

UNCLEAN HANDS, DOCTRINE OF

Doctrine applies to administrative proceedings as well as court cases (78:218, North Bergen aff'd in part, rev'd in part St. Bd. 78:250, aff'd App. Div. 80:1522, certif. den. 84 N.J. 444 (1980)) (82: August 25, East Brunswick)

UNEMPLOYMENT COMPENSATION

Day-to-day substitute not entitled to benefits during summer, Patrick v. Bd. of Review, 171 N.J. Super. 424 (App. Div. 1979)
Eight month college employee not entitled to benefits during summer, Shaughnessy v. Bd. of Review, 160 N.J. Super. 96 (App. Div. 1978)
Eligibility for benefits; required to earn minimum statutory wage during base year to be eligible, Halenar v. Sayreville Bd. of Ed., 177 N.J. Super. 157 (App. Div. 1981)
Leave of absence connotes continuity of employment status, Halenar v. Sayreville Bd. of Ed., 177 N.J. Super. 157 (App. Div. 1981)
"Reasonable assurance of employment"; offer to place part-time supplemental instructors on substitute teacher's roster was not a reasonable assurance of employment for coming academic year, Charaton v. Bd. of Review, 200 N.J. Super. 74 (App. Div. 1985)
Title I teacher aide with oral understanding of employment in fall held ineligible for summer benefits, Schoenfeld v. Bd. of Review, 163 N.J. Super. 584 (App. Div. 1978)
Title I teachers ineligible for benefits during summer, Calamusa v. Bd. of Review, 164 N.J. Super. 325 (App. Div. 1978)

UNIONS

Anti-union animus is an issue that lies solely within the purview of PERC (88:196, Dunham)

UNIONS - continued

Attorney fees awarded to teachers union where injunction was obtained to permit union to use city civic center for candidate night 42 U.S.C. §1988. Carlstadt Ed. Assn. v. Mayor and Council, 219 N.J. Super. 164 (App. Div. 1987)

Claim of anti-union animus rejected non-renewal of bus driver found not to be in retaliation for union activity (85: July 8, D'Amato)

Employees may not be discriminated against on basis of their activity or membership in union, Donaldson v. North Wildwood Bd. of Ed., 65 N.J. 236 (1974) rev'g 115 N.J. Super. 228 (App. Div. 1971) (C. dec. 69:127, St. Bd. 70:450)

Board's dismissal or non-renewal of employee reversed on appeal (70:188, remanded 70:192, on remand 71:140, rev'd St. Bd. 72:673, aff'd App. Div. 73:774) (74:260 supplemented 75:191, aff'd St. Bd. 75:199)

Minority unions

Entitled to names and addresses of newly employed teachers (75:227, Elizabeth, aff'd St. Bd. 75:230)

Policy guaranteeing exclusive use of bulletin board to majority union upheld (72:436)

N.J.S.A. 34:13A-5.5 allowing board and union to negotiate

provision requiring non-union members to pay representation fee used in part for lobbying does not violate non-union member's First amendment rights. Statutory system for return of fees used for non-employment related purposes held facially valid. Robinson v. State of New Jersey, 741 F.2d 598 (3d Cir. 1984), rev'g and remanding 565 F. Supp. 942 (D.N.J. 1983), cert. denied 105 S.Ct. 1228 (1985) (on remand, additional constitutional challenges rejected N.J. District Ct. (1985), dismissal aff'd 3rd Cir.) Matter of Board of Ed. of the Town of Boonton, et al. and Boonton Education Association, 99 N.J. 523 (1985).

Organization has right to initiate and process grievance on behalf of employee, Red Bank Ed. Assoc. v. Red Bank Reg. H.S. Bd. of Ed., 151 N.J. Super. 435 (App. Div. 1977)

Representation

Psychologists were fairly represented in negotiations, Belen v. Woodbridge Twp. Bd. of Ed., 142 N.J. Super. 486 (App. Div. 1976)

Standing of union denied (76:748, Kochman)

Standing of union denied to waive personal right under Sunshine Law, Rice v. Union County Reg. H.S. Bd. of Ed., 155 N.J. Super. 64 (App. Div. 1977)

Standing of union upheld, Winston v. South Plainfield Bd. of Ed., 125 N.J. Super. 131 (App. Div. 1973) aff'd 64 N.J. 582 (1974) (C. dec. 72:323, St. Bd. 72:327, C. on remand 74:999) (77:706, Camp)

(77:1096, DeOld, rev'd St. Bd. 78:1006)
Union dues; deduction from salary (66:159); but see N.J.S.A.
52:14-15.9e

VACATIONS

Compensation for accrued vacation (67:255) (70:433) (74:1261)
Compensation for inservice conference (80:980, Whiting, aff'd
St. Bd. 81: January 22, aff'd unpublished opinion, App. Div.
(Docket No. A-2741-80T1, April 7, 1982))
Denial of employee's request for vacation leave, held not arbitrary
or capricious (81: August 4, Benanti)
Executive Director of Educational Service Commission not entitled to
pay for accumulated vacation where not approved by fiscal monitor
who oversaw dissolution of Commission (86:928, Lewis)
Increased vacation after five years' service, interpreted to mean
five school years (81: June 30, Callinan)
Payment for accrued vacation days upon early termination of contract,
(80:1018, Oskamp) (81: May 4, DeFonce, St. Bd. closed record 81:
August 5)
Six month vacation period held valid (72:456)
Wrongfully discharged state employee entitled to sick leave and
vacation time for period of discharge. Eaddy v. Department of
Transportation, 208 N.J. Super. 156 (App. Div. 1986)

