirement
(See "Pupils - Residence for school purposes", this index)
Twenty year old pupil (75:619, Rosenthal)
Twenty-five year old pupil, entitled to a hearing to present
request for entrance (77:115, Ludviksen)
Affidavit pupils - N.J.S.A. 18A:38-1)
Generally (80: January 10, East Windsor) (80: August 15,
Ziegler) (85: September 18, Cinnaminson)
Abuse of affidavit procedure found (85: April 1, Moore)
Burden of proof is on the party claiming to support the pupil
(85: September 18, Cinnaminson)
Failure of parent to appear, parent liable for tuition
reimbursement (80: October 6, Estell, dismissed St. Bd. for
failure to perfect the appeal 81: March 4, aff'd St. Bd.
81: September 2)
Father's refusal to sign affidavit of non-support deemed
reasonable in view of board's erroneous advice and did not
invalidate pupil's claim to free education (87:1835, Scotch
Plains-Fanwood)
Only courts, not boards or the Commissioner, can challenge
statements made in affidavits (71:395) (75:26, T.W.D.)
(79:852, Northern Highlands, rev'g 78:1031, St. Bd. aff'g
77:86) but see recent statutory changes, N.J.S.A. 18A:38-1
Assignment of
(See "Boards - Duties - Attendance areas", this index)

PUPILS - continued

Attendance policy

(See "Pupils - Suspension and Expulsion Cases - Attendance
Policies", this index)

Violation may result in denial of graduation (87: June 17,
Zold)

Violation may result in refusal to issue diploma (83:
August 1, P.A.)

Violation may result in withholding of academic credit (80:
1049, L.P.) (82: July 8, F.W. and D.W.) (84:1337, Monro,
remanded to OAL 86:3104, decision on remand 87: August 17)
(85: July 18, L.J. and G.J., dismissed St. Bd. 86: January
8) (87:1669, V.J.H.)

Violation may result in withholding of academic credit
Allegation board discriminatory in application (84:1337,
Monro, remanded to OAL 86:3104, decision on remand 87:
August 17)

Violation of may result in removal from class (79: July 11,
Rubertone, unpublished opinion) (82: July 8, F.W. and D.W.)

Attendance zones
Student not entitled to attend school outside of her attendance
zone because she is experiencing problems at assigned school
(86: June 5, E.C.)

Board ordered to inform parents of change in pupil's lunchtime
assignment and respond to parental complaint (85: April 18,
E.G.L., on behalf of C.L.)

Classification (82: January 25, Deptford)

Class rank
Board precluded by law from giving grade point average credit for
college algebra course taken in unapproved summer school
(87:54, G.B.C., decision on remand)

College credits being substituted for high school credits:
Commissioner prohibited inclusion of courses taken outside
district to arrive at class rank because it was deemed
discriminatory against other students (87:45, G.B.C.)

Discrimination alleged in use of rank (80: March 4,
Marcinak)

Grades earned at private summer school should not be considered
(78:541, Rucker, order 79:91)

Compulsory attendance laws
(See also "Equivalent Instruction" and " Commissioner -
Compulsory Attendance Laws", this index)

Enforcement, Jackson v. Hankinson, 51 N.J. 230 (1968);
State v. Vaughn, 44 N.J. 142 (1965); State v. Massa, 95 N.J.
Super. 382 (Law Div. 1967) (81:260, Oostdyk, aff'd with
modif. St. Bd. 81:275)

PUPILS - continued

Curriculum

Board acted reasonably in premising consent to change
classroom of distractible child upon child study team
evaluation (89:1366, K.M., appeal dismissed St. Bd. 89:1393)

Board's refusal to permit 9th graders to substitute biology for
earth science not arbitrary (81: November 12, A.L.)

Credit for courses taken in other schools; board not required to
accept (81: June 18, S.S.)

Decision not to place pupil in advanced class upheld (81:
August 20, Foster)

