

(b) Where a motion for a stay or emergent relief is filed, it shall be accompanied by a letter memorandum or brief which shall address the standard to be met for granting such relief pursuant to *Crowe v. DeGioia*, 90 N.J. 126 (1982).

(c) Any party opposing such an application shall so indicate as part of the answer to the petition filed pursuant to N.J.A.C. 6:24-1.4; however, upon review, the Commissioner may:

1. Act upon such application prior to the filing of an answer, provided a reasonable effort is made to give the opposing party an opportunity to be heard on that application;
2. Act upon such application upon receipt of the answer; or
3. Transmit the application to OAL for immediate hearing on the motion.

(d) The Commissioner may decide such application prior to any transmittal of the matter to the OAL for hearing. After transmittal to OAL, any motion for emergent relief shall be determined by the OAL. (See N.J.A.C. 1:1-12.6.)

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).

Amended to clarify that motions for stays of action or the granting of emergent relief may be directed at parties other than boards of education and that such requested action should be by way of a separate motion; provided that a motion for stay or emergent relief must be accompanied by a letter memorandum or brief addressing the standard for such relief as set forth in *Crowe v. DeGioia*, 90 N.J. 126 (1982) and provided that the Commissioner may decide a motion for a stay prior to receipt of an answer, after the filing of an answer or transmit the matter to OAL for an immediate hearing on the motion.

Case Notes

Education requirements of special school must be complied with when parents seek placement of emotionally disturbed son. *J.T., a Minor Child v. Barnegat Township*, 93 N.J.A.R.2d (EDS) 89.

Parents were not entitled to emergent relief of having child skip grade; alleged disparate treatment in child repeating grade. In *Matter of T.P. and D.P. on Behalf of Minor Child, T.J.P. v. Board of Education of Borough of Oaklyn*, 92 N.J.A.R.2d (EDU) 625.

Board of Education seeking stay of decision holding that school forfeited two games by playing a transferee student in violation of rule failed to demonstrate irreparable harm, relative hardship, or probability of success on merits. *Board of Educ. of the City of Trenton, Mercer County v. New Jersey State Interscholastic Athletic Ass'n*, 91 N.J.A.R.2d 158 (EDU).

No entitlement to preliminary injunction to prevent distribution of supplemental funds under Quality Education Act. *Board of Educ. of the Bordentown in Regional School Dist. v. Ellis*, 91 N.J.A.R.2d 59 (EDU).

6:24-1.6 Amendment of petition and answer

Prior to the transmittal of any matter to the OAL, the Commissioner may order the amendment of any petition or answer, or any petitioner may amend his or her petition,

and any respondent may amend his or her answer, at any time and in any manner which the Commissioner deems fair and reasonable. Upon transmittal to the OAL, motions to amend a petition or answer shall be determined by the OAL. (See N.J.A.C. 1:1-6.2.)

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 and change of N.J.A.C. cite.

6:24-1.7 Permission to intervene

Prior to any transmittal to the OAL, requests for intervention or participation in a contested case shall be addressed to the Commissioner. Upon transmittal, requests should be made to the OAL. Such requests are governed by N.J.A.C. 1:1-16.

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 text inserted.

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

Stylistic and change of N.J.A.C. cite.

Case Notes

Class action certification denied as not provided for in regulations. *Lukas v. Dept. of Human Services*, 5 N.J.A.R. 81 (1982), affirmed in part, reversed in part and remanded per curiam Dkt. No. A-5850-82 (App.Div.1984), appeal decided 103 N.J. 126, 510 A.2d 1123.

Standing of exclusive representative. *Winston v. Bd. of Ed., South Plainfield Boro.*, 125 N.J.Super. 131, 309 A.2d 89 (App.Div.1973), affirmed 64 N.J. 582, 319 A.2d 226 (1974).

Discretionary authority. *Jones v. Bd. of Ed., Leonia Boro., Bergen Cty.*, 1974 S.L.D. 293, 1974 S.L.D. 298.

Criteria explained. *Kolbeck v. State Bd. of Ed.*, 1973 S.L.D. 770.

Party standing, intervention, participation and status. *Kolbeck v. State Bd. of Ed.*, 1973 S.L.D. 770.

6:24-1.8 Appearance pro se

Any person may appear pro se or may be represented by an attorney at law admitted and authorized to practice in this State or by such persons as set forth in N.J.A.C. 1:1-5.

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

Added: (See N.J.A.C. 1:1-1.3.)

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

Stylistic and change of N.J.A.C. cite.

6:24-1.9 Dismissal of petition

At any time after the receipt of the answer and prior to transmittal of the pleadings to the OAL, the Commissioner, in his or her discretion, may dismiss the petition on the grounds that no sufficient cause for determination has been advanced, lack of jurisdiction, failure to prosecute or other good reason.

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

Recodified and amended from 1.10. The original section 1.9 was "Conference of counsel" and was repealed.

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

Nontenured employee's appeal from nonrenewal of employment could not result in a favorable finding despite procedural deficiencies and was dismissed. *Gillison v. Newark Board of Education*, 95 N.J.A.R.2d (EDU) 157.

Dismissal of petition due to delay and failure to comply with conference requirements. *Mangieri v. Bd. of Ed., Carteret Boro., Middlesex Cty.*, 1974 S.L.D. 644, 1975 S.L.D. 1100.

Written submissions and pre-hearing conference. *Bd. of Ed., Haledon Boro v. Mayor and Council, Haledon Boro., Passaic Cty.*, 1974 S.L.D. 712.

6:24-1.10 Hearing

(a) Upon the filing of the petition and answer(s) in a contested case, the Commissioner may either retain the matter for hearing directly and individually, designate an Assistant Commissioner to hear and decide the case directly and individually or transmit the matter for hearing before the OAL. Should the Commissioner retain the matter, procedures relating to pre-hearing conferences shall be governed by the rules of the OAL. (See N.J.A.C. 1:1-13.1.)

(b) Upon transmittal to the OAL, the conduct of the proceedings shall be governed by the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1.

(c) Determination relating to pre-hearing conferences, discovery and other procedural matters shall be made by the Commissioner or the ALJ, whoever is hearing the case.

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 text substituted.

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

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

Permitted the designation of an Assistant Commissioner to hear and decide the case.

Case Notes

Decision of school board to expel student for physically assaulting teacher was neither arbitrary, unreasonable, nor capricious. *K.O.H. v. Edison Board of Education*, 95 N.J.A.R.2d (EDU) 275.

Petitioner is entitled to evidentiary hearing on question of whether state of mind was such as to render resignation from position involuntary, warranting relaxation of 90-day time-bar. *Brunnquell v. Bd. of Educ. of Scotch Plains-Fanwood*, 11 N.J.A.R. 499 (1987).

Adjournments and scheduling of tenure hearing proper under former N.J.A.C. 6:24-1.11. *Hunterdon Cty. School District Bd. of Ed. v. McCormick*, 1 N.J.A.R. 231 (1980).

Adjournments and scheduling of tenure hearing proper under former N.J.A.C. 6:24-1.19; good and sufficient reasons for adjournment include court appearances, counsel vacationing out of county, unavailability of witnesses and conflicting counsel schedules. *Hunterdon Cty. School District Bd. of Ed. v. McCormick*, 1 N.J.A.R. 231 (1980).

6:24-1.11 Oaths

The Commissioner or the ALJ, whoever is hearing the case, shall have authority to administer oaths and affirmations, examine witnesses and receive evidence, issue subpoenas, rule upon offers of proof, take or cause depositions to be taken whenever the ends of justice would be served thereby, regulate the course of the hearing, and dispose of procedural requests or similar matters.

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 the ALJ, whoever is hearing the case,".

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

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

Upper case titles and deleted N.J.A.C. cite.

