

Case Notes

Regulation did not violate federal equal protection, State Constitution, law against discrimination, or statute prohibiting gender discrimination in education. *B.C. v. Cumberland Regional School District*, 220 N.J.Super. 214, 531 A.2d 1059 (App.Div.1987).

Legislative mandate. *Playcrafters v. Teaneck Twp. Bd. of Ed.*, 177 N.J.Super. 66, 424 A.2d 1192 (App.Div.1981), affirmed 88 N.J. 74, 438 A.2d 543.

Regulatory authority and purpose. *Atty.Gen.F.O. 1975-No. 28.*

Prohibition against nongraduating foreign exchange student participating in high school graduation ceremony was not arbitrary, capricious, or unreasonable, and did not unlawfully discriminate against student. *Barcalow v. Monmouth Regional High School District*, 96 N.J.A.R.2d (EDU) 193.

Grading system for food classes formulated, adopted, and applied prospectively by school board was neither arbitrary nor capricious. *K.S. v. Glassboro Board of Education*, 95 N.J.A.R.2d (EDU) 245.

Imposing suspension did not violate due process rights of student. *R.W., on Behalf of His Minor Child, R.W. v. Board of Education of Hunterdon Central Regional High School District*, 93 N.J.A.R.2d (EDU) 113.

No proof that student's failure to graduate with his class was result of discriminatory treatment or de facto two-tier system of education. *G.M., W.M. and J.M. v. Board of Education of Township of Ewing*, 93 N.J.A.R.2d (EDU) 4.

Student denied admission into high school advanced placement English program; reasonable. *K.L.L. and S.L. v. Board of Education of Township of Livingston*, 92 N.J.A.R.2d (EDU) 648.

Board had authority to exclude children seeking to transfer into first grade from private kindergarten program who were not six-years old on or before October 1. *H.A.B. as Guardian ad litem for S.T.B. v. Manalapan-Englishtown Regional School District*, 92 N.J.A.R.2d (EDU) 640.

Removal of boy who played on girls field hockey team was unlawful discrimination. *B.C. v. Cumberland Regional School District*, 10 N.J.A.R. 106 (1986), rejection of ALJ ruling by Commissioner of Education affirmed on appeal, 220 N.J.Super. 214, 531 A.2d 1059 (App.Div., A-5637-85, 9/21/87).

Driver education not mandated and may be offered outside of regular school day. *Parsippany-Troy Hills Education Assn. v. Bd. of Ed., Parsippany-Troy Hills Twp., Morris Cty.*, 7 N.J.A.R. 236 (1981), affirmed 188 N.J.Super. 161, 457 A.2d 15 (App.Div.1983), certification denied 94 N.J. 527, 468 A.2d 182 (1983).

Coaches of girls' sports are entitled to equal pay as coaches of boy's sports. *Elmwood Park Education Assn. v. Bd. of Ed., Elmwood Park Boro.*, 3 N.J.A.R. 249 (1980).

Application with respect to curriculum and religious freedom. *J.B. v. Bd. of Ed., Dumont Boro., Bergen Cty.*, 1977 S.L.D. 1134, 1978 S.L.D. 1021.

6:4-1.6 Employment/contract practices

(a) All persons regardless of race, color, creed, religion, sex, or national origin shall have equal access to all categories of employment in the public educational system of New Jersey.

(b) All New Jersey public school districts shall comply with all State and Federal laws related to equal employment, including but not limited to the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.), Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Executive Order

11246 as amended, Equal Pay Act of 1963 as amended, and Title IX of the Education Amendments 1972 (Higher Education Act).

(c) No school district shall enter into any contract with a person, agency, or organization if it has knowledge that such person, agency or organization discriminates on the basis of race, color, creed, religion, sex, ancestry, national origin or social or economic status, either in employment practices or in the provision of benefits or services to students or employees.

Case Notes

School board's affirmative action plan of preferring minority teachers over nonminority teachers in layoff decisions where teachers were equally qualified violated Title VII. *Taxman v. Board of Educ. of Township of Piscataway*, C.A.3 (N.J.) 1996, 91 F.3d 1547.

Racial discrimination is not a negotiable issue in collective bargaining with a public employer. *Teaneck Bd. of Ed. v. Teaneck Teachers Assn.*, 185 N.J.Super. 269, 448 A.2d 487 (App.Div.1982), affirmed 94 N.J. 9, 462 A.2d 137 (1983).

No discrimination found in failure to transfer half-time guidance counsellor to out-of-category social studies teaching position for which she had no tenure. *Perry v. Bd. of Ed., Glen Rock Boro., Bergen Cty.*, 1 N.J.A.R. 300 (1981).

6:4-1.7 Compliance

(a) Each school district shall submit to the Commissioner of Education or designee a copy of its resolution of equal educational opportunity (see N.J.A.C. 6:4-1.3(a)) and the name of its affirmative action officer (see N.J.A.C. 6:4-1.3(c)) within 60 days of the effective date of these regulations.

(b) Each school district shall, within 120 days of the effective date of these regulations submit its proposed program or plan of affirmative action for school and classroom practices (see N.J.A.C. 6:4-1.3(b)).

(c) Each school district shall, within 180 days of the effective date of these regulations, submit its proposed program or plan of affirmative action for employment and contract practices (see N.J.A.C. 6:4-1.3(b)).

(d) The commissioner or designee shall review the programs or plans, approve or reject said plans and shall notify the school system of his decision within 60 days of receipt of the plans.

(e) If the plan is in any way unacceptable, the commissioner shall designate a person or persons to work with the school district to develop an acceptable plan, which must be completed and approved within 60 days of the receipt of the notice that the original plan was unacceptable.

(f) The plan must be initiated within a time period not to exceed 120 days from the time of its approval and must be fully implemented in accord with an approved timetable.

(g) If within one year of the effective date of the affirmative action plan a school district is still found not to be in compliance with these regulations or its plan was not implemented, the commissioner may initiate, with the approval of the State Board of Education, action to suspend, terminate or refuse to award continued Federal or State financial assistance. The commissioner may also make referral to any appropriate judicial and/or administrative Federal, State or local agencies.

6:4-1.8 State review and evaluation

(a) At least once every three years the commissioner or designee shall review and evaluate the progress of each school district in implementing its affirmative action plan. If sufficient appropriations exist, the commissioner may utilize the services of qualified independent consultants to effectuate the review and evaluation. The commissioner shall provide each local school district with a copy of such analysis.

(b) The board of education of each local school district shall make available to the community a summary of the review and evaluation in accordance with the procedures adopted pursuant to N.J.A.C. 6:4-1.2(a).

(c) Any and all inadequacies in the program plan as revealed in the review and evaluation shall be corrected as soon as is practicable, but in no case shall correction of the plan be delayed more than 60 days from receipt of notice of inadequacy or noncompliance. If such inadequacy is not corrected in the specified time, it shall result in the procedure described in N.J.A.C. 6:4-1.7(g).

6:4-1.9 Appeals

In accordance with N.J.S.A. 18A:6-9, any individual may petition the Commissioner of Education to resolve a dispute arising under these regulations pursuant to procedures set forth in N.J.A.C. 6:24-1.1 et seq.

6:4-1.10 Effect of related statutes

The obligation to comply with these regulations is not obviated or alleviated by any State or local law or rule or regulation of any organization, club, athletic or other league or association which would limit the eligibility or participation of any student on the basis of race, color, creed, religion, sex, ancestry, national origin or social or economic status.