

2. The district board of education, through its board secretary, upon receipt of the charges of inefficiency and the written statement of evidence in support thereof shall cause a copy of same to be transmitted to the affected employee within three working days. Proof of mailing or hand delivery shall constitute proof of transmittal.

3. The district board of education, through its board secretary, shall direct that the employee be informed in writing that, unless such inefficiencies are corrected within the minimal 90 day period, or any longer period provided by the board, it intends to certify those charges of inefficiency to the Commissioner pursuant to N.J.S.A. 18A:6-11.

4. Concurrent with notifying the employee of such charges of inefficiency, the district board of education shall direct that there be a modification of the individual professional improvement plan mandated by N.J.A.C. 6:3-1.21(f) to assure that such plan addresses the specific charges of inefficiency and comports with the timelines established for correction.

5. Upon completion of the minimal 90 day period for improvement, or such longer period as may be provided by the district board of education, the administrator or administrators responsible for bringing such charges to the attention of the board shall notify the board in writing of what charges, if any, have not been corrected.

6. The district board of education upon receipt of the written notification shall notify the affected employee in writing that all of the inefficiencies have been corrected or, in the alternative, which of the inefficiencies have not been corrected. The time from the expiration of the minimal 90 day period, or such longer period as may be provided by the board, to the notification of the employee by the board shall not exceed 30 calendar days.

7. In the event that certain charges of inefficiency have not been corrected, the affected employee shall have an opportunity to respond within 15 days of the receipt of said notification of inefficiency by filing a statement of evidence under oath in opposition to those charges.

8. Upon receipt of such written statement of evidence under oath or upon expiration of the allotted 15 day time period, the district board of education shall determine by a majority vote of its full membership within 45 days whether there is probable cause to credit the evidence in support of the charges and that such charges, if credited, are sufficient to warrant a dismissal or reduction in salary. (See N.J.S.A. 18A:6-11.)

9. In the event the district board of education finds that such probable cause exists and that the charges, if credited, are sufficient to warrant a dismissal or reduction of salary, then it shall file such written charges and the required certificate of determination with the Commissioner together with proof of service upon the employee.

10. All deliberations and actions of the district board of education with respect to such charges shall take place at a closed meeting.

Amended by R.1986 d.157, effective May 5, 1986.
See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).

Added (b)-(c).
Amended by R.1991 d.57, effective February 4, 1991.
See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).
Stylistic changes.

Case Notes

Tolling of time to determine probable cause for dismissing tenured teacher during response time and for day of service. *Matter of Tenure Hearing of Cowan*, 224 N.J.Super. 737, 541 A.2d 298 (A.D.1988).

Adequate certification of charges against tenured employee where document containing jurat was signed four days before secretary signed certification. *Matter of Tenure Hearing of Cowan*, 224 N.J.Super. 737, 541 A.2d 298 (A.D.1988).

Notice from school board; termination proceedings. *Jackson v. Englewood Board of Election*, 94 N.J.A.R.2d (EDU) 520.

Evidence established that it was reasonable for board of education to refuse to certify tenure charges. *Bey v. Board of Education of City of Newark*, 93 N.J.A.R.2d (EDU) 288.

6:24-5.2 Format of certificate of determination

(a) The certificate of determination which accompanies the written charges shall contain a certification by the district board of education secretary:

1. That the district board of education has determined that the charges and the evidence in support of the charges are sufficient, if true in fact, to warrant dismissal or a reduction in salary;

2. Of the date, place and time of the meeting at which such determination was made and whether or not the employee was suspended and, if so, whether such suspension was with or without pay;

3. That such determination was made by a majority vote of the whole number of members of the district board of education;

4. In the case of a charge of inefficiency, that the employee was given at least 90 days' prior written notice of the nature and particulars of the alleged inefficiency.

Amended by R.1986 d.157, effective May 5, 1986.
See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).

Substantially amended.

Case Notes

Review of procedure for bringing tenure charges; abstention by court not required. *Wichert v. Walter*, 606 F.Supp. 1516 (D.N.J.1985).

Issue of form over substance in remedying procedural defect. In re: *Tenure Hearing of Kizer*, 1974 S.L.D. 505.

6:24-5.3 Filing and service of answer to written charges

The filing and service of an answer to written charges pursuant to the Tenure Employees' Hearing Act shall be performed in accordance with N.J.A.C. 6:24-1.4.

Case Notes

Review of procedure for bringing tenure charges; abstention by court not required. *Wichert v. Walter*, 606 F.Supp. 1516 (D.N.J.1985).

6:24-5.4 Filing and certification of charges against tenured employees in the Departments of Human Services, Corrections and Education

(a) The process for the filing and service of tenure charges against persons serving under tenure pursuant to N.J.S.A. 18A:60-1 within the Departments of Human Services, Corrections and Education other than for reasons of inefficiency shall comport with the process as described in N.J.A.C. 6:24-5.1(b) except as herein noted. The charges shall be filed with the Director of Employee Relations in the Department of Human Services, the Director of the Office of Educational Services in the Department of Corrections or by an individual within the Department of Education designated by the Commissioner of Education. Any written statement of position submitted by the affected employee in response to said charges shall be filed with those individuals in the respective departments in the manner and time frame prescribed by N.J.A.C. 6:24-5.1(b).

(b) The Director of Employee Relations, the Director of the Office of Educational Services or individual designated by the Commissioner of Education shall, upon receipt of respondent's written statement of evidence under oath or upon expiration of the allotted 15 day time period, determine within 45 days whether there is probable cause to credit the evidence in support of the charges and whether such charges, if credited, are sufficient to warrant dismissal or reduction of salary and shall notify the affected employee of his/her determination in writing in the manner prescribed by N.J.A.C. 6:24-5.1(b)5.