Decision of board to retain student in first grade upheld,

comprehensive evaluation ordered (84: November 15, R.J.)
Excusal from drug education course permitted (86:399,
S.T., St. Bd. rev'g 86:369, appeal dismissed as moot,
unreported opinion App. Div. (Docket No.
A-2213-86T7 decided June 22, 1988)) student's
refusal to complete alternative course resulted in
failing grade.
Excusal from Family Life Health course; board may assign
alternative independent study and petitioner's failure to
object to alternative will not excuse child from fulfilling
alternative requirements. See N.J.S.A. 18A:35-4.7.
(86:2923, S.T., aff'd St. Bd. 87:2689)
Parents request not to promote child denied: child performing
at grade level (85: July 1, A.W.T. and A.T. on behalf of
J.T.)
Distribution of literature
(See "First Amendment - Pupils" and "Elections - Pupils",
this index)
Dress and appearance
Commissioner declined to issue declaratory judgment on
dress code directives since they are not board-adopted
policy; dismissed as not ripe for adjudication (89: March
21, D.J. (decision on remand)
Dress code held unreasonable (80:73, Cuci)
Dress code that is reasonable for extracurricular field trip
may be unreasonable for trip constituting regular class
attendance (89:1, D.J.)
Dress; prohibition on wearing of slacks by girls struck
down (71:594) (74:346)
Hair length
Band member (70:331, aff'd St. Bd. 71:662)
In classroom (St. Bd. 67:45 rev'g 67:35) (68:24) (69:67)
Tennis team (70:311)
Extracurricular activities (See also "Extracurricular Activities",
this index) (77:997, Ferrara)
Fees
(See "Fees", this index)

PUPILS - continued

First Amendment claim (77:1134, J.B., aff'd St. Bd. 78:1021, held
moot, App. Div. 79:843)
Free public education; pupil entitled to such despite immigration
status of parents (83:218, I.C. and M.C.) (87:2217, Orange)
Fund raising by pupils
Board has duty to investigate possible mishandling of pupil
activity class funds (76:984, Palydowycz)

Board has duty to supervise (72:560)

Grades

Action to change grade held moot (81: June 3, M.R.)

Administrative remedies, complaint to be presented to board prior to filing before the Commissioner (82: November 9, Finucane)

Assignments for students medically excused from physical education should be evaluated and student should be informed of quality of work (89:1211, F.R.)

Board has authority to review and change (77:862, Talarsky)

Board not required to give letter grade to medically excused student for assignment given in lieu of pool activities (89: 1211, F.R.)

Grade change by administrator without teacher's knowledge or consent held not arbitrary or unreasonable under the circumstances (87:1826, Matawan)

Grading policy held to be arbitrary and unreasonable (85:1447, Bauer)

Pupil challenge to system of, dismissed (73:347) (76:619, Dooner)

Required courses, must be successfully completed to graduate (76:619, Dooner)

Graduation

Board policy requiring "one year of English for each year enrolled" does not allow board to deny diploma to student accepted into college after three years (85:1055, A.M.L. as guardian of T.L.)

Denial because of non-participation in physical education upheld; pupil failed to prove entitlement to medical exemption (85:958, Maimone)

Denial because of violation of attendance policy upheld (85: April 25, Eckert) (87: June 17, Zold) but see (88: June 22, C.R.)

Denied due to failing grade (81: August 11, Rosen, aff'd St. Bd. 81: November 10, aff'd App. Div. 83:1629) and (81: November 10, Rosen, where St. Bd. aff'd decision below but noted petition should have been dismissed for failure to state a cause of action) (85: June 17, Connolly)

Exercises; denial of attendance as punishment (80: June 6, Mogar) (89:2098, P.G.)

PUPILS - continued

Handicapped

(See "Handicapped Children", this index)

Harassment of pupil by classmates; board's failure to remedy situation justified withdrawal of pupil by parents and obligated board to reimburse the cost of attendance in a neighboring district (85:1817 M.P. and G.P.)

Harassment of pupil not established; request for transfer to another district denied (85: April 18, E.G.L., on behalf of C.L.)

Denial of admission of National Honor Society held to be arbitrary: selection process was subjective (86:1567, Lawnside, aff'd St. Bd. 87:2626)

Denial of admission to National Honor Society upheld, unless arbitrary, capricious or unreasonable (81: March 13, J.B.A., aff'd St. Bd. 81: May 6 and 81: December 2, aff'd App. Div. 83:1573) (84:1248, J.S., aff'd St. Bd. 85:1952)

Valedictorian honors to be shared because board did not establish policy for residency in time to deny (89:1978, Shankar)

Injuries to

(See "Torts", this index)

Instruction

Discrimination alleged (68:53) (74:1103, modified and aff'd St. Bd. 75:1119)

Home instruction

(See also "Equivalent Instruction" "Handicapped Children" and "Pupils - Punishment of", this index)

Burden on parents to show that child is receiving equivalent instruction (81:260, Oostdyk, affirmed with modification St. Bd. 81:275)

Conscientious objection to dissection of animals; emergent relief denied (89: March 28, J.G.M. (decision on motion)

Expulsion modified, home instruction ordered (80: May 8, G.C.)