6:24-1.12 Subpoenas

Subpoenas requiring the appearance of persons or the production of documents may be issued at the discretion of the Commissioner or the ALJ, whoever is hearing the case, upon request of any party. (See also N.J.A.C. 1:1-11.1.)

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

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

Deleted text "Any witnesses summoned . . . evidence is requested."

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

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

Case Notes

Application of former regulation to class action. *Rivera v. Bd. of Ed., Perth Amboy, Middlesex Cty.*, 1974 S.L.D. 226.

6:24-1.13 Summary judgment

(a) Should the Commissioner determine to decide a motion for summary judgment prior to transmission to OAL such motion shall be subject to the following process:

1. If a statement of the material facts has been agreed upon by the parties and the Commissioner, or if the controversy is submitted solely upon a stenographic transcript of proceedings with the approval, or at the direction, of the Commissioner, or if for any other reason there are no issues of fact to be heard, the Commissioner shall require all parties to submit briefs on the matter. Such briefs shall be submitted within the time fixed by the Commissioner in consultation with the parties and confirmed by a written directive. The Commissioner shall thereupon determine the matter on the basis of the total record before him or her.

2. At any time prior to transmittal to the OAL any party may move for summary judgment, which motion shall be decided by the Commissioner on the basis of conference stipulations, affidavits and briefs. The parties must submit said affidavits and briefs within the time fixed by the Commissioner in consultation with the parties and confirmed by a written directive. Applications for summary judgment made after transmittal to the OAL shall be subject to the provision of N.J.A.C. 1:1-12.5.

3. Unless otherwise ordered by the Commissioner, there shall be no oral argument in connection with a summary judgment action. If the Commissioner grants oral argument, it shall be limited to 30 minutes for each party and shall not include testimony of witnesses.

As amended, R.1973 d.232, effective August 10, 1973.
 See: 5 N.J.R. 332(a).
 As amended, R.1973 d.266, effective September 18, 1973.
 See: 5 N.J.R. 332(b).
 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).
 Recodified from N.J.A.C. 6:24-1.15 with stylistic changes.
 N.J.A.C. 6:24-1.13 was formerly entitled "Evidence" and the following annotations pertain to that rule:
 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.
 Repealed by R.1991 d.57, effective February 4, 1991.
 See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).

Case Notes

Admissibility of documentary evidence under former N.J.A.C. 6:24-1.11. Bd. of Ed., Oakland Boro. v. Mayor and Council, Oakland Boro., Bergen Cty., 1974 S.L.D. 1114.

6:24-1.14 Written decision

(a) Every determination of a controversy or dispute arising under the school law, or of charges against a district board of education employee or employees of the Departments of Human Services, Corrections or Education serving under tenure, shall be made by the Commissioner. Every such determination shall be embodied in a written decision which shall set forth the findings of fact and conclusions of law and an appropriate order pursuant to the provisions of N.J.A.C. 1:1-18.6.

(b) Any determination or decision of the Commissioner is appealable to the State Board of Education pursuant to N.J.A.C. 6:2-1; however, any decision of the Commissioner shall be binding unless and until reversed on appeal or a stay is granted by either the Commissioner or State Board pursuant to N.J.A.C. 6:2-2.2.

Amended by R.1986 d.157, effective May 5, 1986.
 See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).
 Deleted (b)-(e).
 Amended by R.1991 d.57, effective February 4, 1991.
 See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).
 Recodified from N.J.A.C. 6:24-1.16, new (b) added.
 N.J.A.C. 6:24-1.14 was formerly rules entitled "Stenographic transcript" and the following annotations pertain to that rule:
 Amended by R.1986 d.157, effective May 5, 1986.
 See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).
 Deleted "either party may . . . such stenographic transcript."
 Repealed by R.1991 d.57, effective February 4, 1991.
 See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).

6:24-1.15 Relaxing of rules

The rules herein contained shall be considered general rules of practice to govern, expedite and effectuate the

procedure before, and the actions of, the Commissioner in connection with the determination of controversies and disputes under the school laws. They may be relaxed or dispensed with by the Commissioner, in his or her discretion, in any case where a strict adherence thereto may be deemed inappropriate or unnecessary or may result in injustice.

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".
 Recodified from N.J.A.C. 6:24-1.17, R.1991 d.57, effective February 4, 1991.
 See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).

Case Notes

Discretionary waiver of limitations periods was not appropriate where petition was not filed in timely manner. Kaprow v. Board of Educ. of Berkeley Tp., 255 N.J.Super. 76, 604 A.2d 640 (A.D.1992), certification granted 130 N.J. 16, 611 A.2d 654, affirmed 131 N.J. 572, 622 A.2d 237.

Grant of extended sick leave within school board's discretion; no vested rights arise from such discretionary action. Adell v. Bd. of Ed., Fair Lawn Boro., Bergen Cty., 2 N.J.A.R. 327 (1980).

6:24-1.16 Awarding of interest

(a) The Commissioner pursuant to the criteria herein may award both pre-judgment and/or post-judgment interest in any circumstance in which a petitioner has sought such relief and has successfully established a claim to a monetary award.

(b) "Interest" is defined as follows:

1. Pre-judgment interest is interest awarded for that period of time prior to the adjudication of the monetary claim.
2. Post-judgment interest is interest determined by the Commissioner to be due to a petitioning party for that period of time after the claim has been successfully adjudicated but remains unsatisfied.

(c) The following criteria shall be applied when awarding interest:

1. Pre-judgment interest shall be awarded by the Commissioner when he or she has concluded that the denial of the monetary claim was an action taken in bad faith and/or has been determined to have been taken in deliberate violation of statute or rule.
2. Post-judgment interest shall be awarded when a respondent has been determined through adjudication to be responsible for such payment, the precise amount of such claim has been established or could have been established and the party responsible for the payment of the judgment has neither applied for nor obtained a stay of the decision but has failed to satisfy the claim within 60 days of its award.

(d) Rate of interest shall be awarded as follows:

1. Pre-judgment interest shall be awarded based upon the average rate of interest earned on investments by the party responsible for such payment during the period of time in which the monies awarded were illegally detained.

2. Post-judgment interest shall be awarded based upon the prevailing rate of interest established by court rules at the time that the right to the monetary claim was determined. (See New Jersey Court Rules, R. 4:42-11(a).)

New Rule R.1986 d.157, effective May 5, 1986.
 See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).
 Amended by R.1991 d.57, effective February 4, 1991.
 See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).
 Recodified from N.J.A.C. 6:24-1.18, stylistic changes.

Case Notes

Sufficiency of notice of required teacher's physical and mental examination (citing former regulation). Hoffman v. Jannarone, 401 F.Supp. 1095 (D.N.J.1975), affirmed in part, reversed in part and remanded 532 F.2d 746 (3rd Cir.1976).

Prejudgment interest was not required absent deliberate violation of compensation statute, bad faith or other improper motive. Bassett v. Board of Educ. of Borough of Oakland, Bergen County, 223 N.J.Super. 136, 538 A.2d 395 (A.D.1988).

Exception to decision filed under former N.J.A.C. 6:24-1.17 to correct inadvertent omission of teacher's certification from record. Blue v. Bd. of Ed., Jersey City, 2 N.J.A.R. 206 (1980).

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.

Existing regional district; change in established method of cost apportionment; approval by voters in each constituent municipality. In the Matter of the Special Election in Northern Burlington County Regional School District, 94 N.J.A.R.2d (EDU) 385.

Declaratory ruling on school board policy to limit employment of supplemental teachers; teachers and taxpayers; standing to challenge. Ridgewood Education Association v. Ridgewood Village Board of Education, 94 N.J.A.R.2d (EDU) 137.

Petition for declaratory judgment seeking a ruling that payroll deduction crediting method violated constitutional prohibition would be transmitted to Office of Administrative Law. Board of Educ. of the Tp. of Neptune v. Neptune Tp. Educ. Ass'n, 91 N.J.A.R.2d 29 (EDU).