(c) In the event that the Director of Employee Relations, the Director of the Office of Educational Services or the individual designated by the Commissioner of Education finds that probable cause exists and that the charges, if credited, warrant dismissal or reduction in salary, then he or she shall file such charges and the required certification with the Commissioner of Education together with proof of service upon the employee.

(d) In the event that the tenure charges are charges of inefficiency, the procedures and timelines to be followed shall be as prescribed by N.J.A.C. 6:24-5.1(c) except that receipt of all papers, required actions, transmissions, notifications, determinations and certifications prescribed by the aforesaid provision shall be the responsibility of the Director of Employee Relations for charges arising in the Department of Human Services, the Director of the Office of Educational Services for charges arising out of the Department of Corrections or the individual designated by the Commissioner of Education for charges arising out of the Department of Education.

(e) The certificate of determination which accompanies the written charges shall contain a certification by the Director of Employee Relations, the Director of the Office of Educational Services or the individual designated by the Commissioner of Education:

1. That the director or responsible person has determined that the charges and the evidence in support of the charges are sufficient, if true in fact, to warrant dismissal or a reduction in salary;
2. Of the date on which such determination was made and whether or not the employee was suspended and, if so, whether such suspension was with or without pay; and
3. In the case of a charge of inefficiency, that the employee was given at least 90 days' prior written notice of the nature and particulars of the alleged inefficiency.

(f) The filing and service of an answer to written charges pursuant to the Tenure Employees Hearing Act shall be performed in accordance with N.J.A.C. 6:24-1.4.

New Rule, R.1989 d.553, effective November 6, 1989.

See: 21 N.J.R. 1939(b), 21 N.J.R. 3461(a).

Case Notes

Plea of guilty to criminal sexual conduct was not act of employment warranting forfeiture, but was unbecoming conduct warranting termination. *Bergenfield Board of Education v. Efferen*, 95 N.J.A.R.2d (EDU) 457.

Choking and shaking of student was unbecoming a teaching staff member and warranted tenured teacher's dismissal under circumstances. *Matter of Tenure Hearing of Johnston*, 95 N.J.A.R.2d (EDU) 439.

Addressing female staff members in such a matter as to deprive them of their dignity was conduct unbecoming a teaching staff member. *Freehold Regional v. Kotkin*, 95 N.J.A.R.2d (EDU) 431.

Absenteeism was unbecoming conduct warranting tenured teacher's removal. *Matter of Tenure Hearing of Rucker*, 95 N.J.A.R.2d (EDU) 350.

Inappropriate discussions with students regarding sexual matters warranted tenured teacher's dismissal. *Matter of Tenure Hearing of Roberts*, 95 N.J.A.R.2d (EDU) 349.

Costs incurred by tenured teacher in defending against criminal charges not shown to have arisen from performance of his duties were not indemnifiable. *Bower v. East Orange Board of Education*, 95 N.J.A.R.2d (EDU) 345, reversed 287 N.J. Super. 15, 670 A.2d 106.

Conviction on plea of guilty to criminal sexual conduct did not warrant automatic forfeiture of public position without first affording tenured custodian a full hearing in which to reveal mitigating circumstances. *Bergenfield Board of Education v. Efferen*, 95 N.J.A.R.2d (EDU) 304, on remand 95 N.J.A.R.2d (EDU) 457.

Alcoholism which initially led to excessive absenteeism did not warrant tenured teacher's removal once she successfully completed school district's rehabilitation program. *Jersey City School District v. Howard*, 95 N.J.A.R.2d (EDU) 301.

Inappropriate sexual behavior warranted long-term suspension with homebound instruction until end of school. *R.L. and K.L. v. Kingsway Board of Education*, 95 N.J.A.R.2d (EDU) 296.

Excessive absenteeism provided sufficient cause for school board to terminate employee from her position as a tenured secretary. *Matter of Tenure Hearing of Jones*, 95 N.J.A.R.2d (EDU) 285.

Use of illegal amphetamines in breach of drug rehabilitation contract with school board was unbecoming and warranted tenured teacher's dismissal. *Matter of Yanniello Tenure Hearing*, 95 N.J.A.R.2d (EDU) 262.

Comments in class implying eugenic disability of children for superior performance were not protected by free speech and warranted tenured teacher's termination. *Campbell v. Princeton Board of Education*, 95 N.J.A.R.2d (EDU) 211, certification denied 665 A.2d 1111, 142 N.J. 518.

Employment of corporal punishment through use of physical force to lift chin of one student, thereby causing head to strike wall, was unacceptable and warranted forfeiture of six months' salary for tenured teacher. *Matter of Tenure Hearing of Di Pillo*, 95 N.J.A.R.2d (EDU) 206.

Custodians were tenured under resolution of school board and were not required to prove their efficiency to avoid termination. *Zielinski v. East Brunswick Board of Education*, 95 N.J.A.R.2d (EDU) 161, affirmed 96 N.J.A.R.2d (EDU) 3.

Positive cocaine test was sufficiently trustworthy to support tenured custodian's dismissal by school district. *Matter of Tenure Hearing of Caravello*, 95 N.J.A.R.2d (EDU) 160.

Employee terminated from tenured position with school board was entitled to be paid value of vacation time accrued by her at that time. *Lowe v. Orange Board of Education*, 95 N.J.A.R.2d (EDU) 139.

