



**STATE OF NEW JERSEY
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August 10, 2010

MEMORANDUM

TO: Commissioners

FROM: Ira W. Mintz
General Counsel

SUBJECT: Report on Developments in the Counsel's Office Since June 23, 2010

Commission Cases

The City of Passaic has moved for leave to file an interlocutory appeal from an interim relief order issued by a Commission designee. The designee ordered the City to maintain health benefits for certain crossing guards until unfair practice proceedings are completed. I.R. No. 2011-2, ___ NJPER ___ (¶ ___ 2010).

Other Cases

In New Jersey Association of School Administrators v. Schindler, ___ N.J. Super. ___ (App. Div. 2010), the Appellate Division upheld certain Department of Education regulations but found that others were invalid because they improperly deprived certain administrators of vested rights and reduced the compensation of tenured assistant superintendents.

In In re Suspension of the Teaching Certificate of Melissa Van Pelt, ___ N.J. Super. ___ (App. Div. 2010), the Appellate Division held that N.J.S.A. 18A:26-10 and N.J.S.A. 18A:28-8, relating to notice of termination and suspensions of teaching certificates based on a teacher's breach of contract, equally apply to teaching staff members of charter schools as they do to teaching staff members of public schools.

In In re The Tenure Hearing of Marcelino Basulto, App. Div. Dkt. No. A-1493-09T1 (7/23/10), the Appellate Division upheld the dismissal of a tenured school custodian. The Court stated that in the absence of any statutory or contractual provision that required the application of progressive discipline, there was no error in the Commissioner of Education's concluding that termination was warranted.

In Peck v. Ocean Cty., App. Div. Dkt. No. A-1099-09T3 (7/19/10), the Appellate Division held that based on N.J.S.A. 2A:157-10.1, the County Prosecutor had the nearly absolute at-will statutory authority to terminate a Deputy Chief Investigator.