



**STATE OF NEW JERSEY
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March 22, 2001

M E M O

TO: Commissioners

FROM: Bob Anderson

RE: Report on Developments in the Counsel's Office Since February 22, 2001

Commission Cases

An appeal has been filed in Irvington Board of Education and Irvington Education Association, H.E. No. 2001-11, 27 NJPER 105 (¶32041 2000). In the absence of timely exceptions, this decision became final on January 5, 2001 pursuant to N.J.A.C. 19:14-8.1(b). The Association filed the appeal.

An appeal has also been filed in Paterson State-Operated School District, P.E.R.C. No. 2001-42, __ NJPER __ (¶__ 2000). The District filed the appeal. The Commission declined to restrain arbitration of a grievance claiming that a security guard should not have been deprived of overtime work during evening school hours.

Other Cases

The Appellate Division has vacated the monetary portion of an arbitration award in favor of a PBA local. Hudson Cty. v. PBA Local 232, App. Div. Dkt. No. A-1811-99T1 (2/7/01). The Court upheld the part of the award holding that the County violated the parties' agreement when it increased the number of annual paydays in 1998, thereby causing a slight dip in bi-weekly paychecks. But it vacated the part of the award requiring the employer to pay each employee interest on the difference between the higher and lower paychecks. The Court noted that the annual salary was paid in full and that the amount of the checks increased the next week.

In Roe v. Borough of Upper Saddle River, 336 N.J. Super. 566 (App. Div. 2001), the Court held that the Exempt Firemen's Tenure Act, N.J.S.A. 40a:14-64, did not protect a fire subcode official and a plumbing subcode official against having their positions abolished when their employer entered an Interlocal Services Agreement with another town for construction code services. The Court rejected a claim, based on the wording of N.J.S.A. 40a:14-65, that a position could not be abolished except "in time of widespread economic depression or mandatory retrenchment." The tenure act provisions apply only when the employer's sole purpose is to remove the exempt fireman. This employer acted in good faith in entering the Interlocal Services Agreement.