Repetitive conduct that put students at risk justified dismissal of tenured teacher. *Matter of Tenure Hearing of Harrell*, 95 N.J.A.R.2d (EDU) 137.

Charges of inefficiency brought against tenured teacher were dismissed as moot when teacher thereafter retired. *Barshatky v. Freehold Board of Education*, 95 N.J.A.R.2d (EDU) 71.

Allowing classroom situation that was a risk to students' safety warranted dismissal of teacher from tenured position. *City of Paterson v. Rubin*, 95 N.J.A.R.2d (EDU) 13.

Participation in activity violative of public trust warranted two-year suspension of teaching certificates. *Matter of Pedrick Teaching Certificates*, 95 N.J.A.R.2d (EDE) 1.

Termination; insubordination. In the *Matter of the Disciplinary Hearing of McCargo*, 94 N.J.A.R.2d (EDU) 524.

Tenured prison teacher's unauthorized correspondence with prison inmate; termination. In the *Matter of the Tenure Hearing of Jacqueline Holmes-Williams*, 94 N.J.A.R.2d (EDU) 447.

Board failed to prove that teacher engaged in conduct unbecoming a teacher. In the *Matter of the Tenure Hearing of David C. Borrelli*, 94 N.J.A.R.2d (EDU) 424.

Hitting students and making personal remarks to student; dismissal. In the *Matter of the Tenure Hearing of Charles Talley*, 94 N.J.A.R.2d (EDU) 395.

Award of benefits to tenure eligible teaching staff members retroactively applied. *Trenton Education Association v. Trenton Board of Education*, 94 N.J.A.R.2d (EDU) 328.

Termination of tenured teacher; cocaine. In the *Matter of the Tenure Hearing of Caravello*, 94 N.J.A.R.2d (EDU) 304.

Dismissal; sexually explicit discussions with students. In the *Matter of the Tenure Hearing of Frank Roberts*, 94 N.J.A.R.2d (EDU) 284.

Termination of nontenured custodian; harassing a female student. *Hugg v. Pinelands Regional School District Board of Education*, 94 N.J.A.R.2d (EDU) 279.

Resisting arrest and attempt to injure police officers; dismissal of teaching staff member. In the *Matter of the Tenure Hearing of Henderck*, 94 N.J.A.R.2d (EDU) 268.

Dismissal of tenured clerk; inadequacies which remained uncorrected despite 90 day remediation period. In the *Matter of the Tenure Hearing of Carson*, 94 N.J.A.R.2d (EDU) 250.

Tenured school principal's chronic and excessive absenteeism warranted termination. *Camden School District v. Rucker*, 94 N.J.A.R.2d (EDU) 190.

School counselor failed to establish by a preponderance of evidence that she was terminated on the basis of religion. *Miller v. Holmdel Township Board of Education*, 94 N.J.A.R.2d (CRT) 185.

Dismissal of custodian; drug testing protocols. In the *Matter of the Tenure Hearing of Caravello*, 94 N.J.A.R.2d (EDU) 163.

Abolition of position and demotion was not shown as arbitrary, capricious, unreasonable or otherwise unfair decision. *Nuber v. Jersey City School District*, 94 N.J.A.R.2d (EDU) 25.

Terminated employee was entitled to payment for accrued vacation. *Lowe v. Orange City Board of Education*, 93 N.J.A.R.2d (EDU) 789.

Dismissal of teacher as alcoholic not warranted. In the *Matter of the Tenure Hearing of Howard*, 93 N.J.A.R.2d (EDU) 788.

Dismissal of teacher was warranted for unbecoming conduct. In the *Matter of the Tenure Hearing of Smith*, 93 N.J.A.R.2d (EDU) 729.

Prison vocational teacher did not breach duty by bringing construction materials obtained from inmate's relatives into prison or by supplying keys to another inmate. In the *Matter of the Tenure Hearing of Samano*, 93 N.J.A.R.2d (EDU) 710.

Chronic and excessive absences warranted dismissal of tenured teacher from school district. *Matter of Tenure Hearing of Kacprowicz*, 93 N.J.A.R.2d (EDU) 604, 95 N.J.A.R.2d (EDU) 105.

Gross insensitivity and humiliation of students warranted loss of pay. In *Matter of Tenure Hearing of Feinsod*, 93 N.J.A.R.2d (EDU) 590.

Board of education reasonably accommodated alcoholic teacher; dismissal. *State Operated School District of Jersey City v. Howard*. 93 N.J.A.R.2d (EDU) 556.

Teacher's acquiring, possessing, and using stolen cars, as well as other misconduct, warranted dismissal. *School District of Township of Irvington v. Smith*. 93 N.J.A.R.2d (EDU) 526.

Teacher dismissed; marijuana grown at home. *Board of Education of Willingboro v. Lott*. 93 N.J.A.R.2d (EDU) 516.

Teacher's striking and pushing student warranted loss of pay. In *Matter of Tenure Hearing of Boyd*, 93 N.J.A.R.2d (EDU) 445.

Record established corporal punishment and other charges warranting termination of teacher. In *Matter of Tenure Hearing of Harrell*, 93 N.J.A.R.2d (EDU) 387.

Teacher's conduct and comments to students constituted unbecoming conduct; termination. *School District of Flemington-Raritan Regional v. Gilson*, 93 N.J.A.R.2d (EDU) 378.

Custodian's insubordination, neglect of duty and excessive absenteeism warranted termination. In *Matter of Tenure Hearing of Riddick*, 93 N.J.A.R.2d (EDU) 345.

