



New Jersey School Boards Association

413 West State Street • Trenton, NJ 08618 • Telephone: 609.695.7600 • Toll-Free: 888.88NJSBA • Fax: 609.695.0413

INFORMATION ITEM

MEMORANDUM

**TO: OFFICERS, BOARD OF DIRECTORS MEMBERS AND
ALTERNATES**

FROM: LAWRENCE S. FEINSOD, Ed.D, EXECUTIVE DIRECTOR

DATE: MARCH 18, 2016

RE: LEGAL CASE SUMMARY

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

CASE TRACKING

Case Name	Jurisdiction	Issue	Summary	NJSBA Action	Status
<i>COUNTY OF ATLANTIC AND FOP LODGE NO. 34 AND PBA LOCAL NO. 77</i>	N.J. Appellate Division	NJSBA will argue that it is imperative to the fiscal operation of districts that <i>dynamic status quo</i> be vacated as a concept forcing public employers to move employees along an expired salary guide.	PERC decision determined that public employers are not required to pay the increment or step increase after expiration of the existing collectively negotiated agreement. PERC repudiated the long standing <i>dynamic status quo</i> concept which, in part, required boards of education to pay step increases automatically for expired one and two year contracts . While boards of education have long been largely exempt from the consequences of the <i>dynamic status quo</i> , as a result of the <i>Neptune</i> Supreme Court decision (95% CBA are for 3 years), in light of recent legislation, S-1127 permitting boards of education to adopt salary policies of up to five years in duration (which muddies the waters in terms of <i>Neptune</i> 's applicability), and the continued fiscal constraints local boards operate under, PERC's decision must be upheld.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief on August 22, 2014. Oral argument held on October 28, 2015.	Motion granted Opinion issued March 9, 2016 reversing PERC and reinstating the <i>dynamic status quo</i> policy
<i>PALMER v. JERSEY CITY PUBLIC SCHOOL DISTRICT</i>	N.J. Appellate Division	NJSBA will argue the compelling protections of privacy of student records under FERPA, assuring the confidentiality of student records and identifying information when responding to OPRA requests; and that attorney fees shouldn't be assessed against a district since the student records may ONLY be produced under court order, consent or subpoena.	The trial judge ruled in favor of the plaintiff who, pursuant to OPRA, sought copies of pre-K student records consisting of USDA "free and reduced school meal" applications, finding that the defendant, rather than simply denying the request outright, could have agreed to provide the records once a court order was obtained, with direction of appropriate redaction of personal information. Additionally attorney fees were ordered since the plaintiff's lawsuit was found to be the "catalyst" for disclosing the redacted records. There are similar FERPA matters pending in the following districts: Camden, Cherry Hill, Elizabeth, Hillsborough, Millburn, Parsippany-Troy Hills and Woodbridge.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule	Motion granted
<i>L.R. AND JR, MINOR v. CHERRY HILL BOARD of EDUCATION RECORDS CUSTODIAN</i>	N.J. Appellate Division	NJSBA will argue the compelling protections of privacy of student records under FERPA, assuring the confidentiality of student records and identifying information when responding to OPRA requests; and that attorney fees shouldn't be assessed against a district since the	The trial judge ruled in favor of Cherry Hill which redacted student and parent initials from litigated settlement documents requested by the plaintiff.	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule	Motion granted

		student records may ONLY be produced under court order, consent or subpoena.			
<i>CLEMENTON BOE v. CLEMENTON EA</i>	N.J. Appellate Division	The Board filed a scope of negotiations petition with PERC seeking to restrain the submission of a grievance by the Education Association for binding arbitration. The subject matter of the grievance concerned the negotiability of employee contributions for medical insurance and the sunset of <i>P.L. 2011, c.78</i> (Chapter 78).	PERC granted the board's request for restraint of arbitration, holding (1) the maximum Chapter 78 contribution levels remain in effect for the duration of any collective bargaining agreement which begins prior to the sunset of Chapter 78—that is, reduced contributions cannot be negotiated for the second, the third, or subsequent years of a contract that began prior to sunset, and 2) in the negotiation of future contracts (those that begin after Chapter 78's sunset), the fully phased-in Chapter 78 health benefit contributions are the status quo—that is, the full Chapter 78 contribution levels remain in effect indefinitely unless the board of education agrees to a change.	NJSBA will file a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule.	Motion granted
<i>L.R. AND JR, MINOR v. HIILSBOROUGH TOWNSHIP BOARD of EDUCATION</i>	N.J. Appellate Division	Plaintiffs requested all IEE requests and responses; and all such requests and responses made on behalf of students: 7/1/12-11/11/14	Trial court dismissed OPRA complaint as student records are exempt from OPRA pursuant to FERPA and SSRL	NJSBA filed a motion to appear as <i>amicus curiae</i> together with a substantive brief as set forth in the briefing schedule	Motion granted