Expulsion upheld, no home instruction required, student to be allowed to keep up with work on his own in order to graduate (82: July 28, C.F.)

Home instruction denied, pupil may apply for readmission in next school year (83:339, M.G.)

Illness; board may require full information before authorizing home instruction (63:232) (66:149)

Threats against pupil at school; as justification for withdrawal from school and demand for alternative education (73:501)

PUPILS - continued

Instruction - continued

Home instruction - continued

To suspended or expelled students, duty of board to provide
(69:134) (70:225) 72:23) (72:67) (74:415) (75:282,
J.D.) (75:776, J.W.) (75:791, E.M.) (73:341) (78:138,
E.F.) (79: August 6, W.P., unpublished opinion)
(80: May 8, G.C.) (81: February 19, K.W.) (83: June
16, A.K.)

Music program (73:741 aff'd St. Bd. 74:1441, aff'd App. Div.
75:1167)

Juvenile delinquents, private school tuition ordered to be paid
by board, State in Interest of F.M., 167 N.J. Super. 185 (Bergen
J.D.R. 1979)

Limited excusal program illegal (77:1134, J.B., aff'd St. Bd.
78:1021, held moot, App. Div. 79:843)

Marine Academy of Science Technology, local board may not require
student to take academic instruction in local district (85:282
R.H., aff'd St. Bd. 85:298)

National Honor Society, admission to
(See "National Honor Society", this index)

Parental liability for pupil actions; see N.J.S.A. 2A:53A-15
and 16 and 18A:37-3; Palmyra Bd. of Ed. v. Hansen, 56 N.J. Super.
567 (Law Div. 1959), Bd. of Ed. of Piscataway v. Caffiero, 86
N.J. 308 (1981), appeal dismissed 454 U.S. 1025 (1981)

Parents Right to Conscience Act, N.J.S.A. 18A:35-4.6, drug education
courses are subject to excusal (86:399, S.T., St. Bd. rev'g
86:369, appeal dismissed as moot, unreported opinion App. Div.
(Docket No. A-2213-86T7 decided June 22, 1988))

Physical education

Board not required to give letter grade to medically excused
student for assignment given in lieu of pool activities (89:
1211, F.R.)

Excessive absences and unpreparedness justified a failing grade
and withholding of diploma from student, but automatic
imposition of a grade penalty for absences is improper and
course grade must be recalculated (87:1669, V.J.H.)

Exemption: pupil must demonstrate unfitness through medical
evidence; medical inspector not obligated to determine
fitness (85:958 Maimone)

Statutory requirement for same may not be waived by parties to
action before Commissioner (82: January 4, Boqurski)

Testing required for graduation of girls only challenged
as discriminatory (74:1103, modified and aff'd St. Bd.
75:1119)

Physical examinations

(See "Physical and psychiatric examinations", this index)

PUPILS - continued

**Punishment of
Generally**

- Action of board presumed valid (80:1178, C.G., aff'd St. Bd. 81: April 1)
- Authority of teacher, pupil must submit to; teacher stands in loco parentis (65:146)
- Barring student from participation in evening concert was appropriate penalty for disruptive behavior in assembly (82: July 30, E.S.B.)
- Corporal punishment prohibited, N.J.S.A. 18A:6-1; (See "Tenure - Dismissal or reduction - Tenure dismissal cases (listed by specific charges)", this index)
- Criminal trespass conviction upheld; student violated order to leave school premises after classes, State of New Jersey v. Conk, 180 N.J. Super. 140 (App. Div. 1981)
- Detention and in-school suspensions may be used as punishment (61-62:188) (71:520) (72:86)
- Disciplinary action set aside; students permitted to participate in extracurricular activities (89:2676, R.V., decision on motion St. Bd. 90: February 7, aff'd St. Bd. 90:1800)
- Extracurricular activity; board's policy denying participation upheld (86:1794, A.B.)
- Grades may not be used as punishment (65:121) (68:98) (72:86) (74:851) (74:1145) (78:794, Wetherell) (87:1669, V.J.H.)
- Graduation exercises; denial of attendance as punishment (80: June 6, Mogar) (89:2098, P.G.)
- Prom; barred because of attendance (89: June 1, W.P.)
- See Handicapped Children - Discipline
- Suspension and expulsion cases
 - Assaulting or threatening teaching staff member (86:2381, Ford)
 - Assaulting or threatening another student (85:660, A.K.)
 - Long term balance of school year, pupil seminar, upheld (85:660, A.K.)