Love letters sent to students; dismissal of teacher. In *Matter of Tenure Hearing of Mantone*, 93 N.J.A.R.2d (EDU) 322.

Procedural defects warranted dismissal of tenure proceedings. In *Matter of Tenure Hearing of Beam*, 93 N.J.A.R.2d (EDU) 320.

Incapacitating psychological difficulties; dismissal of teacher. In *Matter of Tenure Hearing of McCoy*, 93 N.J.A.R.2d (EDU) 297.

Record established conduct unbecoming superintendent of schools; termination. In *Matter of Tenure Hearing of Horowitz*, 93 N.J.A.R.2d (EDU) 232.

Insensitive utterances, inappropriate physical gestures and intimidation tactics of teacher in dealing with students; dismissal. *Board of*

Education of Princeton Regional School District v. Campbell, 93 N.J.A.R.2d (EDU) 196.

Teacher's chronic and excessive absenteeism; removal. In Matter of Tenure Hearing of Kacprowicz, 93 N.J.A.R.2d (EDU) 147.

Developmental center teacher's striking of client; dismissal. In Matter of Tenure Hearing of Wagner, 93 N.J.A.R.2d (EDU) 143.

Absenteeism, abuse of prescription drugs, and drug test refusal; dismissal of teacher. In Matter of Tenure Hearing of Pellagatti, 93 N.J.A.R.2d (EDU) 121.

Record established that superintendent engaged in conduct unbecoming teaching staff member; dismissal. In Matter of Tenure Hearing of Romanoli, 93 N.J.A.R.2d (EDU) 82.

Teacher's substantiated screaming, verbal abuse and inappropriate discipline warranted monetary penalty and teacher training; no termination. Randolph Township Board of Education v. Dipillo, 93 N.J.A.R.2d (EDU) 13.

Chronic tardiness and excessive absenteeism constituted conduct unbecoming teacher; ongoing nature of conduct warranted dismissal. In Matter of Tenure Hearing of Meade-Stephens, 92 N.J.A.R.2d (EDU) 550.

School custodian's dishonesty; termination. In Matter of Tenure Hearing of Depasquale, 92 N.J.A.R.2d (EDU) 537.

Corporal punishment; loss of pay. Board of Education of City of New Brunswick v. Murphy, 92 N.J.A.R.2d (EDU) 527.

Teacher's erratic behavior and tolerance of sexual talk in class; dismissal. Morris School District Board of Education v. Brady, 92 N.J.A.R.2d (EDU) 410.

Punishment and abuse of students; dismissal of teacher. In Matter of Tenure Hearing of Courtney, 92 N.J.A.R.2d (EDU) 399.

Discretion to conduct inquiry into board of education election; inquiry warranted. In Matter Election Inquiry in School District of Township of Pennsauken, Camden County, 92 N.J.A.R.2d (EDU) 219.

Board of education election void; irregularities. In Matter of Annual School Election Held in Chesilhurst School District, 92 N.J.A.R.2d (EDU) 213.

Tenured school custodian; excessive absenteeism. Passaic Board of Education v. Viani, 92 N.J.A.R.2d (EDU) 76.

Patient elopement; suspension of psychiatric hospital teacher. New Jersey Department of Human Services, Greystone Park Psychiatric Hospital v. Pescatore, 92 N.J.A.R.2d (EDU) 8.

SUBCHAPTER 6. CONTESTED SCHOOL ELECTIONS

6:24-6.1 Request for recount or investigation

(a) Request for recount of the ballots cast or for an investigation of the procedures at a school election shall be in compliance with N.J.S.A. 18A:14-63.1 et seq. and need not conform with N.J.A.C. 6:24-1.2 (Filing and service of petition). Such request shall be in letter form addressed to the Commissioner and shall set forth with particularity the grounds on which the election results are contested.

(b) Request for inquiry into alleged violations of statutorily prescribed election procedures, pursuant to N.J.S.A. 18A:14-63.12, shall be in writing to the Commissioner.

(c) Hearings inquiring into alleged violations of statutorily prescribed election procedures shall be conducted pursuant to N.J.A.C. 1:1 by the Commissioner or an ALJ.

Amended by R.1986 d.157, effective May 5, 1986.

See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).

Old (b)-(d) repealed and new (b)-(c) substituted.

Amended by R.1991 d.57, effective February 4, 1991.

See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).

Stylistic changes only.

Case Notes

Unsuccessful candidate's action against school board; improper expenditure of funds and presentation of budget. Mercer v. Brick Township Board of Education, 94 N.J.A.R.2d (EDU) 368.

Challenge candidacy for school board based upon defective nominating papers; timeliness. Rollins v. James P. Cardoneu, 94 N.J.A.R. (EDU) 357.

Claim affecting outcome of school board election was not barred by limitations; however, candidate failed to prove that irregularities required invalidation. In the Matter of the Deal Borough School Election, 93 N.J.A.R.2d (EDU) 769.

Petition for an additional school board election polling place was properly submitted. Schwieger v. East Windsor Regional Board of Education, 93 N.J.A.R.2d (EDU) 327.

The Commissioner of Education was without jurisdiction to adjudicate question presented under Open Public Meetings Act. Rovello v. Boyle, 93 N.J.A.R.2d (EDU) 313.

6:24-6.2 Cost of recounts

Cost of recounts shall be in compliance with N.J.S.A. 18A:14-63.6 and 63.7.

Amended by R.1986 d.157, effective May 5, 1986.

See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).

