



INFORMATION ITEM

MEMORANDUM

TO: Officers, Board Of Directors Members and Alternates

FROM: Lawrence S. Feinsod, Ed.D., Executive Director

DATE: May 11, 2018

RE: Legal Case Summary

Attached for your information is a summary of legal cases in which the Association is involved.

CASE TRACKING

Case Name	Jurisdiction	Issue	Summary	NJSBA Action	Status
<i>Kean Federation of Teachers v. Kean University Board of Trustees</i>	N.J. Supreme Court	Are Rice notices required for all employees referenced on a public body's agenda?	App. Div. ordered <i>Rice</i> notices for ALL employees referenced on agenda.	Cert granted March June 29, 2017 NJSBA filed motion to appear as <i>amicus curiae</i> on September 8, 2017.	Motion granted to file a brief
<i>PALMER v. JERSEY CITY PUBLIC SCHOOL DISTRICT</i>	N.J. Appellate Division	NJSBA will argue the compelling protections of privacy of student records under FERPA, assuring the confidentiality of student records and identifying information when responding to OPRA requests; and that attorney fees shouldn't be assessed against a district since the student records may ONLY be produced under court order, consent or subpoena.	The trial judge ruled in favor of the plaintiff who, pursuant to OPRA, sought copies of pre-K student records consisting of USDA "free and reduced school meal" applications, finding that the defendant, rather than simply denying the request outright, could have agreed to provide the records once a court order was obtained, with direction of appropriate redaction of personal information. Additionally attorney fees were ordered since the plaintiff's lawsuit was found to be the "catalyst" for disclosing the redacted records. There are similar FERPA matters pending in the following districts: Camden, Cherry Hill, Elizabeth, Hillsborough, Millburn, Parsippany-Troy Hills and Woodbridge.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule	Motion granted. MATTER STAYED PENDING DECISION IN CONSOLIDATED CASES.
<i>L.R. AND JR, MINOR v. CHERRY HILL BOE RECORDS CUSTODIAN</i>	N.J. Appellate Division	NJSBA will argue the compelling protections of privacy of student records under FERPA, assuring the confidentiality of student records and identifying information when responding to OPRA requests; and that attorney fees shouldn't be assessed against a district since the student records may ONLY be produced under court order, consent or subpoena.	The trial judge ruled in favor of Cherry Hill which redacted student and parent initials from litigated settlement documents requested by the plaintiff.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule.	Motion granted. MATTER STAYED PENDING DECISION IN CONSOLIDATED CASES.

<i>THE INNISFREE FOUNDATION V. HILLSBOROUGH TWP. BOE AND AIMAN MAHMOUD, RECORDS CUSTODIAN</i>	N.J. Appellate Division	NJSBA argued in support of the trial court decision and reasoning.	Trial court dismissed OPRA complaint as student records are exempt from OPRA pursuant to FERPA and SSRL.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule.	Oral argument Sept 18, 2017 App Div. upheld denial of student's records* Remanded
<i>L.R. AND JR, MINOR v. HILLSBOROUGH TOWNSHIP BOE</i>	N.J. Appellate Division	NJSBA argued in support of the trial court decision and reasoning.	Trial court dismissed OPRA complaint as student records are exempt from OPRA pursuant to FERPA and SSRL. Plaintiffs requested all IEE requests and responses; and all such requests and responses made on behalf of students: 7/1/12-11/11/14.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule.	Motion granted. MATTER STAYED PENDING DECISION IN CONSOLIDATED CASES.
<i>L.R. AND JR, MINOR v. WOODBRIDGE BOE</i>	N.J. Appellate Division	NJSBA will argue the compelling protections of privacy of student records under FERPA, assuring the confidentiality of student records and identifying information when responding to OPRA requests; and that attorney fees shouldn't be assessed against a district since the student records may ONLY be produced under court order, consent or subpoena.	Plaintiffs requested all IEE requests and responses; and all such requests and responses made on behalf of students 5/1/12-5/17/14. Trial court ordered release of redacted docs, but with student initials.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule.	Motion granted. MATTER STAYED PENDING DECISION IN CONSOLIDATED CASES.
<i>L.R. V. PARSIPPANY-TROY HILLS TWP BOE AND DAVID CORSO IN HIS OFFICIAL CAPACITY AS THE TOWNSHIP CLERK</i>	N.J. Appellate Division	NJSBA will argue the compelling protections of privacy of student records under FERPA, assuring the confidentiality of student records and identifying information when responding to OPRA requests; and that attorney fees shouldn't be assessed against a district since the student	Trial court ordered redacted of all student identifiers including initials. Plaintiff requested all IEE requests and responses made on behalf of students.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule.	Motion granted. Oral argument Sept 18, 2017. App div reversed order to release redacted student records. Remanded