VOCATIONAL SCHOOLS

County vocational schools' powers and duties are not diminished
by Optional County Charter Act, Bd. of Trustees of Mercer County
College v. Sypek, 160 N.J. Super. 452 (App. Div. 1978) certif.
denied 78 N.J. 327 (1978)
Entitled to summary judgment on petition alleging discontinuance of
LPN program violates T&E; no requirement to maintain post-secondary
program (81: November 10, Bergen County, St. Bd. rev'g 81: July 7)

WAGE AND PRICE CONTROLS

Commissioner has no jurisdiction over (74:590) (74:594) (74:657)

WAIVER

Collective bargaining unit held not to constitute a waiver of
teachers' rights to increments in previous years based on teaching

experience (73:57)
Full-time position abolished; refusal to accept part-time position
constitutes waiver of right to subsequent part-time employment
(79:232, Boquszewski)

WORKERS COMPENSATION

(See also "Retirement and Pensions", this index)
Accidental disability retirement benefits may not be collected if
also receiving Workers Compensation benefits for same accident, but,
if receiving ordinary service retirement benefits, a claim may be
made for award of Workers Compensation, Russo v. Teachers' Pens. &
Ann. Fund, 62 N.J. 142 (1973); Lahm v. State, 112 N.J. Super. 167
(App. Div. 1970); Swan v. Bd. of Trustees of Teachers' Pens. Fund,
85 N.J. Super. 226 (App. Div. 1964)
Causal connection found between teachers' employment and death,
Palamone v. Paterson Bd. of Ed., 153 N.J. Super. 476 (App. Div.
1977)
Claims arising out of Workers Compensation benefit conferred by
statute are subject to 90 day limitation for timely filing of
petition with the Commissioner (87:2273, Northey)
Commissioner determines payment of benefits following the finding
that a compensable accident had occurred (83: March 15, Theodore)
Determination of a compensable injury by Workers Compensation
Court is necessary prior to invoking benefits under N.J.S.A.
18A:30-2.1 (87:690, Amos, aff'd w/opinion St. Bd. 88:2434)
Extended paid sick leave under N.J.S.A. 18A:30-2.1
Commissioner's determination that injury arose in course of
employment may be made without regard to Division of Workers
Compensation determination on same issue (83: September 15,
Bergmann, aff'd St. Bd. 86: January 8)
Interrelationship between N.J.S.A. 18A:30-2.1 and Workers
Compensation
statute
Commissioner has jurisdiction to decide case under N.J.S.A.
18A:30-2.1 while Workers Compensation claim is pending
(86:152, Lopez)
Commissioner must issue stay in matter under N.J.S.A.
18A:30-2.1 where causal connection between injury and
workplace is in dispute, pending determination by Div. of
Workers Compensation (87:2742, Tompkins, St. Bd. rev'g 86:
October decision on motion)
Jurisdiction; Division of Workers Compensation has exclusive original
jurisdiction to determine if injury is work-related (81: January
29, Wellington, aff'd St. Bd. 81: May 6, aff'd unpublished opinion,

App. Div. (Docket No. A-4307-80T1, July 19, 1982)) but see (81: July 1, Masino, St. Bd. rev'g 80: November 30); Commissioner must determine whether accident is work-related for purposes of N.J.S.A. 18A:30-2.1 and determine whether benefits are due under that statute: jurisdiction not contingent upon worker's compensation decision

WORKERS COMPENSATION - continued

- Jurisdiction; Division of Workers Compensation has original exclusive jurisdiction to determine if injury is work-related
May consider application for workers compensation and award benefits for injuries which Commissioner found not to be work-related and for which Commissioner 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) (88:2361 Ledbetter, aff'd St. Bd., 89:3037)
- Liability for salary under 18A:30-2.1 applies from date of injury and during the twelve month period thereafter only (82: March 12, Williams, aff'd St. Bd. 82: July 7, aff'd 192 N.J. Super. 31 (App. Div. 83:1664) aff'd 98 N.J. 319 (1985)) (82: November 15, Cimino)
- Liability of board to be determined in Division of Workers Compensation (72:456)
- On job disability (71:553, aff'd St. Bd. 72:669)
- Permanent; where petitioner will never be able to resume permanent employment he was entitled to one year's salary minus Workers Compensation payment and any other salary earned (83: March 15, Theodore)
- Relation to sick leave (72:456) (71:553, aff'd St. Bd. 72:669) (76:748, Kochman) (87:690, Amos, aff'd w/opinion St. Bd. 88:2434)
- Reimbursement of salary paid to employee pending workers comp. claim upheld N.J.S.A. 18A:30-2.1 (89:1733, Pemberton)
- Supplemental Disability award not a statutorily conferred right - 90 day rule not relaxed by Commissioner (87:1911, Pelle, St. Bd. aff'd in part, rev'd in part 88:2463, aff'd App. Div. unreported op. (Dkt. No. A-4415-87T1, March 1, 1989)
- Work related injury proved by preponderance of evidence (86:1372, Onulak)
- Workers Compensation standards must be used to decide claims under N.J.S.A. 18A:30-2.1, Theodore v. Dover Bd. of Ed., 183 N.J. Super. 407 (1982)
- Year's salary under N.J.S.A. 18A:30-2.1; no evidence that disability was work-related (80: December 24, Sepe)

ZONING

- Public Schools and county vocational schools are subject to local zoning restrictions, Denville Twp. Committee v. Morris County Vocational Bd. of Ed., 59 N.J. 143 (1971)
- Rezoning from industrial to residential not unconstitutional burden on education system, Black Horse Reg. H.S. Bd. of Ed. v. Gloucester, 127 N.J. Super. 97 (Law Div. 1974)
- School for emotionally disturbed entitled to operate as valid nonconforming use under zoning ordinance, Areba School Corp. v.

Randolph Twp., 151 N.J. Super. 336 (App. Div. 1977)