Failure to raise affirmative defense of non-compliance with petition filing deadline; tolling of filing period. Fischbach v. Bd. of Ed., North Bergen, 7 N.J.A.R. 191 (1983), affirmed per curiam Docket No. A-5947-83 (App.Div.1984).

Declaratory judgment denied regarding seniority standards. Howley v. Ewing Twp. Bd. of Ed., 6 N.J.A.R. 509 (1982).

Remand for further findings of fact pertaining to reasons for filing of petition beyond 90 day limit and possible justification for relaxation of time limit. Bergenfield Education Assn. v. Bd. of Ed., Bergenfield Boro., Bergen Cty., 6 N.J.A.R. 150 (1980), remanded per curiam Docket No. A-2615-81 (App.Div.1983).

Teachers associations have standing to contest awarding of service contract as their organizational rights and relationships will be affected by outcome of proceedings. New Jersey Education Assn. v. Essex Cty. Educational Services Commissions, 5 N.J.A.R. 29 (1981).

Administrators association has standing to seek declaratory ruling on evaluation deadline issue even though not a party to contract negotiations. Willingboro Administrators Assn. v. Willingboro Education Assn., 1 N.J.A.R. 327 (1980).

SUBCHAPTER 2. DECLARATORY RULINGS

6:24-2.1 Petition for declaratory rulings

Pursuant to N.J.S.A. 52:14B-8, any interested person(s) may petition the Commissioner for a declaratory ruling with respect to the applicability to any person, property or state of facts of any statute or regulation enforced or administered by the Commissioner. The determination to entertain such petitions for declaratory judgments shall be within the sole discretion of the Commissioner. If upon receipt and review of the answer such request is granted, the matter shall proceed in accordance with these regulations as they pertain to petitions. A declaratory judgment shall be binding upon the Commissioner and all parties to the proceedings on the specific statement of facts set forth therein.

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 "upon receipt and review of the answer."
 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

Student's First Amendment rights; restrictions on publication in school newspaper of R-rated movie reviews review and resolution by Commissioner of Education. Desilets on Behalf of Desilets v. Clearview Regional Bd. of Educ., 137 N.J. 585, 647 A.2d 150 (1994).

6:24-2.2 Format of petition for declaratory rulings

(a) The format of the petition for declaratory rulings follows:

CAPTION : BEFORE THE COMMISSIONER OF
 : EDUCATION OF NEW JERSEY
 :
 : PETITION FOR DECLARATORY
 : JUDGMENT

Petitioner, _____, residing at _____, hereby requests the Commissioner to render a declaratory judgment concerning the application of (N.J.S.A. 18A:____, N.J.A.C. 6:____) to the controversy which has arisen between petitioner and respondent who resides at _____ by reason of: _____

1. (Here set forth in appropriate paragraphs the specific allegations, and the facts supporting them, which constitute the basis of the controversy.)

WHEREFORE, petitioner respectfully prays that the Commissioner shall construe the provisions of _____ and determine and declare _____

 Signature of petitioner or his or her attorney

Date: _____

(Name of petitioner), of full age, being duly sworn upon his or her oath according to law deposes and says:

1. I am the petitioner in the foregoing matter.
2. I have read the petition and aver that the facts contained therein are true to the best of my knowledge and belief.

(Signature)

Sworn and subscribed to before me this _____ day of _____, 19____

(Signature)

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

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

Deleted slash and substituted or.

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

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

Reformatting.

6:24-2.3 Dissemination

The Commissioner shall ensure the dissemination to district boards of education of the result of any declaratory judgment through the county superintendents of schools.

New Rule, R.1991 d.57, effective February 4, 1991.

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

Case Notes

Denial of declaratory relief was proper. *River Dell Board of Education v. Canal*, 94 N.J.A.R.2d (EDU) 327.

imposed upon him or her until such time as he or she complies;

4. Suspending teachers' certificates for wrongful cessation of duties (N.J.S.A. 18A:26-10 and 18A:28-8);

5. Withdrawing approval of a vocational school (N.J.S.A. 18A:54-4), a private school (N.J.S.A. 18A:69-3, 69-5), or a private correspondence school (N.J.S.A. 18A:69-13).

(b) Submission by parties of orders to show cause seeking enforcement of litigants' rights shall not be deemed appropriate. Such actions are to be initiated by way of petition accompanied by motion for emergent relief pursuant to N.J.A.C. 6:24-1.2 and 6:24-1.5.

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).

Added new (b); provision prohibiting orders to show cause except by petition accompanied by motion.

SUBCHAPTER 4. PETITIONS UNDER TEACHERS' MINIMUM SALARY ACT

6:24-4.1 Withholding salary increment

Where a district board of education acts to withhold a teacher's salary increment based upon teaching performance pursuant to N.J.S.A. 18A:29-14 as modified by N.J.S.A. 34:13A-1, the teacher may file a formal petition of appeal for a hearing according to the procedures outlined in this chapter.

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

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

Deleted old text and inserted new.

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

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

Added "based upon teaching performance".....; added cite to modified statute.

Case Notes

Showing R-rated film to 12 and 13-year-old students was poor judgment warranting denial of tenured teacher's salary increment for year. *Capizola v. South Plainfield Board of Education*, 95 N.J.A.R.2d (EDU) 479.

Negative impact of teacher's absenteeism on continuity of instruction to students warranted withholding salary increments for an academic year. *Kochman v. Keansburg Board of Education*, 95 N.J.A.R.2d (EDU) 212.

Withholding of employment and adjustment increments for school psychologist was for good cause and was not beyond managerial prerogative of school board. *Kaska v. Trenton Board of Education*, 95 N.J.A.R.2d (EDU) 55.

Withholding increments due to weakness in classroom management was not unreasonable. *Harrity v. Keansburg Board of Education*, 94 N.J.A.R.2d (EDU) 376.

Recoupment of salary and/or adjustment increments; disciplined tenured teacher; subsequent salary freeze. *Cerato v. Newark Board of Education*, 94 N.J.A.R.2d (EDU) 248.

SUBCHAPTER 3. ORDER TO SHOW CAUSE

6:24-3.1 Commissioner's order to show cause

(a) If in the course of supervising the schools, and following investigation, the Commissioner should become aware of violation(s) of the school laws in school districts which if true would entitle him or her to impose a sanction on his or her own initiative, he or she may accord the district board of education or any other party subject to the Commissioner's jurisdiction an opportunity to present its views preliminary to imposing such sanction by issuing an order directing such board or party to show cause why such sanction should not be imposed. A statement of the factual details and investigative findings supporting the charge shall accompany the order. This procedure shall not be deemed to be in lieu of a contested case hearing and, where authorized by law, the right to a contested case hearing is independent of and in addition to this step. An order to show cause shall be appropriate in the following circumstances, although it is not to be deemed limited thereto:

1. Ordering alteration or abandonment of a school building (N.J.S.A. 18A:20-36);
2. Withholding State aid for unsuitable facilities (N.J.S.A. 18A:33-2);
3. Withholding salaries of:
 - i. A county superintendent (N.J.S.A. 18A:7-4); and
 - ii. Any teaching staff member (N.J.S.A. 18A:29-4) who neglects or refuses to perform any duty lawfully

Chronic absenteeism of teacher; basis to withhold salary increments. *Kochman v. Keansburg Borough Board of Education*, 94 N.J.A.R.2d (EDU) 141.

Withholding salary increments for unsatisfactory performance was not arbitrary, capricious, or unreasonable. *Brown v. Jersey City School District*, 93 N.J.A.R.2d (EDU) 875.

Payment of salary increments neither mandated nor prohibited upon expiration of collective negotiations agreement. *Neptune Township Board of Education v. Neptune Township Education Association*, 93 N.J.A.R.2d (EDU) 791.