		records may ONLY be produced under court order, consent or subpoena.			
<i>THE INNISFREE FOUNDATION V. PARSIPPANY-TROY HILLS TOWNSHIP BOE AND DAVID F. CORSO ASST. SUPT. FOR BUSINESS/CHIEF FINANCE AND OPERATIONS OFFICER/BOARD SECRETARY/RECORDS CUSTODIAN</i>	N.J. Appellate Division	NJSBA will argue the compelling protections of privacy of student records under FERPA, assuring the confidentiality of student records and identifying information when responding to OPRA requests; and that attorney fees shouldn't be assessed against a district since the student records may ONLY be produced under court order, consent or subpoena.	Trial court ordered release of records with PII redaction. Plaintiff requested two years of settlement agreements between parents of sped ed students and BOE.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule.	Motion pending. MATTER STAYED PENDING DECISION IN CONSOLIDATED CASES.
<i>L.R. INDIVIDUALLY AND ON BEHALF OF J.R. V. CAMDEN CITY BOE AND JOHN C. OBERG IN HIS OFFICIAL CAPACITY AS INTERIM SCHOOL BUSINESS ADMINISTRATOR AND BOARD SECRETARY</i>	N.J. Appellate Division	NJSBA argued in support of the trial court decision and reasoning.	Trial court denied plaintiff request for copies of letters and emails sent/received by director special services mentioning minor 3/2/2012-5/15/2014 and educational docs received/created by case manager regarding minor from 7/1/2012-5/22/2014 – December 9, 2014. Plaintiff requested minor's FERPA access log; and attorney billing with student initials.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule	Motion granted. Oral argument Sept 18, 2017 App Div. upheld denial of other student's records.* Remanded
<i>L.R. INDIVIDUALLY AND ON BEHALF OF J.R., A MINOR V. ELIZABETH PUBLIC SCHOOL DISTRICT AND HAROLD K. KENNEDY, JR., AS HIS OFFICIAL CAPACITY AS SCHOOL BUSINESS/ADMINISTRATOR/BOARD SECRETARY OF THE ELIZABETH PUBLIC</i>	N.J. Appellate Division	NJSBA will argue the compelling protections of privacy of student records under FERPA, assuring the confidentiality of student records and identifying information when responding to OPRA requests; and that attorney fees shouldn't be assessed against a district since the student records may ONLY be produced under court	Trial court ordered release of records with PII redaction. Plaintiff requested IEE requests and responses	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule.	Motion granted. MATTER STAYED PENDING DECISION IN CONSOLIDATED CASES.

<i>SCHOOL DISTRICT</i>		order, consent or subpoena.			
<i>THE INNISFREE FOUNDATION V. CHERRY HILL BOARD OF EDUCATION AND JAMES DEVEREAUX, RECORDS CUSTODIAN</i>	N.J. Appellate Division	NJSBA will argue the compelling protections of privacy of student records under FERPA, assuring the confidentiality of student records and identifying information when responding to OPRA requests; and that attorney fees shouldn't be assessed against a district since the student records may ONLY be produced under court order, consent or subpoena.	Trial court ordered release of records with PII redaction. Plaintiff requested two years of settlement agreements between parents of sped ed students and boe.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule.	Motion granted. Oral argument Sept 18, 2017 App div reversed order to release redacted student records. Remanded
<i>RIDGEFIELD PARK BOE v. RIDGEFIELD PARK EA</i>	N.J. Appellate Division Same issue addressed in <i>CLEMENTON</i> which the NJ Supreme Court dismissed as moot last year.	The Board filed a scope of negotiations petition with PERC seeking to restrain the submission of a grievance by the Education Association for binding arbitration. The subject matter of the grievance concerned the negotiability of employee contributions for medical insurance and the sunset of <i>P.L. 2011, c.78</i> (Chapter 78).	PERC granted the board's request for restraint of arbitration, holding (1) the maximum Chapter 78 contribution levels remain in effect for the duration of any collective bargaining agreement which begins prior to the sunset of Chapter 78—that is, reduced contributions cannot be negotiated for the second, the third, or subsequent years of a contract that began prior to sunset, and 2) in the negotiation of future contracts (those that begin after Chapter 78's sunset), the fully phased-in Chapter 78 health benefit contributions are the status quo—that is, the full Chapter 78 contribution levels remain in effect indefinitely unless the board of education agrees to a change. However, PERC denied the Board's request to restrain arbitration of how the Board recoups unpaid premiums from employees.	NJSBA will file a motion to appear as <i>amicus curiae</i> together with a substantive brief once a briefing schedule is set on the issue of the Chapter 78 sunset.	Motion filed. .