Procedural due process

- Generally, Tibbs v. Franklin Twp. Bd. of Ed., 114 N.J. Super. 287 (App. Div.) aff'd 59 N.J. 506 (1971) (C. dec. 71:670); R.R. v. Shore Reg. Bd. of Ed., 109 N.J. Super. 337 (Ch. Div. 1970); (68:92); (76:336, H.A.) (76:658, O.P.) see also N.J.S.A. 18A:37-1 et seq.

and Goss v. Lopez, 419 U.S. 565 (1975) (78:138, E.F.)
(78:810, Graham) (79:434, C.R.) (80: January 7, D.H.)
(80:20, G.F.) (83: June 30, J.A.)

PUPILS - continued

Punishment of - continued

Procedural due process - continued

Board failed to determine whether student's behavior primarily caused by handicap; all suspensions 1987-88 set aside (88:2333, R.W. aff'd St. Bd. 89:3073, aff'd App. Div. unpub. op. (Dkt. No. A-5645-88T1 March 5, 1990))

Board, in long term suspension and expulsion cases, must either hear witnesses directly or have benefit of transcript or detailed report from board committee which conducted hearing, prior to taking any disciplinary action (72:475) (73:254) (75:127, M.W., aff'd St. Bd. 75:137)

Child study team

Board must properly refer student to CST before expelling student, expulsion expunged, diploma awarded (82: May 12, B.C.) (83: June 16, A.K.)

Board rejected team recommendation of reinstatement; Commissioner reversed (71:203) (74:100)

Child study team evaluation and length of suspension; insufficient clarity in notice, suspension reversed (84:1091, J.C., appeal dismissed St. Bd. 84: September 5), dismissal aff'd App. Div. unreported opinion, (Docket No. A-59-84T7, decided November 13, 1985)

Child study team examination per N.J.A.C. 6:28-1.6(b) must be timely completed (81: February 19, K.W.)

Child study team recommendation as to expulsion given great weight; may be rejected if board gives reasons (81: June 30, G.W.)

Commissioner may order evaluation of pupil even though upholding expulsion (73:343) (73:652) (75:211, W.B.) (77:284, T.M., 77: May 23)

Commissioner affirms ALJ order directing reinstatement of student suspended for infraction at senior prom, pending hearing before board (86: June 16, Mancuso)

Compulsory attendance law, no violation of (81: April 23, F.M.)

Delay of final decision to suspend, when caused by student, is not violation of procedural due process (79:434, C.R.)

Denial of athletic award, no right to a hearing (77:388, Dennis, aff'd St. Bd. 77:393)

Disciplinary actions upheld unless shown to be arbitrary and

capricious (81: April 23, F.M.)
Emergent relief granted - status quo maintained pending
outcome of due process hearing (88: April 4, E.C. and
F.D.R.)

PUPILS - continued

Punishment of - continued

Procedural due process - continued

Exhaustion requirement; appeal to Commissioner from
administrator's disciplinary action must be taken to
board in first instance (65:39)
Failure to apply for readmission is not waiver of
challenge to expulsion (81: June 30, G.W.)
Handicapped pupils not exempt from school discipline (81:
April 23, F.M.)

Hearings

Board may not delegate to sub-committee (81: April 23,
F.M.)
Board must provide student hearing within 21 days of
suspension or disciplinary action set aside (82:
October 22, G.L., remanded St. Bd. 83:1550)
Board not required to have 2 separate counsel at
expulsion hearing (78:870, R.S.)
Due process hearing to be held before board of
education (78:138, E.F.)
Short-term suspensions do not require hearing before
board (68:98) (74:1145)
Witnesses: compelling attendance (81: May 4, R.B.,
dismissed, 81: December 2)
Home instruction to suspended or expelled pupils, duty of
board to provide (69:134) (70:225) (72:23) (72:67)
(74:415) (75:282, J.D.) (75:776, J.W.) (75:791, E.M.)
(76:336, H.A.) (77:284, T.M., 77: May 23); but see
(73:341) (78:138, E.F.) (79: August 6, W.P.,
unpublished opinion) (80: January 7, D.H.) (80: May
8, G.C.) (81: February 19, K.W.) (83: June 16, A.K.)
Jurisdiction over pupils attending school sporting events
upheld (82: May 3, F.G.)
Majority vote of full board not required to expel student
(75:127, M.W., aff'd St. Bd. 75:137)
Records, notation of disciplinary action (See "Pupils -
Records", this index)
Refusal of board to meet with parent of disciplined student
was not a denial of due process where discipline did
not involve suspension and parent had already initiated

litigation (82: July 30, E.S.B.)
School administrator must suspend; board cannot confer
authority on dean of students (85: April 25,
Burghardt)
Short term suspensions do not require hearing before board
(68:98) (74:1145) (82: June 30, D.G.)
Suspended student is entitled to formal hearing before
board within 21 days (78:810, Graham) (80: January 7,
D.H.)