Increments withheld; unsatisfactory ratings and excessive absenteeism. *Facone v. Board of Education of City of Jersey City*. 93 N.J.A.R.2d (EDU) 502.

Withholding teacher's employment and adjustment increment; not arbitrary or capricious. *Kesheneff v. Board of Education of Township of Holmdel*, 93 N.J.A.R.2d (EDU) 312.

Payment of increments following expiration of collectively negotiated salary schedule was governed by Employer-Employee Relations Act. *Board of Education of Township of Neptune v. Neptune Township Education Association*, 93 N.J.A.R.2d (EDU) 178.

Board of education under no obligation to return teacher whose increment was withheld to regular salary guide; *New Jersey Employer-Employee Relations Act. Fieseler v. South River Board of Education*, 93 N.J.A.R.2d (EDU) 136.

Increment withholding proceedings; inadequate record; remand. *Kesheneff v. Board of Education of Township of Holmdel*, 93 N.J.A.R.2d (EDU) 41.

Withholding adjustment increment not arbitrary; alleged procedural deficiencies in evaluation process. *Sturn v. Board of Education of Borough of South Plainfield*, 92 N.J.A.R.2d (EDU) 661.

Classroom management; withholding increment and salary adjustment reasonable. *Gnatt v. Board of Education of Manalapan-Englishtown Regional School District*, 92 N.J.A.R.2d (EDU) 589.

Withholding of teacher's increment; no abuse of discretion. *Brown v. Township of South Brunswick Board of Education*, 92 N.J.A.R.2d (EDU) 560.

Withholding of salary increment sustained; insensitivity and lack of compassion towards students. *Byorek v. Board of Education, Scotch Plains-Fanwood School District*, 92 N.J.A.R.2d (EDU) 511.

Withholding increment and salary increase; performance of teaching duties and alleged insubordination. *Backer v. Township of Roxbury Board of Education*. 92 N.J.A.R.2d (EDU) 441.

Withholding adjustment and employment increments; application of absenteeism policy. *Pollard v. Board of Education of Township of Teaneck*, 92 N.J.A.R.2d (EDU) 279.

Failure to show that decision to withhold increments and to place reprimand in file was unreasonable. *Zarro v. Board of Education of Paramus, Bergen County*, 92 N.J.A.R.2d (EDU) 145.

(b) In all instances of the filing and certification of tenure charges, other than for reasons of inefficiency, the following procedures and timelines shall be observed:

1. Charges shall be filed in writing with the secretary of the district board of education, accompanied by a supporting statement of evidence, both of which shall be executed under oath by the person or persons instituting such charges.

2. Charges along with the required sworn statement of evidence shall be transmitted to the affected tenured employee within three working days of the date they were filed with the secretary of the district board. Proof of mailing or hand delivery shall constitute proof of transmittal.

3. The affected tenured employee shall have an opportunity to submit to the district board of education a written statement of position and a written statement of evidence both of which shall be executed under oath with respect thereto within 15 days of receipt of the tenure charges.

4. Upon receipt of respondent's 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 whether such charges, if credited, are sufficient to warrant a dismissal or reduction of salary. (See N.J.S.A. 18A:6-11.)

5. The district board of education shall forthwith notify in writing the affected employee against whom the charge has been made of its determination, in person or by certified mail to the last known address of the employee.

6. 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 charge and the required certificate of determination with the Commissioner together with proof of service upon the employee.

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

(c) In the event that the tenure charges are charges of inefficiency, the following procedures and timelines shall be observed:

1. Initial charges of inefficiency must be filed with the secretary of the district board of education along with a statement of evidence in support thereof executed under oath.

SUBCHAPTER 5. CHARGES UNDER TENURE EMPLOYEES' HEARING ACT

6:24-5.1 Filing of written charges and certificate of determination

(a) In a case of charges preferred against an employee of a district board of education pursuant to the Tenure Employees' Hearing Act which are to be brought before the Commissioner, N.J.A.C. 6:24-1.2 (Filing and service of petition) shall not apply. In place of the usual petition, the district board of education shall file the written charges and the required certificate of determination with the Commissioner together with proof of service upon the employee.

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

Portions of referendum newsletter by school board were corrected insofar as they were misleading and provided inaccurate information. *Magara and Herbert v. Wall Board of Education*, 95 N.J.A.R.2d (EDU) 532.

Alignment irregularities on ballots in school board election did not invalidate outcome when votes otherwise correctly processed. *Cooper v. Monroe Board of Education*, 95 N.J.A.R.2d (EDU) 508.

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).

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.

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:

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.

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;

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).

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).
 Recodified from N.J.A.C. 6:24-7.2 and added timelines at new (a).

Case Notes

Duty of local boards to appeal municipal budgetary reductions that threaten deprivation of necessary staff and facilities. Board of Educ. of the Tp. of Deptford v. Mayor and Council of the Tp. of Deptford, Gloucester County, 116 N.J. 305, 561 A.2d 589 (1989).

City's appeal from restoration of school board education budget was time-barred. Wallington Borough Board of Education v. Mayor and Council of Wallington Borough, 93 N.J.A.R.2d (EDU) 716.

6:24-7.5 Format and documentation of petition

- (a) The format of the petition shall be the same as that set forth in N.J.A.C. 6:24-1.3.
- (b) The district board of education shall attach to its petition a copy of a resolution adopted by a majority of its members authorizing the filing of such a petition and setting forth its reasons for doing so.
- (c) The district board of education shall attach to its petition a copy of the following form:

<p style="text-align: center;">Proposed tax levy adopted by the district board of education</p> <p>Current expense \$ _____</p> <p>Capital outlay \$ _____</p> <p>Amount of reduction in the budget by governing body or bodies</p> <p style="padding-left: 40px;">Current expense \$ _____</p> <p style="padding-left: 40px;">Capital outlay \$ _____</p> <p>Amount of reduction in dispute before the Commissioner</p> <p style="padding-left: 40px;">Current expense \$ _____</p> <p style="padding-left: 40px;">Capital outlay \$ _____</p>	<p style="text-align: center;">Amount of tax levy certified by governing body or bodies</p> <p>Current expense \$ _____</p> <p>Capital outlay \$ _____</p>
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Amended by R.1986 d.157, effective May 5, 1986.
 See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).
 Form was substantially amended.
 Recodified from N.J.A.C. 6:24-7.3 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

Commissioner of education's review of budgetary reductions not precluded on failure of municipal governing body to file statement of reasons. Board of Educ. of Deptford Tp. v. Mayor and Council of Deptford Tp., 225 N.J.Super. 76, 541 A.2d 1080 (A.D.1988), certification granted 113 N.J. 333, 550 A.2d 449, judgment modified, affirmed and remanded 116 N.J. 305, 561 A.2d 589.

6:24-7.6 Filing and service of answer

The governing body or bodies shall file an answer with the Commissioner not later than 15 days after receiving the district board of education's petition.

Amended by R.1986 d.157, effective May 5, 1986.
 See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).
 Amended "board's" to read "district board of education's".

Recodified from N.J.A.C. 6:24-7.4 by R.1991 d.57, effective February 4, 1991.
 See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).
 Stylistic changes.
 N.J.A.C. 6:24-7.6 was formerly entitled "Conference of parties with county superintendent" and the following annotations pertain to that rule:
 Amended by R.1986 d.157, effective May 5, 1986.
 See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).
 (e) added.
 Repealed by R.1991 d.57, effective February 4, 1991.
 See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).

Case Notes

Reductions by council in school district general fund tax levy were not inappropriate. Hampton Board of Education v. Borough of Hampton, 95 N.J.A.R.2d (EDU) 316.