Old text deleted and new substituted.

6:24-6.3 Subpoenas

In any school election recount initiated pursuant to this subchapter, the Commissioner shall have the power to subpoena necessary witnesses to testify and to produce books, papers, documents and other objects designated in the subpoena.

Amended by R.1986 d.157, effective May 5, 1986.

See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).

Substituted "subchapter" for "act".

Amended by R.1991 d.57, effective February 4, 1991.

See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).

Stylistic changes only.

6:24-6.4 Continuation of recheck

In districts where election machines have been used, the Commissioner shall ascertain from the party or parties applying for a recount which voting machines shall be rechecked. In the event that it shall appear during the course of the recheck that there has been a sufficient change in the tally of the votes cast to alter the result of the election, any candidate who appears then to have been defeated, or, in the event of a question, proposition or referendum, the parties in interest who may be affected adversely, may, within five days of such changed result, apply to the Commissioner to continue the recheck on his or her behalf upon the same terms and conditions under which the original recheck was held.

Amended by R.1986 d.157, effective May 5, 1986.

See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).

Added text "or her".

Amended by R.1991 d.57, effective February 4, 1991.

See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).

Stylistic changes only.

6:24-6.5 Finding of error/relief

Where the Commissioner finds as a result of a recount or an inquiry that an error has occurred which alters the result of the election or that irregularities have occurred sufficient to influence the outcome, he or she shall order such relief as is appropriate.

Amended by R.1986 d.157, effective May 5, 1986.

See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).

Substantially amended.

Amended by R.1991 d.57, effective February 4, 1991.

See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).

Stylistic changes only.

Case Notes

Announced results of balloting for members of school board were unchanged after recount. Matter of School Election in Freehold Township, 95 N.J.A.R.2d (EDU) 478.

Results of school board election were not altered by one-vote change in tally after recount. Matter of Long Branch School Election, 95 N.J.A.R.2d (EDU) 466.

Announced results of school board election were left unchanged after recount. Matter of Manalapan-Englishtown Election, 95 N.J.A.R.2d (EDU) 465.

Slight tally alterations on recount were not sufficient to change announced results of school board election. Matter of Union Township School Election, 95 N.J.A.R.2d (EDU) 274.

Announced results of school election were not changed by recount of absentee ballot tallies. Matter of Stafford School Election, 95 N.J.A.R.2d (EDU) 273.

Six additional votes received by one candidate as a result of recount were not sufficient to change announced results of school election. Matter of Princeton School Election, 95 N.J.A.R.2d (EDU) 272.

Announced results of balloting for three members of school board were not changed by recount. Matter of Lyndhurst School Election, 95 N.J.A.R.2d (EDU) 271.

Announced results of balloting for school board election were left unchanged by recheck of machine votes cast. Matter of Saddle Brook School Election, 95 N.J.A.R.2d (EDU) 252.

Defeat of General Fund question at annual school election was not otherwise affected by recount of machine ballots cast. Matter of Roselle Park School Election, 95 N.J.A.R.2d (EDU) 251.

Announced results of balloting for school board were left unchanged by absentee tallies on recount. Matter of Old Bridge School Election, 95 N.J.A.R.2d (EDU) 250.

Individuals originally announced as successful candidates at school board election were left unchanged as a result of absentee tallies on recount. Matter of Ewing School Election, 95 N.J.A.R.2d (EDU) 249.

Slight change in tally for one candidate as a result of recount did not affect outcome of school board election. Matter of Teaneck School Election, 95 N.J.A.R.2d (EDU) 248.

Negative balloting on General Fund question was not changed by recount of absentee votes. Matter of Piscataway School Election, 95 N.J.A.R.2d (EDU) 244.

Outcome of school board election was not affected by recount of absentee votes resulting in only a slight change in tallies. Matter of Mount Laurel School Election, 95 N.J.A.R.2d (EDU) 243.

Recount of balloting for school board election required a change in list of successful candidates in one instance. Matter of Little Ferry School Election, 95 N.J.A.R.2d (EDU) 242.

Results of balloting at annual school election were without change following recount and were accepted as originally announced. Matter of Annual School Election in Essex County, 95 N.J.A.R.2d (EDU) 234.

Voting irregularities did not require order setting aside annual school election in absence of evidence that will of voters was thwarted. Matter of Annual School Election in Atlantic City, 95 N.J.A.R.2d (EDU) 229.

Results of balloting, as announced at conclusion of school board election, remained unaltered after recount. Matter of Annual School Election in Toms River, 95 N.J.A.R.2d (EDU) 228.

Nominating petition for school election, not otherwise defective, is conclusively valid. *Rollins v. Cardaneo*, 95 N.J.A.R.2d (EDU) 104.

Board election and general fund proposition; recount of ballots. In the Matter of the Annual School Election Held in the Mahwah Township School District, Bergen County, 94 N.J.A.R.2d (EDU) 519.

Annual school election; unchanged upon recount. In the Matter of the Annual School Election Held in the School District of the Township of Willingboro, Burlington County, 94 N.J.A.R.2d (EDU) 519.

Annual school board election; recount of machine ballots. In the Matter of the Annual School Election Held in the Mount Laurel Township School District, Burlington County, 94 N.J.A.R.2d (EDU) 518.

Annual school election; recheck of election machines. In the Matter of the Annual School Election Held in the Middlesex County School Districts, 94 N.J.A.R.2d (EDU) 517.

Write-in ballots; candidates full name. In the Matter of the Annual School Election Held in the Oldmans Township School District, Salem County, 94 N.J.A.R.2d (EDU) 516.