PUPILS - continued

Punishment of - continued

Procedural due process - continued

Suspension, long term, cannot be imposed prior to hearing;
expungement of records ordered (81: September 17,
Hughes)
Suspension, long term, upheld where delays in hearing
attributable to student (83: June 16, A.K.)
Vocational school district cannot circumvent due process
by labeling expulsion of student a "transfer" to a
regular school district (72:126) (72:589)

Suspension and expulsion cases

Acquittal in criminal or juvenile court does not bar
disciplinary action by board (72:555)
Alcohol consumption and vandalizing school property
outside of school hours is subject to school's
disciplinary policy, action pursuant to N.J.S.A.
18A:37-2 and policy of the school board (87:891,
G.L.H., aff'd St. Bd. 87:906)
Alcohol possession at school sporting event properly
resulted in a 9 day suspension (82: May 3, F.G.)
Assault (83: June 30, J.A.)
Assaulting or threatening another student (65:146)
(69:182) (72:67) (72:475) (72:555) (77:284, T.M., 77:
May 23)
Assaulting or threatening teaching staff member
(67:23) (72:58) (72:290) (73:254) (73:343) (73:652)
(84:624, C.B.)

Attendance policy

Absences due to suspension cannot count as unexcused
absences (80:1178, C.G., aff'd St. Bd. 81: April
1)
Board may adopt policy to discourage truancy;
suspension from class and/or denial of credit may
be used as punishment, but direct use of grades

for punishment is prohibited (68:98) (72:86)
(74:851) (74:1145) (75:455, E.H.) (75:502, G.G.)
(79: July 11, Rubertone, unpublished opinion)
(85: June 17, Connolly)

Claim of arbitrary attendance policy moot where
petitioner's child had completed course from which
child was barred (82: October 28, Mulligan)

Suspension for absence upheld; claim that absence was
for religious observance found to be a sham (85:
1697, Carlin)

Bomb scare: board acted reasonably and in compliance
with Goss when it suspended student for passive
involvement in bomb scare (89:127, H.U.)

PUPILS - continued

Punishment of - continued

Suspension and expulsion cases - continued

Bomb threats (76:336, H.A.)

Disciplinary point/probation system deemed facially valid
(88:2333, R.W., aff'd St. Bd. 89:3073, aff'd App. Div.
unpub. op. (Dkt. No. A-5645-88T1 March 5, 1990))

Drug charges

Expulsion for distribution of drugs upheld, with
provision that student be permitted to attend
evening school (74:447, aff'd St. Bd. 74:457)

Expulsion modified; home instruction ordered
(80: May 8, G.C.)

Expulsion reversed, re-enrollment ordered (80:
262, Kobb, St. Bd. rev'g 80:248) (82: May 12,
B.C.)

Expulsion set aside; board must sustain burden of
proof on drug charges with credible evidence (82:
October 22, G.L., remanded St. Bd. 83:1550)

Expulsion set aside, student permitted to graduate
(76:274, M.T.C.)

Expulsion set aside, student suspended to end of
school year (76:658, O.P.)

Expulsion upheld (83:339, M.G.)

Expulsion upheld, child study team evaluation ordered
(78:870, R.S.)

Expulsion upheld, child study team evaluation
recommended (84:1562, D.D.)

Expulsion upheld, home instruction provided
(75:776, J.W.) (75:791, E.M.)

Home instruction denied, pupil may apply for
readmission in next school year (83:339, M.G.)

Mootness (80:20, G.F.)

Possession of marijuana, first offense, permanent
expulsion too serious (82: May 12, B.C.)

Possession of marijuana, second offense, expulsion
upheld (74:780)

Re-admission to school on limited basis (71:97)
(71:203)

Re-admission to school with child study team services
(78:138, E.F.)

