

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Record established corporal punishment and other charges warranted termination of teacher. In Matter of Tenure Hearing of Harrell, 93 N.J.A.R.2d (EDU) 378.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

No entitlement to indemnification of costs of criminal defense. Bower v. Board of Education of City of East Orange, Essex County, 92 N.J.A.R.2d (EDU) 5.

6A:3-5.5 Determination of sufficiency and transmittal for hearing

(a) Within 15 days of receipt of the charged party's answer or expiration of the time for its filing, the Commissioner shall determine whether such charge(s) are sufficient, if true, to warrant dismissal or reduction in salary. Where the charges are determined insufficient, they shall be dismissed and the parties shall be notified accordingly. Where the charges are determined sufficient, the matter shall, within 10 days of such determination, be transmitted to the OAL for further proceedings, unless the Commissioner retains the matter pursuant to N.J.A.C. 6A:3-1.11 or 1.12.

1. A notice of transmittal shall be issued to the parties by the Department of Education on the same date as the matter is transmitted to the OAL.

(b) Where a party to a tenure matter so requests, the Commissioner may agree to hold the matter in abeyance at any time prior to transmittal to the OAL. Thereafter, requests to hold the matter in abeyance shall be directed to the OAL Clerk or the ALJ in accordance with the rules of the OAL. Any request for abeyance, whether directed to the Commissioner or the OAL, shall be consistent with the intent of N.J.S.A. 18A:6-16 as amended by P.L. 1998, c.42.

New Rule, R.2000 d.137, effective April 3, 2000.

See: 31 N.J.R. 4173(a), 32 N.J.R. 1177(a).

Amended by R.2005 d.109, effective April 4, 2005.

See: 36 N.J.R. 5032(a), 37 N.J.R. 1051(b).

In (a), substituted "pursuant to N.J.A.C. 6A:3-1.11 or 1.12" for "for purposes of deciding a motion for summary decision" in the introductory paragraph; rewrote (b).

6A:3-5.6 Withdrawal, settlement or mooted of tenure charges

(a) Once tenure charges are certified to the Commissioner, such charges may be withdrawn or settled only with the Commissioner's approval. Any proposed withdrawal or settlement, whether submitted to the Commissioner or to the ALJ, shall address the following standards established by the State Board of Education in the matter entitled *In re Cardonick*, State Board decision of April 6, 1983 (1990 *School Law Decisions (S.L.D.)* 842, 846):

1. Accompaniment by documentation as to the nature of the charges;
2. Explication of the circumstances justifying settlement or withdrawal;
3. Consent of both the charged and charging parties;
4. Indication that the charged party entered into the agreement with a full understanding of his or her rights;
5. A showing that the agreement is in the public interest; and
6. Where the charged party is a teaching staff member, a showing that the teaching staff member has been advised of the Commissioner's duty to refer tenure determinations resulting in loss of position to the State Board of Examiners for possible suspension or revocation of certificate.

(b) A settlement agreement shall not propose terms that would restrict access to information or records deemed public by law or result in misrepresentation of the reason for an employee's separation from service. Where tenure charges have been certified to the Commissioner by a district board of education, any proposed settlement shall indicate, by signature of the board attorney or inclusion of a district board of education resolution authorizing settlement, that the district board of education has consented to the terms of the settlement.

(c) A proposed withdrawal or settlement of tenure charges shall be submitted to the Commissioner prior to transmittal of such charges to the OAL; thereafter, it shall be submitted to the ALJ in accordance with applicable rules of the OAL.

(d) Where tenure proceedings are concluded prior to adjudication because the charged party has unilaterally resigned or retired, the Commissioner may refer the matter to the State Board of Examiners for action against the charged party's certificate as it deems appropriate, when such referral is warranted under the provisions governing resignation or retirement prior to conclusion of tenure charges as set forth in N.J.A.C. 6A:9-17.4.

(e) Where a proposed settlement requires the tenured employee to relinquish a certificate issued by the State Board of Examiners, upon approval of the settlement agreement, the Commissioner shall forward the matter to the State Board of Examiners for proceedings in accordance with N.J.A.C. 6A:9-17.11.

New Rule, R.2000 d.137, effective April 3, 2000.

See: 31 N.J.R. 4173(a), 32 N.J.R. 1177(a).

Amended by R.2005 d.109, effective April 4, 2005.

See: 36 N.J.R. 5032(a), 37 N.J.R. 1051(b).

In (a), substituted "the teaching staff member" for "he or she" preceding "has been advised" in 6; rewrote (b); in (d), amended the N.J.A.C. reference; added (e).

Case Note

Tenure charges certified by school district against teacher would be dismissed as moot, where teacher unilaterally retired from her position with district. *State-Operated School District of Newark, v. Elmena Jean*, 2001 WL 1609142, N.J. Adm. Nov 27, 2001, (Nos. EDU 11456-99, EDU 1546-98).

Tenured vocational education teacher's unilateral resignation rendered moot charges alleging teacher wrongfully negotiated into his own bank account a check payable to school district and, on numerous occasions, submitted vouchers for and received funds from district to which he was not entitled. In the *Matter of the Tenure Hearing of Troy Jenkins*, School District of the Township of Pemberton, Burlington County, 2002 WL 31958731, N.J. Adm., Dec 18, 2002, (NO. EDU 6094-00S).

SUBCHAPTER 6. TERMINATION OR ALTERATION OF SENDING-RECEIVING RELATIONSHIP

6A:3-6.1 Application for termination or change in allocation or apportionment

(a) An application for change of designation of a high school (termination or severance of relationship) or of allocation or apportionment of students pursuant to N.J.S.A. 18A:38-13 shall be made by petition of appeal, accompanied by the required feasibility study, and shall proceed in accordance with the provisions of this chapter except as set forth below.