6:24-7.7 Documentation of answer

(a) In conjunction with its answer, the governing body or bodies shall forward to the Commissioner a copy of the information which was given to the district board of education and the county superintendent at the time the reduction was made including the following documents:

1. A copy of the current expense line item budget detailing specific reductions that were effectuated by the governing body or bodies along with the statement of supporting reasons for each of the line item reductions;
2. A copy of the capital outlay budget detailing specific reductions that were effectuated along with a statement of supporting reasons for each of the line item reductions; and
3. Accompanying the foregoing shall be a certification stating the date on which the documents were originally given to the district board of education.

Recodified from N.J.A.C. 6:24-7.5, repealed and replaced by R.1991 d.57, effective February 4, 1991.
 See: 22 N.J.R. 2841(a), 23 N.J.R. 297(b).
 N.J.A.C. 6:24-7.7 was formerly entitled "Hearings" and the following annotations pertain to that rule:
 Amended by R.1986 d.157, effective May 5, 1986.
 See: 18 N.J.R. 404(b), 18 N.J.R. 976(a).
 Repealed old 7.7 and recodified 7.8 with substantial amendments.
 Repealed by 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)1.
 See: 23 N.J.R. 1410(c).

Case Notes

Statement of reasons to accompany reductions of school budget when municipality certifies reductions to county board of taxation. Board of Educ. of the Tp. of Deptford v. Mayor and Council of the Tp. of Deptford, Gloucester County, 116 N.J. 305, 561 A.2d 589 (1989).

Statement of reasons following rejection of proposed budget must be provided for any line-item reduction. Board of Educ. of the Tp. of Deptford v. Mayor and Council of the Tp. of Deptford, Gloucester County, 116 N.J. 305, 561 A.2d 589 (1989).

Reductions by council in school district general fund tax levy were not inappropriate. Hampton Board of Education v. Borough of Hampton, 95 N.J.A.R.2d (EDU) 316.

6:24-7.8 Commissioner's review and decisions

(a) Within 20 days from the filing of the governing body's or bodies' answer to the district board of education's Petition of Appeal, the following submissions shall be filed with the Commissioner:

1. The governing body or bodies shall set forth its or their position in written form detailing by individual line item its or their reasons for effectuating the economies which represent the subject matter of the dispute. In so doing, the governing body or bodies shall provide sufficient detail based upon that data provided to it or them by the district board of education at the time of the budget defeat. Should the governing body or bodies fail to provide the district board of education with the specific line item reductions and the reasons for same, it or they shall bear the burden of demonstrating that its or their actions were not arbitrary or capricious.

2. The district board of education shall set forth its position in written form detailing by individual line item why the amount by which the governing body or bodies reduced the line item is necessary to meet the requirement of providing a thorough and efficient system of education.

3. Each party may, in addition to its written position, submit sworn affidavits from individuals whose input may be relevant to assisting the Commissioner in rendering a determination.

4. Within 10 days from receipt of the written position of the opposing party, each party may file responses to such positions.

5. Within five days of the receipt of the responses to each other's written positions or the expiration of the time period for filing responses, each party may submit to the Commissioner a final summation of its position.

6. Upon the receipt of the summaries submitted by the parties or the expiration of the time period for filing, the Commissioner shall review the total record before him or her and render a written decision which shall be a final decision unless or until reversed upon appeal.

7. Should the Commissioner find that there are material issues of fact to be determined, he or she may conduct an evidentiary hearing or transmit the case to the OAL for a hearing on all of the disputed issues that remain undecided.

Commissioner may not lightly override a municipality's political concerns in reviewing school budget decisions. Board of Educ. of the Tp. of Deptford v. Mayor and Council of the Tp. of Deptford, Gloucester County, 116 N.J. 305, 561 A.2d 589 (1989).

Dismissal of municipality's answer too drastic a remedy for failure to timely file statement of reasons of budgetary reduction. Board of Educ. of the Tp. of Deptford v. Mayor and Council of the Tp. of Deptford, Gloucester County, 116 N.J. 305, 561 A.2d 589 (1989).

Decision on budget proposal should be based on constitutional standards and not merely on procedural grounds. Board of Educ. of the Tp. of Deptford v. Mayor and Council of the Tp. of Deptford, Gloucester County, 116 N.J. 305, 561 A.2d 589 (1989).

Reduced funds for business office assistant were restored to general fund tax levy for schools to enable school district to meet its responsibilities. Bradley Beach Board of Education v. Borough of Bradley Beach, 95 N.J.A.R.2d (EDU) 427.

Amount necessary to meet health and safety requirement of training staff members on hard to handle blood borne pathogens were restored to general fund tax levy for schools. Black Horse Pike Board of Education v. Borough of Belmar, 95 N.J.A.R.2d (EDU) 420.

Amounts in defeated cap waiver contained in general fund tax levy for schools were restored insofar as they were necessary to an efficient system of education. Matter of Appeal of Moonachie Board of Education, 95 N.J.A.R.2d (EDU) 417.

Reductions in general tax levy for schools impeded school district's ability to provide a thorough and efficient system of education and were restored. Colts Neck Board of Education v. Township of Colts Neck, 95 N.J.A.R.2d (EDU) 413.

Reductions for library shelving and carpeting that needed replacement for safety reasons were restored to school budget. Warren Board of Education v. Township Committee of Warren, 95 N.J.A.R.2d (EDU) 409.

Items in school budget covering projected increases in salary lines were restored to amounts prior to reduction. South River Board of Education v. Borough of South River, 95 N.J.A.R.2d (EDU) 406.

Provision in revised budget was restored to reductions from general fund tax levy as necessary to education. Elmwood Park Board of Education v. Borough of Elmwood Park, 95 N.J.A.R.2d (EDU) 403.

Resurfacing playground for safety reasons was necessary expense to be restored to reductions in school budget by city council. Milltown Board of Education v. Borough Council of Milltown, 95 N.J.A.R.2d (EDU) 399.

General fund tax levy as reduced was approved when not less than minimal amount necessary for provision an efficient system of education for students in school district. Matter of Appeal of Branchburg Board of Education, 95 N.J.A.R.2d (EDU) 397.

Budget and cap waiver for schools was restored to amounts prior to reduction to meet increase in energy expenditures from installation of safety lights. Paterson City Council v. School District of Paterson, 95 N.J.A.R.2d (EDU) 391.

Portions of struck down school levy and cap waiver were restored as necessary to providing additional instructors for projected increase in enrollment. Little Ferry Board of Education v. Borough of Little Ferry, 95 N.J.A.R.2d (EDU) 384.

Struck down portion of general fund tax levy and cap waiver for schools would be restored as necessary to providing an efficient system of education. Eastampton Board of Education v. Township Council of Eastampton, 95 N.J.A.R.2d (EDU) 382.

General fund tax levy was increased by amount of cap waiver previously defeated by voters when necessary to avoid decrease in support services for high risk pupils. Matter of Appeal of New Hanover Board of Education, 95 N.J.A.R.2d (EDU) 380.

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

Case Notes

Stringent scope of review where voters have rejected school board's budget. Board of Educ. of the Tp. of Deptford v. Mayor and Council of the Tp. of Deptford, Gloucester County, 116 N.J. 305, 561 A.2d 589 (1989).

Cap levy monies for impaired students were necessary and thus restored to school district general fund tax levy even though rejected by voters. Matter of Appeal of Borough of Audubon Park, 95 N.J.A.R.2d (EDU) 379.

Request by school board for supplemental tax revenues to cover current deficit was granted to enable a thorough and efficient system of education in school district. Matter of Stafford Township Special Election, 95 N.J.A.R.2d (EDU) 372.

Cap waiver amounts defeated by voters were restored to general fund tax levy as essential to providing efficient system of education. Matter of Appeal of Lodi Board of Education, 95 N.J.A.R.2d (EDU) 369.

Cap waiver amounts in school district general fund levy were restored after defeat by voters in order to provide students with an efficient education. Matter of Appeal of Borough of Berlin, 95 N.J.A.R.2d (EDU) 367.