Search and seizure for drugs, State in the Interest of
T.L.O., 95 N.J. 331 (1983), vacated & remanded 185
N.J. Super. 279, rev'd 94 N.J. 331, rev'd 105
S.Ct. 733 (1985); pre-T.L.O. decisions: (83:339,

M.G.) (locker search)

PUPILS - continued

Punishment of - continued

Suspension and expulsion cases - continued

Drug charges - continued

Suspension hearing does not bar criminal proceeding on same incident State in the Interest of T.L.O., 178 N.J. Super. 329 (Middlesex J.D.R. 1981), vacated & remanded 185 N.J. Super. 279 (App. Div. 1982), rev'd 94 N.J. 331 (1983), rev'd 105 S.Ct. 733 (1985)

Suspension reversed on procedural grounds, board denial of privilege to attend graduation upheld (84:1091, J.C., appeal dismissed St. Bd. 84: September 5) dismissal aff'd App. Div., unreported opinion (Docket No. A-59-84T7, decided November 13, 1985)

Suspension upheld (80: October 31, Thies)

Due to racial harassment, suspension reduced (88:1972, E.T.) Entitled to due process hearing regardless whether student previously admitted his guilt; board illegally authorized long-term suspension (88:2118, F.M.)

Excessive in length (81: February 19, K.W.)

Expulsion decision by board, Commissioner's standard of review (83:339, M.G.) (84:1562, D.D.)

Expulsion upheld, no home instruction required, student to be allowed to keep up with work on his own in order to graduate (82: July 28, C.F.)

Extortion (72:293) (83: June 30, J.A.)

Extracurricular activities, suspension from upheld (71:97) (77:388, Dennis, aff'd St. Bd. 77:393)

Extracurricular activities, suspension from reversed (89: 2676, R.V., decision on motion St. Bd. 90: February 7, rev'd St. Bd. 90:1800)

Fighting, suspension for five days upheld, board has broad discretion (89: June 3, L.J.S. and J.S.)

Fraternity membership

Five day suspension upheld (64:74) reversed (64:79)

Graduation exercises, exclusion from upheld (74:611) (74:655) (74:660) (75:491, Holmes) (75:489, Kenngott)

Home instruction denied, pupil may apply for readmission in next school year (83:339, M.G.)

Improper touching of another student (88: April 4, E.C. and F.D.R.)

Long term, cannot be imposed prior to hearing; expungement of records ordered (81: September 17,

Hughes)

Male-Female visitation rule for overnight school trip (89:
2676, R.V., decision on motion St. Bd. 90:
February 7, aff'd St. Bd. 90:1800)

PUPILS - continued

Punishment of - continued

Suspension and expulsion cases - continued

Misconduct

Expulsion upheld (80: March 7, T.K.)

Expulsion upheld, child study team evaluation
ordered (79: August 6, W.P., unpublished opinion)

Expulsion upheld, classification ordered (79:754, T.J.)

Suspension upheld (79:320, M.H.)

Obscene comment (83: January 31, W.N.Y., aff'd St. Bd.
83: July 6)

Penalty may be based on pupil's entire school record
(84:1562, D.D.)

Penalty reduced (61-62:188) (65:121) (69:182) (71:203)
(72:67) (72:555) (76:274, M.T.C.) (76:658, O.P.)
(88:1972, E.T.)

Political protest; short term suspension for wearing
of black glove in defiance of administrative directive
upheld (71:18)

Re-admission

Board may establish conditions (65:146) (68:98)
(83:

January 31, W.N.Y., aff'd St. Bd. 83: July 6)

If no equivalency program is available (75: April 4,
G.S., unpublished opinion)

Only board can readmit, must take formal action
(81: June 30, G.W.)

Pupil permitted to apply therefore after expulsion
(83:339, M.G.)

Recommended that Board allow pupil to apply
(84:1562, D.D.)

Suspension upheld; in light of students unblemished record
and confusion surrounding student's assault upon
teacher, board ordered to expunge records (84:624,
C.B.)

Vandalism (61-62:188)

Starting a fire (75:282, J.D.)

Writing on walls (65:121) (73:652)

Willful disobedience and defiance (55-56:95) (68:98)
(71:575)

Questionnaire, duty to answer as part of school investigation into possible misuse of student activity funds (76:984, Palydowycz)

Records of

Generally (79:34, Hancock, aff'd St. Bd. 79:34)

Board ordered to maintain National Honor Society selection records until 90 day period for appeal of non-selection elapses (86:1567, Lawnside, aff'd St. Bd. 87:2626)

District must destroy all pupil records unless they are required to be maintained in perpetuity or for litigation (83:1441, G.V.D.)

