

JANITORS

- (See also "Abolition of Position" and "Tenure" this index)
- Board acted illegally by suspending nine non-tenured employees without pay when there was no indictment against them; Board ordered to pay back pay minus any unemployment compensation or other actual earnings received by petitioners (97:July 28, Berkebile)
- Board action upheld: non-tenured janitor terminated for making sexually harassing remark to student, prior to his conviction for harassment in municipal court (94 N.J.A.R.2d (EDU) 279, Hugg)
- Board properly discharged tenured custodian for neglect and insubordination where custodian repeatedly failed to report to work on time, answer his beeper and set up lunchroom (90:1512, Hayes)
- Chronic and excessive absenteeism constitutes unbecoming conduct, incapacity and just cause for discipline warranting dismissal (97 N.J.A.R.2d (EDU) 330, Pearson)
- Custodian employed under series of fixed term contracts acquired tenure under never rescinded 1955 board policy to grant tenure to custodians after three years (94 N.J.A.R.2d (EDU) 527, Strincoski, App. Div. aff'g St. Bd. 94 N.J.A.R.2d (EDU) 37, rev'g 93 N.J.A.R.2d (EDU) 333)
- Custodian with convictions for armed robbery, terroristic threats, and drugs did not demonstrate sufficient evidence of rehabilitation - disqualified from employment (96 N.J.A.R.2d (EDU) 521, Marshall)
- Custodian with prior drug convictions demonstrated evidence of rehabilitation; no longer disqualified for school employment as a custodian. (96 N.J.A.R.2d (EDU) 602, Pruden)
- Dismissal of tenured assistant custodian inappropriate since board failed to provide notice of concern for excessive absences (91:2386, Viani)
- Dismissal of tenured custodian warranted for pattern of unbecoming conduct including having passed out due to effects of alcohol, carrying a gun knife at school, unexcused absences and yelling at supervisors (93 N.J.A.R.2d (EDU) 563, Gwinnett)
- Dismissal of tenured custodian warranted when excessive absences and poor job performance endangered health and welfare of students and warnings that absences were unacceptable were given (94 N.J.A.R.2d (EDU) 580, Ingram)
- Dismissal of tenured custodian warranted where custodian tested positive for cocaine after having returned to work from a leave of absence to enter rehabilitation; strict adherence to federal drug testing regulations not required (97:Sept. 19, Twp. of So. Brunswick)

Dismissal of tenured janitor appropriate where janitor failed
to file a response to the tenure charges (97:Jan. 10, Johnson)

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- Dismissal of tenured school custodian who tested positive for cocaine use upheld (94 N.J.A.R.2d (EDU) 163, Caravello, aff'd St. Bd. 94 N.J.A.R.2d (EDU) 304, aff'd App. Div. 95 N.J.A.R.2d (EDU) 160) See also 95 N.J.A.R.2d (EDU) 161, Zielinski, aff'd St. Bd. 95 N.J.A.R.2d (EDU) 164, aff'd App. Div. 96 N.J.A.R.2d (EDU) 3
- Guilty plea to criminal sexual conduct with mentally retarded stepdaughter constituted unbecoming conduct requiring termination (95 N.J.A.R.2d (EDU) 457, Efferen, aff'g 95 N.J.A.R.2d (EDU) 304; See 96 N.J.A.R.2d (EDU) 842, for 90-day rule opinion, aff'd St. Bd. 12/4/96, award of back pay aff'd App. Div. unpublished op. Dkt. No. A-2680-96T5, Oct. 6, 1997)
- Janitor appointed for fixed term specified in contract did not acquire tenure (93 N.J.A.R.2d (EDU) 331, Sharpe)
- No violation of custodian's tenure rights occurred when board made good faith decision to subcontract for custodial services based on economic reasons (94 N.J.A.R.2d (EDU) 172, Angel, aff'd w/modif. St. Bd. 94 N.J.A.R.2d (EDU) 423)
- Public employer, acting in good faith may terminate entire custodial staff during the life of existing labor contract and sub-contract for similar services (Ridgewood Building Service, App. Div. unpub. op. (Dkt. No. A-3903-92T2, Apr. 4, 1994))
- Reduction in janitor's salary justified when he was mistakenly paid at his former position's higher salary, but adjustment may not take effect during school year (95 N.J.A.R.2d (EDU) 522, Gerrity)
- School janitors, unlawfully terminated when denied tenure on grounds they failed to prove their efficiency (95 N.J.A.R. 2d (EDU) 161, Zielinski, aff'd St. Bd. 95 N.J.A.R. 2d (EDU) 164, aff'd App. Div. 96 N.J.A.R.2d (EDU) 3)
- Tenure acquired by janitors under terms of collectively negotiated agreement is statutorily based and so subject to Tenure Employees Hearing Act and jurisdiction of Commissioner (93:Aug. 4, Old Bridge)
- Tenured custodian acquitted of sexual offenses entitled to back pay for period of suspension but not counsel fees incurred in defense (93 N.J.A.R.2d (EDU) 882, Griffin)
- Tenured custodian dismissed. Abandonment of position, excessive absenteeism, unbecoming conduct. Failed to answer (96:May 20, McIntyre)
- Tenured custodian dismissed. Excessive absenteeism, insubordination, abandonment of position (94:Sept. 19, Selleroli)
- Tenured custodian dismissed. Insubordination, neglect of duty. (96 N.J.A.R.2d (EDU) 600, Jimenez, aff'd St. Bd. 96:Sept. 4)