Portions of school district general fund levy that were necessary to provide students with an efficient system of education would be restored to amounts prior to reduction. Morris Board of Education v. Morristown Town Council, 95 N.J.A.R.2d (EDU) 361.

Portions of general fund tax levy defeated by voters would be restored insofar as they affected areas necessary to providing thorough and efficient education. Somerdale Board of Education v. Borough of Somerdale, 95 N.J.A.R.2d (EDU) 338.

Funds for home instruction and plant operation and maintenance would be restored to general fund tax levy for schools despite defeat by voters in school election. Salem City Board of Education v. City of Salem Common Council, 95 N.J.A.R.2d (EDU) 331.

Defeated cap waiver of amounts from general fund tax levy for schools was partially restored to provide necessary speech instruction. Washington Board of Education v. Washington Township Committee, 95 N.J.A.R.2d (EDU) 326.

Inclusion of cap waiver of amounts in general fund tax levy for schools, though defeated by voters, was necessary to maintenance of efficient system of education. Matter of Appeal of Township of Harrison, 95 N.J.A.R.2d (EDU) 324.

Amounts in cap waiver of general fund tax levy for schools, though defeated by voters, were nevertheless necessary to maintenance of an efficient system of education. Matter of Camden County Regional District Appeal, 95 N.J.A.R.2d (EDU) 323.

Cap waiver of amount to be taken from general fund tax levy for school purposes, though defeated by voters at annual school election, was restored as necessary to ensure a thorough and efficient educational system. Matter of Appeal by Borough of Westville, 95 N.J.A.R.2d (EDU) 320.

Request by board for cap waiver of amount to be taken from general fund tax levy for school purposes was granted to ensure efficient system of education. Matter of Appeal of Lakewood Township, 95 N.J.A.R.2d (EDU) 317.

Reductions by council in school district general fund tax levy were not inappropriate. Hampton Board of Education v. Borough of Hampton, 95 N.J.A.R.2d (EDU) 316.

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.

School district's budget plan was approved as long as it provided adequate funds to meet district's educational improvement plan. Board of Education v. City of Garfield, 95 N.J.A.R.2d (EDU) 11.

Cap waiver and budget restoration appeal dismissed; exhibits offered for consideration. Middletown Township Board of Education v. Middletown Township Committee, 94 N.J.A.R.2d (EDU) 307.

Cap waiver appeal properly dismissed; notice. Lyndhurst Township Board of Education v. Lyndhurst Township Board of Commissioners, 94 N.J.A.R.2d (EDU) 305.

Reallocation impossible prior to override. Rutherford Borough Board of Education v. Rutherford Borough Mayor and Council, 94 N.J.A.R.2d (EDU) 241.

School board budgetary election practices warranted corrective instruction. In the Matter of the Annual School Election Held in Old Bridge Township, 94 N.J.A.R.2d 230.

Mathematical miscalculation; restoration. Jefferson Township Board of Education v. Jefferson Township Council, 94 N.J.A.R.2d (EDU) 229.

Educational improvement plan requirements mandated partial restoration of budget. Garfield Board of Education v. Garfield Mayor and Council, 94 N.J.A.R.2d (EDU) 226.

Partial restoration of undefined reductions. Lyndhurst Township Board of Education v. Lyndhurst Township Board of Commissioners, 94 N.J.A.R.2d (EDU) 180.

Surplus discovered following audit; return of Level III corrective action plan funds. Orange Township Board of Education v. Department of Education, 94 N.J.A.R. 2d (EDU) 170.

Budget reductions for pupil transportation, teachers', administrative and advisors' salaries, and others; restored. Belleville Township Board of Education v. Belleville Township Mayor and Council, 94 N.J.A.R.2d (EDU) 134.

Restoration of certain line item reductions; cap waiver. Hackettstown Board of Education v. Hackettstown Mayor and Council, 94 N.J.A.R.2d (EDU) 128.

Funds were necessary and were restored. Carteret Borough Board of Education v. Carteret Borough Mayor and Council, 94 N.J.A.R.2d (EDU) 126.

Defeated budget and cap waiver were restored. South River Borough Board of Education v. South River Borough Mayor and Council, 94 N.J.A.R.2d (EDU) 110.

Defeated early childhood education budget was restored. Phillipsburg Town Board of Education v. Phillipsburg Town Council, 94 N.J.A.R.2d (EDU) 103.

Defeated budget was restored. Paterson City Council v. State-Operated School District of the City of Paterson, 94 N.J.A.R.2d (EDU) 98.

Defeated budget and cap waiver were restored. Millstone Township Board of Education v. Millstone Township Committee, 94 N.J.A.R.2d (EDU) 95.

Defeated budget and cap waiver were restored for preschool/kindergarten teachers' salaries but were sustained for nursing services. Bloomsbury Borough Board of Education v. Bloomsbury Borough Mayor and Council, 94 N.J.A.R.2d (EDU) 92.

Defeated cap waiver partially restored for teacher's salaries but not for the salaries of a full-time librarian and servicemaster. In the Matter of the Cap Waiver Appeal of the Stone Harbor Borough School District, 94 N.J.A.R.2d (EDU) 89.

Defeated budget and cap waiver were restored. Edgewater Borough Mayor and Council, 94 N.J.A.R.2d (EDU) 83.

Defeated budget and cap waiver were partially restored. Burlington City Board of Education v. Burlington City Common Council, 94 N.J.A.R.2d (EDU) 76.

Defeated budget and cap waiver were restored. Garwood Borough Board of Education v. Garwood Borough Mayor and Council, 94 N.J.A.R.2d (EDU) 73.

Defeated budget and cap waiver were restored. Middletown Township Board of Education v. Middletown Township Committee, 94 N.J.A.R.2d (EDU) 66.

Restoration of budgetary reduction was appropriate. Florence Township Board of Education v. Florence Township Council, 94 N.J.A.R.2d (EDU) 62.

Restoration of budgetary reduction was appropriate. Stafford Township Board of Education v. Stafford Township Council, 94 N.J.A.R.2d (EDU) 60.

Modification and partial adjustment of reduction were appropriate. Jefferson Township Board of Education v. Jefferson Township Council, 94 N.J.A.R.2d (EDU) 54.

Restoration of budgetary reduction was appropriate. Butler Borough Board of Education v. Butler Borough Mayor and Council, 94 N.J.A.R.2d (EDU) 51.

General fund tax levy of over \$15 million was required for the district to provide a thorough and efficient education. In the Matter of the School Budget of the Lower Camden County Regional High School District, 94 N.J.A.R.2d (EDU) 10.

Reduction in the tax levy was arbitrary and unreasonable. Woodbine Borough Board of Education v. Woodbine Borough Mayor and Council, 93 N.J.A.R.2d (EDU) 873.

Town council acted arbitrarily in deleting funds set aside for travel by school administrators and special education. Riverdale Borough Board of Education v. Mayor and Council of the Borough of Riverdale, 93 N.J.A.R.2d (EDU) 867.

Reductions imposed by township council for administrative staff and equipment would be restored. Mahwah Township Board of Education v. Mahwah Township Mayor and Council, 93 N.J.A.R.2d (EDU) 865.

Levy reduction would be restored. Lower Alloways Creek Township Board of Education v. Lower Alloways Creek Mayor and Township Committee, 93 N.J.A.R.2d (EDU) 863.

Architectural fees and salaries for teachers, counselors, aides and custodians were necessary and budget requests would be restored. Jamesburg Borough Board of Education v. Jamesburg Borough Mayor and Council, 93 N.J.A.R.2d (EDU) 856.

School board's surplus balance was insufficient and budget request would be restored. Hamilton Township Board of Education v. Hamilton Township Mayor and Council, 93 N.J.A.R.2d (EDU) 854.