PUPILS - continued

Records of - continued

Expungement ordered (80: May 8, G.C.) (81: September 17, Hughes) (83: June 16, A.K.) (83:339, M.G.) (84:624, C.B.) (89:2676, R.V., decision on motion St. Bd. 90: February 7, aff'd St. Bd. 90:1800)

Failing grade ordered expunged (74:1103 modified and aff'd St. Bd. 75:1119)

Legal surname of student is not an issue for Commissioner, but for the courts (88: July 18, McQuestion)

Nurse's Aide access limited to the extent necessary for entry and recording of data. N.J.A.C. 6:3-2.5(c)(6) (88:352, Bound Brook)

Parental access rights, N.J.A.C. 6:3-2.1 et seq. (75:716, Hancock); compare (74:1332) and (75:6, Robinson) (83: August 8, Axler)

Reference to suspension ordered removed from transcript (71:97) but disciplinary records may be kept in file for duration of public school career (71:365) (72:293) (74:780); see also and compare (68:24) with (71:18)

Security and maintenance of pupil records; board's duty (75:716, Hancock)

Teacher's aide did not violate privacy laws where source of her information was not pupil record (88:124 B.L.)

Test scores, Citizens for Better Education v. Camden Bd. of Ed., 124 N.J. Super. 523 (App. Div. 1973) (C. dec. 71:644, St. Bd. 72:666)

Residence for school purposes

Generally, (80: June 27, Absecon)

Board policy (86: December 1, Meli)

Board not obligated to admit non-resident pupils on either a tuition or non-tuition basis (85: October 28, R.M. and M.M.)

District of mother's temporary residence immediately prior

to admission in out-of-state facility was responsible for tuition of child placed by DYFS in out-of-state facility as per N.J.S.A. 18A:7B-12 (89: February 27, Weehawken)
Domicile defined, Mansfield Twp. Bd. of Ed. v. St. Bd. of Ed., 101 N.J.L. 474 (Sup. Ct. 1925); (38:27) (53-54:67) (54-55:80) (63:163) (71:179, aff'd St. Bd. 72:689, aff'd App. Div. 73:784 certif. denied 74:1432) (71:180) (72:126) (74:845) Little Egg Harbor Bd. of Ed. v. Boards of Ed., Galloway Twp., 71 N.J. 537 (1976) rev'g 145 N.J. Super. 1 (App. Div. 1975) (C. dec. 73:324 aff'd St. Bd. 74:1410) (77:342, Harbor Hall School) (87:323, B.B.)
Domicile established by particular circumstances despite fact that family had not slept overnight in premises; overly strict application of board policy rejected (88: March 25, Saddle River)

PUPILS - continued

Residence for school purposes - continued

Domicile may be established by wife who lives with children separate from husband (86:1264, C.J.)
Domicile of child born out of wedlock is with mother until acknowledged by father (87:1835, Scotch Plains-Fanwood)
Domicile of children is with grandparents where they are legal guardians and supported children gratis (85:1622 K.C.K. and K.W.K.) (86:2219, G.C.)
Domicile of children of divorced parents is that of parent or guardian having custody (50-51:39) (71:179 aff'd St. Bd. 72:689 aff'd App. Div. 73:784 certif. denied 74:1432) (74:845) (75:723, C.K.F.)
Domicile of child of separated parents is that of the parent with whom child lives for a majority of time (78:771, Gunthner)
Domicile of child, the whereabouts of the parents unknown, is that of guardian with whom child lived prior to most recent admission to state facility (82: December 27, Newark)
Federal and state owned tax-exempt property; children residing on (63:163 appeal withdrawn St. Bd. 64:177) (75:78, Sandyston-Walpack) (83:53, Bd. of Ed. of Twp. of Rockaway)
Foster children
Immigration status; child entitled to free public education despite parent's immigration status (83:218, I.C. and M.C.) (87:2217, Orange)
Out-of-state children placed in New Jersey foster home held entitled to free education (78: December 14, R.B., unpublished opinion)

Institutionalized children

Child welfare facility (67:30)

County children's shelter, Passaic Bd. of Ed. v. Wayne Bd. of Ed., 120 N.J. Super. 155 (Law Div. 1972) aff'd App. Div. (73:780)

District responsible for tuition when child was institutionalized remains responsible even if parents move out of state (82: January 6, Eatontown)

Handicapped children, Little Egg Harbor Bd. of Ed. v. Boards of Ed., Galloway Tp., 71 N.J. 537 (1976) rev'g 145 N.J. Super. 1 (App. Div. 1975) (C. dec. 73:324, aff'd St. Bd. 74:1410)

Lands dedicated to one municipality, Brick Twp. v. Vannell, 55 N.J. Super. 583 (App. Div. 1959)

"Present district of residence" 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) (88:863, Newton)

PUPILS - continued

Residence for school purposes - continued

Proof of Residence (89:1464, Kulak)

Property straddling school district boundary (70:424) (78:411, Duckett)

Temporary removal from new residence for three week period while addition is constructed: domicile is not affected; child entitled to attend school in district of new residence (86: November 25, Holiat)

Termination of tuition payments for handicapped child; board may not do so based on allegation of changed domicile without first granting parents notice and opportunity to be heard (75:723, C.K.F.)