Results unchanged; recount of ballots; school board election. In the Matter of the Annual School Election Held in the Morris Township School District, Morris County, 94 N.J.A.R.2d (EDU) 515.

Recount of votes for board membership. In the Matter of the Annual School Election Held in the School District of the Township of Mount Laurel, 94 N.J.A.R.2d (EDU) 440.

Recount of votes for board membership did not alter outcome. In the Matter of the Annual School Election Held in the School District of the Township of Willingboro, 94 N.J.A.R.2d (EDU) 440.

Recheck of election machines; school election. In the Matter of the Annual School Election Held in the School Districts of Middlesex County, 94 N.J.A.R.2d (EDU) 438.

Recount of votes; not alter outcome of election. In the Matter of the Annual School Election Held in the Pemberton Township School District, 94 N.J.A.R.2d (EDU) 435.

Recount of votes for board membership; not alter outcome. In the matter of Annual School Election Held in the Bridgewater-Raritan School District, 94 N.J.A.R.2d (EDU) 434.

Recount of votes for board membership; not change outcome. In the Matter of the Annual School Election Held in the Montville Township School District, 94 N.J.A.R.2d (EDU) 434.

Recount of votes for board membership. In the Matter of the Annual School Election Held in the City of Elizabeth School District, 94 N.J.A.R.2d (EDU) 433.

Absentee ballot had to be counted; no fraud evidenced. In the Matter of the Morris Hills Board of Education, 94 N.J.A.R.2d (EDU) 421.

Recount did not alter outcome of election for board membership. In the Matter of the Annual School Election Held in the West Paterson Borough School District, 94 N.J.A.R.2d (EDU) 420.

Recount of votes for board membership; no change. In the Matter of the Annual School Election Held in the Constituent District of Stafford Twp., 94 N.J.A.R.2d (EDU) 419.

Recount of votes for board membership; not alter outcome. In the Matter of the Annual School Election Held in Berkeley Township, 94 N.J.A.R.2d (EDU) 418.

Recount; board membership; tie broken. In the Matter of Annual Election Held in the Gibbsboro Borough School District, 94 N.J.A.R.2d (EDU) 417.

Recount of ballots cast for board membership. In the Matter of the Annual School Election Held in the School District of Garwood, 94 N.J.A.R.2d (EDU) 416.

Recount of ballots cast for General Fund proposition; no change. In the Matter of the Annual School Election Held in the School District of Garwood, 94 N.J.A.R.2d (EDU) 416.

Recount of ballots cast for board membership; no change. In the Matter of the Annual School Election Held in the Carlstadt East Rutherford School District, 94 N.J.A.R.2d (EDU) 415.

Recount of votes for board membership and General Fund proposition; did not alter outcome. In the Matter of Annual School Election Held in the Lower Camden County Regional School District, 94 N.J.A.R.2d (EDU) 414.

Recount of votes for General Fund proposition; no change. In the Matter of the Annual School Election Held in the Lawnside Borough School District, 94 N.J.A.R.2d (EDU) 413.

Recount of votes for General Fund proposition. In the Matter of the Annual School Election Held in the Cherry Hill School District, 94 N.J.A.R.2d (EDU) 413.

Recount of results; Board membership. In the Matter of the Annual School Election Held in the Frenchtown Borough School District, 94 N.J.A.R.2d (EDU) 412.

Tie-breaking absentee ballot was properly voided. In the Matter of the Annual School Election Held in the City of Cape May School District, 94 N.J.A.R.2d (EDU) 411.

Recount of ballots cast for Board membership and General Fund proposition; approval rather than disapproval for General Fund proposition. In the Matter of the Annual School Election Held in the Waterford Township School District, 94 N.J.A.R.2d (EDU) 410.

Recount of voting by machines; school election for General Fund proposition. In the Matter of the Annual School Election Held in the City of Passaic School District, 94 N.J.A.R.2d (EDU) 409.

Removal of elected member of school board; not a registered voter in the district. In the Matter of the Annual School Election Held in the School District of Old Bridge, 94 N.J.A.R.2d (EDU) 323.

Confusion of write-in voters did not invalidate election. In the Matter of the School Election Held in East Amwell Township, 93 N.J.A.R.2d (EDU) 878.

Alleged election irregularities were not shown to warrant new election. In Matter of Annual Newark School Board Election, 93 N.J.A.R.2d (EDU) 645.

Election irregularities were not shown to have thwarted will of people; no new election ordered. In Matter of Annual School Election Held in City of Egg Harbor, 93 N.J.A.R.2d (EDU) 635.

Board of education membership election recount; no change. In Matter of Special School Election Held in School District of Township of Edison, 93 N.J.A.R.2d (EDU) 611.

Board of education membership election recount; no change. In Matter of Annual School Election Held in Bridgewater-Raritan Regional School District, 93 N.J.A.R.2d (EDU) 611.

Election irregularity shown to have affected outcome of board of education election; new election. In Matter of Annual School Election Held in School District of Borough of Keansburg, 93 N.J.A.R.2d (EDU) 574.

Completion and certification of list of election board challengers; violation not warrant invalidating election. In Matter of School Election Held in School District of Borough of Fairview, 93 N.J.A.R.2d (EDU) 409.

Partisan political activity and board member acting as campaign manager; no election violation. In Matter of Annual School Election in School District of Township of Brick, 93 N.J.A.R.2d (EDU) 360.