Tenured custodian dismissed. Summary judgment.
Unsatisfactory conduct, unbecoming conduct, insubordinate
conduct (96:April 19, Ratycz)

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- Tenured custodian properly terminated for dishonesty and unlawful taking of chair (92 N.J.A.R.2d (EDU) 537, Depasquale, aff'd St. Bd. 93:March 3, aff'd App. Div. unpub. op. (Dkt. No. A-4236-92, March 31, 1994))
- Tenured custodian removed for neglect of duty and excessive absenteeism (97 N.J.A.R.2d (EDU) 27, Issac)
- Tenured custodian's petition for review of board's decision to withhold salary increase was dismissed because petition was filed outside 90-day period for appeal (95 N.J.A.R.2d (EDU) 548, LeRose)
- Tenured custodian's removal was justified when substance abuse remains after treatment and leads to neglect of duty, insubordination and excessive tardiness (95 N.J.A.R.2d (EDU) 595, Davis)
- Tenured head custodian dismissed for neglect of duties, failure to clean school, insubordination and abuse of sick leave (93 N.J.A.R.2d (EDU) 748, Cox, aff'd St. Bd. 94 N.J.A.R.2d (EDU) 277)
- Tenured janitor/volunteer fireman dismissed. Violated board policy and regulation regarding employee response to fire calls - insubordination. Served as volunteer fireman while on workers comp leave - unbecoming conduct. (96 N.J.A.R.2d (EDU) 508, Powers)
- Transfer of custodian to another job site and shift pursuant to board's nepotism policy upheld (93 N.J.A.R.2d (EDU) 96, Farrow)
- When seeking dismissal of tenured janitor, board must demonstrate harm to provision of thorough and efficient education in "[a]dequately equipped, sanitary and secure physical facilities" (91:2386, Viani)

JOINTURE COMMISSION

- In denying application for establishment of jointure commission, Commissioner of Education must provide more than conclusory statements to support his denial; consideration should be given to DOE's policy favoring regionalization, and need to provide free appropriate education to disabled students in the petitioning districts. (97:Feb. 3, North Jersey Jointure Commission, St. Bd. remanding for failure of Commissioner to explain reasons for denial of application. See also 96:Feb. 7, St. Bd. remanding and retaining jurisdiction; motion to compel compliance with remand, denied 96:Aug. 7, St. Bd.; 97:Dec. 3, appeal dismissed St. Bd., in light of loss of interest appeal in participating by four districts, and failure of remaining districts to file revised application.)

N.J.S.A. 18A:46-25 does not authorize jointure commission to contract with participating board of education to provide guidance services to non-handicapped students. Colantoni v. Long Hill Bd. of Ed., 329 N.J. Super. 545 (App. Div. 2000), (aff'g St. Bd. decision 99:March 3 that reversed Commissioner decision 97:Jan. 23)

JUDICIAL REVIEW

The standard of review applied by an appellate court reviewing the final decision of an administrative agency such as the State Board is whether "sufficient or substantial credible evidence exists" to support the decision (95 N.J.A.R.2d (EDU) 161, Zielinski, aff'd App. Div. 96 N.J.A.R.2d (EDU) 3)