Temporary residence distinguished from domicile (74:845) (87: May 5, Harrison Twp. Bd. of Ed.)

Temporary residence not established (88:1388, Mainland Regional)

Transfer to other district (81: April 16, V.C.)

Tuition; held board properly charged petitioners tuition from beginning of school year to such date as evidence of residency was presented (84:633, G.L.D.)

Unaffected by fact that residence contravenes senior citizen housing rules (87:2217, Orange)

Searches and seizures, State in Interest of G.C., 121 N.J. Super. 108

(J. & D.R. Ct. 1972) State in the Interest of T.L.O., 95 N.J. 331 (1983), rev'd 105 S. Ct. 733 (1985); pre-T.L.O. decisions: (83:339, M.G.)

Drug testing: Individual suspicion a prerequisite prior to testing student's urine for drugs. Odenheim v. Carlstadt-East Rutherford Reg. School District, 211 N.J. Super. 54 (Ch. Div. 1985)

Supervision of, must be by properly certified personnel (77:393, Cieri)

Testimony of Children

Against/for a teacher must be examined with extreme care.

Petitioners motion to depose second grade children denied (83: February 17, Damon, aff'd St. Bd. 83: June 1)

Pupils in 6th grade class permitted to testify about improper touching charges against teacher without teacher in the courtroom. Accused was permitted to observe testimony by use of video equipment in an adjoining room. Fundamentally unfair - new hearing required. (87:1447, Wolf, aff'd St. Bd. 87:1480, rev'd 231 N.J. Super. 365 (App. Div. 1989))

Transportation

(See "Transportation", this index)

PUPILS - continued

Tuition

- (See also "Handicapped children", "Sending-receiving relationships", this index)
- Board must reimburse parents for share-time tuition based on agreement to do so, even where parents rejected share-time arrangement (89:2476, Gerding, decision on remand, 87:2363, aff'd St. Bd. 88:2466, aff'd and remanded App. Div. unreported op. (Dkt. No. A-4761-87T2 Dec. 6, 1988), remanded St. Bd. 89: February 1)
- District held responsible for tuition costs where board's failure to deal with harassment of pupil by classmates caused parents to enroll pupil in neighboring district (85:1817, M.P. and G.P.)
- District of mother's temporary residence immediately prior to admission in out-of-state facility was responsible for tuition of child placed by DYFS in out-of-state facility (89:1071, Weehawken, dismissed St. Bd. 89: August 2)
- District responsible for tuition when child was institutionalized; remains responsible even if parents move out of state (82: January 6, Eatontown)
- Domicile established where parents sold previous home and were prevented from occupying home in new school district due to structural defects; no tuition due to school district (87: December 17, Iomazzo)
- Foster parents have no authority to place child in private school and are not entitled to reimbursement for expenses (76:264, Orr, dismissed App. Div. 76: July 26)
- Hemophiliac child's tuition not reimbursable after unreasonable delay in application for such (82: October 22, Rednor, aff'd St. Bd. 83: March 2)
- No authority to require that tuition be escrowed pending determination of child's entitlement to free education (85:1622, K.C.K. and K.W.K.)
- No tuition may be charged by affidavit pupil living with and supported by grandmother who is domiciled within district; father's refusal to sign affidavit of non-support deemed reasonable in view of board's erroneous advice (87:1835, Scotch Plains-Fanwood)
- Non-resident policy; board did not abuse discretion in refusing to admit pupil (87:2075, M.A.H., aff'd St. Bd. 88:2500)
- Non-resident pupil (76:641, Elizabeth Bd. of Ed.) (76:876, White)
- Parent who unilaterally sent pupil to neighboring school district and paid tuition therefor is not entitled to

reimbursement from district of actual residence (71:384,
aff'd St. Bd. 72:689)
Pupil placement ordered by courts, board still financially
responsible (77:342, Harbor Hall School)