

BENJAMIN SEABROOK AND	:	
WILLS, O'NEILL & MELLK,	:	
	:	
PETITIONERS,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
CITY OF TRENTON, MERCER	:	
COUNTY,	:	
	:	
RESPONDENT.	:	

SYNOPSIS

Petitioners, a teaching staff member in respondent District and a law firm that represented the teacher in connection with civil and criminal matters arising from his employment as a teacher, sought reimbursement of legal fees for work performed in furtherance of his criminal defense.

The ALJ determined that, although another attorney primarily represented the teacher in the criminal proceedings, the petitioning firm “was of significant and critical assistance to” petitioning teacher’s criminal defense, and that respondent therefore must reimburse the teacher for the fees for the criminal defense work performed by the firm. However, the ALJ determined that the requested fees should be reduced from \$9,649.45 to \$ 8,043.45 because a portion of the fees sought related to the civil defense work performed by the law firm, rather than the criminal defense work.

The Commissioner concurred with the determination of the ALJ that the petitioning law firm significantly assisted Seabrook’s criminal defense, which led to a successful resolution of the charges against him. Therefore, Seabrook is entitled, pursuant to *N.J.S.A. 18A:16-6.1*, to reimbursement of the legal fees charged by the law firm from respondent. The Commissioner also agreed with the ALJ that the fees should be reduced because a portion of the funds sought were for the efforts expended in connection with the civil action, which are not compensable in this proceeding.

August 31, 2000

BENJAMIN SEABROOK AND	:	
WILLS, O'NEILL & MELLK,	:	
	:	
PETITIONERS,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
CITY OF TRENTON, MERCER	:	
COUNTY,	:	
	:	
RESPONDENT.	:	

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The Board's exceptions, timely filed pursuant to *N.J.A.C. 1:1-18.4*, were duly considered by the Commissioner in making his determination herein.

Upon his independent consideration and review, the Commissioner concurs with the Administrative Law Judge's (ALJ) findings that Benjamin Seabrook retained the law firm of Wills, O'Neill and Mellk to assist in the defense of the criminal charges lodged against him, and that, in particular, the pre-trial investigative work undertaken by the firm "was of significant and critical assistance" to the successful defense of the criminal action. (Initial Decision at 17) Consequently, the Commissioner affirms the ALJ's conclusion that, pursuant to *N.J.S.A. 18A:16-6.1*, the Board is obligated to reimburse Mr. Seabrook for the legal fees and costs incurred by Wills, O'Neill and Mellk for work performed in connection with the defense of these charges. Finally, the Commissioner is also in accord with the ALJ that Wills, O'Neill and Mellk's

\$9,649.45 invoice to the Board, dated March 27, 1998, for services rendered on behalf of Mr. Seabrook, must be reduced by \$1,606, representing billing entries attributable to services rendered with respect to a pending civil action, since these charges are not recoverable in this proceeding.

Accordingly, the recommended decision of the OAL is affirmed for the reasons stated therein. The Board of Education of the City of Trenton is hereby directed to reimburse Petitioner Benjamin Seabrook \$8,043.45, representing counsel fees and costs incurred by the law firm of Wills, O'Neill and Mellk for efforts it expended in defense of the favorably resolved criminal charges against him.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: August 31, 2000

Date of Mailing: August 31, 2000

* This decision, as the Commissioner's final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:4-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.