Restoration of salary and school bus cuts was necessary. Branchburg Township Board of Education v. Branchburg Township Committee, 93 N.J.A.R.2d (EDU) 851.

Funds cut for teacher salaries and retirement benefits would be partially restored but other reductions would be sustained. Belleville Township Board of Education v. Belleville Township Mayor and Council, 93 N.J.A.R.2d (EDU) 846.

Most of reduction in general fund tax levy of township would be restored. Neptune Township Board of Education v. Neptune Township Committee, 93 N.J.A.R.2d (EDU) 830.

Impact of reduction in salaries for counselors and in amount allocated for teaching supplies warranted restoration of funds cut. Mansfield Township Board of Education v. Mansfield Township Committee, 93 N.J.A.R.2d (EDU) 827.

Restoration of school budget was required. Lodi Borough Board of Education v. Lodi Borough Mayor and Council, 93 N.J.A.R.2d (EDU) 819.

Restoration of school budget funds for teachers and a school psychologist was necessary. Lindenwold Borough Board of Education v. Lindenwold Borough Council, 93 N.J.A.R.2d (EDU) 816.

Two town councils improperly imposed a wage freeze for non-teaching administrators and cut funds allocated for substance abuse counselors. Henry Hudson Regional School District Board of Education v. Atlantic Highlands Borough Mayor and Council, 93 N.J.A.R.2d (EDU) 813.

Budget cuts did not frustrate ability to provide a thorough and efficient education and town council adequately met and conferred prior to imposing the cuts. Berkeley Township Board of Education v. Mayor and Council of Berkeley Township, 93 N.J.A.R.2d (EDU) 811.

General fund tax levy increase was necessary despite rejection by the town's voters. In the Matter of the Cap Waiver Appeal of the Roosevelt Borough Board of Education, 93 N.J.A.R.2d (EDU) 776.

Cap waiver; \$291,189 shown to be necessary for provision of thorough and efficient education. In Matter of Cap Waiver Appeal of Board of Education of Borough of Moonachie, 93 N.J.A.R.2d (EDU) 662.

Cap waiver appeal funds for child study team, nurses and therapists, and transportation and utilities necessary for thorough and efficient education. In Matter of Cap Waiver Appeal of Board of Education of Borough of Seaside Heights, 93 N.J.A.R.2d (EDU) 644.

Cap waiver appeal; \$444,306 found to be necessary for thorough and efficient education. In Matter of Cap Waiver Appeal of Board of Education of Borough of Freehold, 93 N.J.A.R.2d (EDU) 639.

Cap waiver appeal; board proved necessity of \$1,092,411 of cap waiver funds. In Matter of Cap Waiver Appeal of Board of Education of Township of Ocean, 93 N.J.A.R.2d (EDU) 638.

Cap waiver appeal; board met burden of showing \$147,104 necessary to provide thorough and efficient education. In Matter of Cap Waiver Appeal of Board of Education of Borough of Netcong, 93 N.J.A.R.2d (EDU) 632.

Cap waiver appeal; \$271,649 of \$281,649 granted. In Matter of Cap Waiver Appeal of Board of Education of Borough of Alpine, 93 N.J.A.R.2d (EDU) 630.

Maximum permissible net budget; budget settlement funds restored following vote on tax levy. Board of Education of Township of Rochelle Park v. State Department of Education, 93 N.J.A.R.2d (EDU) 353.

Board of education met its burden for \$360,067 cap waiver funds. Board of Education of Borough of Lincoln Park v. Borough Council of Borough of Lincoln Park, 93 N.J.A.R.2d (EDU) 280.

Current expense cap waiver warranted; \$1,800,000. Board of Education of Township of Brick v. Township Council of Township of Brick, 93 N.J.A.R.2d (EDU) 99.

Current expense tax levy reductions; \$248,100 of \$254,100 restored. Board of Education of Borough of South Bound Brook v. Mayor and Council of Borough of South Bound Brook, 93 N.J.A.R.2d (EDU) 56.

Roof repairs; cap waiver funds. In Matter of Cap Waiver Appeal of Board of Education of Borough of Sayreville, 93 N.J.A.R.2d (EDU) 55.

Failure by borough to provide specific reasons for budget reductions; burden of proof; partial restoration of reductions warranted. Board of Education of Borough of Seaside Heights v. Mayor and Council of Borough of Seaside Heights, 93 N.J.A.R.2d (EDU) 51.

Budget and cap waiver appeals; record established need for part of funds. Board of Education of Township of Delanco v. Township Committee of Township of Delanco, 93 N.J.A.R.2d (EDU) 47.

Board of education failed to establish restoration of any budget levy reductions necessary. Board of Education of Northern Highlands Regional High School District v. Mayor and Council of Borough of Allendale, 93 N.J.A.R.2d (EDU) 43.

Evidence established entitlement to restoration of current expense tax levy and to additional CAP waiver monies. Board of Education of Borough of Ocean Gate v. Mayor and Council of Borough of Ocean Gate, 93 N.J.A.R.2d (EDU) 37.

Partial restoration of current expense budget levy reductions warranted. Board of Education of Township of Manchester v. Mayor and Council of Township of Manchester, 93 N.J.A.R.2d (EDU) 30.

Items within cap waiver appeal of \$110,243 necessary to provide thorough and efficient system of education; borough council failed to address such items. In Matter of Cap Waiver Appeal of Board of Education of Borough of Chesilhurst, 92 N.J.A.R.2d (EDU) 674.

Budget appeal; legal fees and other line item reductions restored. Board of Education of City of Beverly v. Board of School Estimate of City of Beverly, 92 N.J.A.R.2d (EDU) 653.

Capital outlay reduction restored; stairwell fire doors. Board of Education of Borough of Fairview v. Mayor and Council of Borough of Fairview, 92 N.J.A.R.2d (EDU) 651.

Waiver of \$183,258 approved. In Matter of Cap Waiver Appeal of Newfield Board of Education, 92 N.J.A.R.2d (EDU) 631.

Request for cap waiver monies granted; reopening of elementary school. In Matter of Cap Waiver Appeal of Northfield School District. 92 N.J.A.R.2d (EDU) 598.

Board of education proved that funds were necessary for thorough and efficient education; increases in tuition and back tuition adjustments. In Matter of Cap Waiver Appeal of Greenwich School District. 92 N.J.A.R.2d (EDU) 597.

Current expense funds restored; governing body had no objection to cap waiver appeal. In Matter of Cap Waiver Appeal of Kingwood School District. 92 N.J.A.R.2d (EDU) 596.

Inaccurate levy information provided electorate could not warrant new election. In Matter of Annual School Budget Election Held in Morris School District, 92 N.J.A.R.2d (EDU) 516.

State-operated school district budget appeal; city failed to show that any amounts included in budget were in excess of those required. Mayor and Council of City of Jersey City v. State-Operated School District of City of Jersey City. 92 N.J.A.R.2d (EDU) 461.

Board of education demonstrated cap waiver funds were necessary. In Matter of Cap Waiver Appeal of Richfield Park School District. 92 N.J.A.R.2d (EDU) 448.

Board of education met burden of showing that cap waiver funds were necessary. In Matter of Cap Waiver of South Orange-Maplewood School District. 92 N.J.A.R.2d (EDU) 445.

Capital outlay cap waiver monies restored for roof replacement. In Matter of Cap Waiver Appeal of Seaside Heights School District. 92 N.J.A.R.2d (EDU) 440.

Current expense budget item for transportation and cap waiver monies for staff and programs restored. Dennis Township Board of Education v. Township Committee of Township of Dennis. 92 N.J.A.R.2d (EDU) 437.

Board demonstrated that current expense tax levy sought was necessary. In Matter of Cap Waiver Appeal of Board of Education of Borough of Allenhurst. 92 N.J.A.R.2d (EDU) 436.