Prospective candidate's use of his own signature on nominating petition; no emergent relief following rejection of petition. Darrow v. Board of Education of Borough of Brooklawn, 93 N.J.A.R.2d (EDU) 358.

School board election; no evidence that irregularities constituted fraud or interfered with election. Sickler v. Washington Borough School District, 93 N.J.A.R.2d (EDU) 341.

Execution of voter affidavits; no showing of effect on election outcome. In Matter of Special Election Held in Township of Millstone, 93 N.J.A.R.2d (EDU) 273.

Emergency placement for neurologically impaired child was not available absent evidence of irreparable harm. M.B. v. Manville, 93 N.J.A.R.2d (EDS) 233.

Public funds improperly used to promote political views and candidacy of incumbent school board members. Schettino v. Ridgefield Board of Education, 93 N.J.A.R.2d (EDU) 224.

Special election held more than the required statutory 70 days after voters elected to change governance of school district would be approved. In the Matter of the Special Election of the Edison Township School District, 93 N.J.A.R.2d (EDU) 171.

New school board election not ordered; no proof of illegality of voting by challenged voters or of how they voted. In Matter of Annual School Election Held in School District of Borough of Laurel Springs, 92 N.J.A.R.2d (EDU) 658.

Removal by store of campaign sign; no violation. In Matter of Annual School Election held in Jackson Township School District, 92 N.J.A.R.2d (EDU) 617.

Election irregularities did not warrant new election. In Matter of Annual School Election Held in School District of Township of Willingboro, 92 N.J.A.R.2d (EDU) 564.

Voter difficulties; not set aside election. In Matter of Annual School Election Held in School District of Borough of Waldwick, 92 N.J.A.R.2d (EDU) 520.

Alleged election violations did not affect outcome of school board election. In Matter of Annual School Election in Mainland Regional School District, 92 N.J.A.R.2d (EDU) 514.

School board election recount; no change. In Matter of Special School Election Held in School District of Borough of Laurel Springs, 92 N.J.A.R.2d (EDU) 513.

School board election irregularities; not invalidate results. In Matter of Annual School Election Held in School District of Township of Hainesport, 92 N.J.A.R.2d (EDU) 504.

School board election; irregularities warranted new election. In Matter of Annual School Board Election Held in Township of Hamilton, 92 N.J.A.R.2d (EDU) 476.

Anonymous postcard; violation of school election campaigning statute. In Matter of Annual School Election Held in Toms River Regional School District, 92 N.J.A.R.2d (EDU) 446.

Improper election procedures followed for filling vacant seats on board of education; write in candidate not entitled to seat; special election required. In *Matter of Annual School Election Held in School District of Mullica Township*. 92 N.J.A.R.2d (EDU) 432.

Board of education election; recount showed no change. In *Matter of Annual School Election Held in School District of Township of Piscataway*, 92 N.J.A.R.2d (EDU) 391.

Recount did not change board of education election outcome. In *matter of annual school election held in school district of Township of Maple Shade*. 92 N.J.A.R.2d (EDU) 388.

Recount did not change board of education election outcome. In *matter of annual school election held in school district of Township of Lakewood*. 92 N.J.A.R.2d (EDU) 387.

Recount did not change board of education election outcome. In *matter of annual school election held in constituent district of Stafford Township*. 92 N.J.A.R.2d (EDU) 386.

Recount did not change board of education election outcome. In *matter of annual school election held in school district of Township of Eagleswood*. 92 N.J.A.R.2d (EDU) 386.

Recount did not change board of education election outcome. Title in *matter of annual school election held in school district of Township of Brick*. 92 N.J.A.R.2d (EDU) 385.

There was no violation of election law nor thwarting of will of the voters, so as to warrant invalidation of school election. *Matter of Annual School Election, Borough of Wanaque*, 91 N.J.A.R.2d 6 (EDU).

Unsuccessful candidate failed to prove election irregularities; no election invalidation. *Matter of the Annual School Election, Lacey Tp.*, 91 N.J.A.R.2d 3 (EDU).

1. On or before March 18, the board of school estimate shall fix and determine the amount of money necessary to be appropriated for use of the public schools for the ensuing school year pursuant to the provisions of N.J.S.A. 18A:22-14.

2. If the amount so appropriated shall be less than the amount proposed to the board of school estimate by the district board of education, the board of school estimate shall present to the district board of education, the municipal governing body or bodies and the county superintendent a revised line item budget which shall identify the specific line item reductions and the supporting reasons for each such reduction.

3. Accompanying the aforesaid revised line item budget and supporting reasons shall be a statement which shall certify that the board of school estimate has reviewed the budget proposed by the district board of education and that the revised budget is sufficient to assure the provision of a thorough and efficient system of education.

4. The governing body of each municipality comprising a type I district or a type II district having a board of school estimate shall appropriate on or before April 28 the amount certified by the board of school estimate.

5. Should a municipal governing body or bodies certify an amount less than that appropriated by the board of school estimate pursuant to N.J.S.A. 18A:22-17, it or they shall provide the district board of education and the county superintendent those line items wherein reductions were effectuated and the supporting reasons for such reductions. The governing body or bodies shall further certify that the amount appropriated for school purposes is sufficient to ensure the provision of a thorough and efficient system of education.

(b) In type II districts the following process for certifying the amount of tax levy necessary for school purposes shall be implemented upon rejection of either or both the current expense and capital outlay budget by the voters of the district.