Board demonstrated current expense tax levy sought was necessary. In Matter of Cap Waiver Appeal of Alpine Borough Board of Education. 92 N.J.A.R.2d (EDU) 435.

Failure of governing body to provide written statement of reasons accompanying school budget reductions; burden of proof. Board of Education of Township of Rochelle Park v. Mayor and Council of Township of Rochelle Park, 92 N.J.A.R.2d (EDU) 425.

Restoration of all school budget levy reductions warranted. In Matter of Cap Waiver Appeal of Roselle Board of Education, 92 N.J.A.R.2d (EDU) 404.

Partial restoration of school budget levy reductions warranted. Board of Education of Pinelands Regional School District v. Township of Little Egg Harbor, 92 N.J.A.R.2d (EDU) 313.

Restoration of school budget levy reduction for people transportation warranted. Board of Education of the Pinelands Regional School District v. Townships of Little Egg Harbor, Eagleswood, Ocean County, Et Al, 92 N.J.A.R.2d (EDU) 128.

Restoration of school budget levy reductions warranted to pay tuition for enrollment of students in nearby district. Board of Education of Borough of Fieldsboro v. Mayor and Council of the Borough of Fieldsboro, Burlington County, 92 N.J.A.R.2d (EDU) 82.

Partial restoration of school budget levy reductions warranted of Law Relief. Board of Education of Township of Hamilton v. Council of Township of Hamilton Mercer County, 92 N.J.A.R.2d (EDU) 64.

Additional tax levy incurred expense for support of public school system ordered. Board of Education of Township of Belleville v. Mayor and Council of Township of Belleville Essex County, 92 N.J.A.R.2d (EDU) 59.

Partial restoration of school budget levy reductions warranted. Board of Education of Township of Ewing v. Mayor and Township Committee of Township of Ewing Mercer County, 92 N.J.A.R.2d (EDU) 55.

Partial restoration of school budget levy reductions warranted. Board of Education of the Township of Hillside v. Township Committee of the Townships of Hillside Union County, 92 N.J.A.R.2d (EDU) 47.

Partial restoration is school budget levy reductions warrant. Board of Education of the Borough of Woodbine v. Mayor and Council of Borough of Woodbine, Cape May County, 92 N.J.A.R.2d (EDU) 43.

Full restoration of school budget levy reduction warranted. Board of Education of Township of Lawrence v. Lawrence Township Council, Mercer County, 92 N.J.A.R.2d (EDU) 41.

Partial restoration of school budget levy reductions warranted. Board of Education of Township of Downe v. Downe Township Committee, Cumberland County, 92 N.J.A.R.2d (EDU) 36.

Partial restoration of school budget levy reductions warranted. Board of Education of the Borough of Ocean Gate v. Ocean Gate Borough Council, Ocean County, 92 N.J.A.R.2d (EDU) 33.

Entire amount budgeted for Outlay would be restored. Board of Educ. of the Borough of Bergenfield v. Mayor and Council of the Borough of Bergenfield, 91 N.J.A.R.2d (EDU) 160.

Partial restoration of reductions warranted. Board of Educ. of the Tp. of Cranford v. Mayor and Tp. Committee of the Tp. of Cranford, 91 N.J.A.R.2d (EDU) 155.

Reductions for various positions were fully restored. Board of Educ. of the Tp. of Manchester v. Mayor and Council of the Tp. of Manchester, 91 N.J.A.R.2d (EDU) 153.

Reduction in salary increases and elimination of various positions were arbitrary and capricious. Board of Educ. of the Borough of Wharton v. Borough Council of the Borough of Wharton, 91 N.J.A.R.2d (EDU) 151.

Reduction in proposed school budget would not be restored on grounds that budget as presented to voters was itself deficient. Board of Educ. of the Borough of Little Ferry v. Mayor and Council of the Borough of Little Ferry, 91 N.J.A.R.2d (EDU) 144.

Borough council had no authority to direct properties and to reduce proposed school budget. Board of Educ. of the Borough of Pallsades Park v. Mayor and Council of the Borough of Pallsades Park, 91 N.J.A.R.2d (EDU) 141.

Reductions for foreign language teacher student activities salaries and expenses, and special education teacher restored; reductions for school nurse and secretarial salaries sustained. Board of Educ. of the Borough of Rockaway v. Borough Council of the Borough of Rockaway, 91 N.J.A.R.2d (EDU) 139.

Mayor and borough council lacked power to reduce current expense appropriation through application of a surplus free balance. Board of Educ. of the Borough of Ramsey v. Mayor and Council of the Borough of Ramsey, 91 N.J.A.R.2d (EDU) 133.

Reductions in proposed school budget would be partially restored. Manalapan-Englishtown Regional School Dist. v. Mayor and Council of the Borough of Englishtown, 91 N.J.A.R.2d (EDU) 124.

Reduction in proposed budget left board of education with insufficient funds and would be set aside. Board of Educ. of the Borough of

Allenhurst v. Mayor and Com'rs of the Borough of Allenhurst, 91 N.J.A.R.2d (EDU) 123.

Partial restoration of reductions for employee benefits, equipment and tuition were necessary; travel reduction and state unemployment insurance reduction sustained. Board of Educ. of the Town of Newton v. Town Council of the Town of Newton, Sussex County, 91 N.J.A.R.2d (EDU) 117.

Partial restoration of current expense and outlay reductions in proposed school budget was necessary. Board of Educ. of the Matawan-Aberdeen Regional School Dist. v. Mayor and Council of the Borough of Matawan and Mayor and Council of the Tp. of Aberdeen, 91 N.J.A.R.2d (EDU) 109.

Partial restoration of appropriations for heat, water and sewer, electricity, and various other expenses was necessary. Board of Educ. of the Borough of Somerdale v. Mayor and Council of the Borough of Somerdale, 91 N.J.A.R.2d (EDU) 106.

Employee salaries could not be reduced where set by negotiated public contracts. Board of Educ. of the Borough of Freehold v. Mayor and Council of the Borough of Freehold, Monmouth County, 91 N.J.A.R.2d (EDU) 105.

Reductions for school principal, school nurse and special education would be restored to school budget, along with outlay expenditures for carpeting. Board of Educ. of the Borough of Netcong v. Borough Council of the Borough of Netcong, 91 N.J.A.R.2d (EDU) 90.

Restoration of reduction in current expense cost for school district salaries, surplus, and various other expenses was necessary. Board of Educ. of the Borough of New Milford v. Borough Council of the Borough of New Milford, 91 N.J.A.R.2d (EDU) 87.

Partial restoration of line item reductions was necessary. Board of Educ. of the Borough of Lindenwold v. Borough Council of the Borough of Lindenwold, 91 N.J.A.R.2d (EDU) 65.

Restoration of \$45,000 for administrative salaries; \$40,000 cut from tuition and \$110,000 reallocation from surplus sustained. Board of Educ. of the Tp. of Rochelle Park v. Mayor and Council of the Tp. of Rochelle Park, 91 N.J.A.R.2d (EDU) 62.

Repainting project would be fully restored to budget and reduction to current expense for administration, instruction and other services would be partially restored. Board of Educ. v. Township Council of Teaneck, 91 N.J.A.R.2d (EDU) 33.

Cuts in school district's proposed budget were restored. Board of Educ. of Fairfield v. Township Committee of Fairfield, 91 N.J.A.R.2d (EDU) 23.

Board of Education did not demonstrate that a \$15,000 reduction for heating cost and a \$200,000 reduction in its surplus allocation would impede provision of a thorough and efficient education. Board of Educ. of Oakland v. Mayor of Oakland, 91 N.J.A.R.2d (EDU) 21.

Restoration of salary increases and insurance premium payments were necessary. Bradley Beach Borough Board of Education v. Bradley Beach Borough Mayor and Council, 83 N.J.A.R.2d (EDU) 888.

6:24-7.9 through 6:24-7.12 (Reserved)

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