1. If voters reject the tax levy for either or both capital outlay and current expense at the annual school election, the district board of education shall supply to the governing body or bodies within two days from the defeat of the referendum the following information:

i. A complete line item budget listing each item by code and line description, including actual expenditures for the previous school year, actual budgeted amount for the current school year, proposed budgeted amount for the next school year (as submitted to the voters);

ii. Staff, numbers of professional and nonprofessional, during the current school year and projected staff for the next school year, with reasons for increase or decrease;

SUBCHAPTER 7. BUDGET APPEAL RULES

6:24-7.1 Authority

Unless otherwise expressly noted, all provisions of this subchapter governing a petition by a district board of education appealing a board of school estimate's or a governing body's or bodies' decision to reduce a school budget have been prescribed by the Commissioner and approved by the State Board of Education pursuant to N.J.S.A. 18A:6-9, 18A:22-14, 18A:22-17, 18A:22-37, *Bd. of Ed., E. Brunswick Tp. v. Tp. Council, E. Brunswick*, 48 N.J. 94 (1966) and *Board of Education of Deptford Township v. Mayor and Council of Deptford Township*, 116 N.J. 305 (1989).

Amended by R.1986 d.157, effective May 5, 1986.
See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).

Deleted "school board" and substituted "district board of education".
Amended by R.1991 d.57, effective February 4, 1991.
See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).

Added reference to board of school estimates and cite to statute and cases.
Administrative change.
See: 23 N.J.R. 1410(c).

6:24-7.2 Process for certifying the amount of tax levy

(a) In type I districts or type II districts having a board of school estimate, the following process for certifying the amount of tax levy necessary for school purposes shall be implemented.

iii. Pupil enrollment by grade for the district as of June 30, preceding; October 15 preceding; and that projected for October of the next school year;

iv. Salary schedules for all employees;

v. Number of schools and classrooms in each;

vi. Tuition received or paid during the previous school year and anticipated for the current school year and the next school year;

vii. Advertised budget for the next school year; and

viii. If a capital budget is in dispute, a substantiation for each proposed capital project.

2. The governing body or bodies of the municipality or municipalities involved shall as soon as immediately practicable, consistent with N.J.S.A. 18A:22-37, consult with the district board of education for purposes of arriving at a tax levy sufficient to assure the provision of a thorough and efficient system of education.

3. By April 28th, the governing body or bodies shall certify to the county board of taxation an amount to be appropriated sufficient to provide a thorough and efficient system of education.

4. If the amount so appropriated shall be less than that which was submitted to the voters by the district board of education, the municipal governing body or bodies shall present to the board of education and the county superintendent of schools a revised line item budget which shall identify the specific line item reductions and the supporting reasons for each such reduction.

5. Accompanying the aforesaid revised line item budget and supporting reasons shall be a statement which shall certify that the governing body or bodies have reviewed the budget proposed by the district board of education and that the revised budget is sufficient to assure the provision of a thorough and efficient system of education.

New Rule, R.1991 d.57, effective February 4, 1991.
See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).
Administrative change to (a)2 and 5.
See: 23 N.J.R. 1410(c).

Case Notes

Portions of reductions in general fund tax levy for school purposes would be restored to provide efficient system of education for special students. *Glassboro Board of Education v. Borough of Glassboro*, 95 N.J.A.R.2d (EDU) 309.

6:24-7.3 Dispute resolution

(a) Upon receipt of the reduced line item budget and the supporting reasons for such reductions, the county superintendent shall schedule a conference which shall be attended by representatives of the district board of education and representatives of the municipal governing body or bodies for purposes of reaching agreement on a tax levy to be certified sufficient to provide a thorough and efficient system of education. The county superintendent shall not be precluded from initiating actions designed to assist the parties in resolving budgetary issues prior to formal action by the governing body or bodies.

(b) At said conference it shall be the responsibility of the county superintendent to review with the parties their respective positions relative to the line item reductions recommended by the governing body or bodies and/or the board of school estimate.

(c) If an agreement is reached between the parties at the conference to accept the reductions as certified and such agreement is approved by the county superintendent, no further action shall be required unless the district board of education has submitted a notice of intent to appeal or a petition of appeal in which case the parties shall submit a consent order to the Commissioner no later than 10 days from the conclusion of the conference.

(d) Should no agreement be reached settling the case at the conference, any agreement reached as to stipulation of facts or narrowing of differences shall be submitted to the Commissioner.

(e) Any agreement concluded between the district board of education and the governing body or bodies which results in a lower budget than approved by the county superintendent pursuant to N.J.S.A. 18A:7D-27 shall be submitted to the county superintendent for his or her approval in order to ensure that such reduction does not impair the district's ability to provide a thorough and efficient system of education.

(f) Should the county superintendent, acting for the Commissioner, determine that the budget reduction agreed upon results in providing an amount less than that which is necessary to ensure a thorough and efficient system of education, the Commissioner shall issue an order to show cause directing the district board of education and governing body or bodies to show cause why the amount agreed upon is sufficient to ensure a thorough and efficient system of education.

New Rule, R.1991 d.57, effective February 4, 1991.
See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).

6:24-7.4 Time for filing petition

(a) Within 20 days after the certification by either the board of school estimate or the governing body in a type I district or the governing body or bodies in a type II district with a board of school estimate and within 15 days of the certification by the governing body or bodies in a type II district, the district board of education shall notify the governing body or bodies of its intent to appeal the reduction of the certification to the Commissioner of Education.

(b) A petition by a district board of education appealing the decision of its board of school estimate or its governing body or bodies to certify a tax levy less than that deemed necessary by the district board to insure a thorough and efficient educational program shall be taken no later than 30 days following the governing body's or bodies' decision.