

#135-13 (OAL Decision: Not available online)

MARK BENJAMIN, SR.,	:	
	:	
PETITIONER,	:	
	:	
V.	:	
JOANNE MASCIOCCHI,	:	COMMISSIONER OF EDUCATION
	:	
RESPONDENT.	:	DECISION
	:	
AND	:	
	:	
BOARD OF EDUCATION OF THE TOWNSHIP OF WINSLOW, CAMDEN COUNTY,	:	
	:	
PETITIONER,	:	
	:	
V.	:	
MARK BENJAMIN, SR.,	:	
	:	
RESPONDENT.	:	
	:	
AND	:	
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BOARD OF EDUCATION OF THE TOWNSHIP OF WINSLOW, CAMDEN COUNTY,	:	
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	:	
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MARK BENJAMIN, SR.,	:	
	:	
RESPONDENT.	:	

SYNOPSIS

These consolidated cases relate to conflict of interest allegations brought by then-member of the Winslow Township Board of Education, Mark Benjamin, Sr., against another member of the Board, Joanne Masciocchi, contending that Masciocchi's unemployment benefits stemming from former employment with the Winslow school district should void her board membership.

The ALJ found that: under the circumstances established here, no conflict of interest existed and Masciocchi is not disqualified from her position; Benjamin was removed from the Board subsequent to the filing of the above cases, which moots the Board's case against Benjamin. The consolidated petitions were dismissed.

The Commissioner adopted the Initial Decision as the final decision in this matter.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

OAL DKT. NOS. EDU 14102-11, EDU 1928-12, EDU 4959-12 (CONSOLIDATED)
AGENCY DKT. NOS. 285-9/11, 340-11/11, 44-2/12

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_____ :

The record of this consolidated matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon full review and consideration, the Commissioner concurs with the Administrative Law Judge (ALJ) – for the reasons comprehensively presented in his decision – that, under the circumstances existing here, Joanne Masciocchi is not disqualified from Board membership pursuant to *N.J.S.A. 18A:12-2*¹, by virtue of her receipt of unemployment benefits subsequent to the Board’s non-renewal of her employment as a Student Aide for the 2010-11 school year. Consequently, it is unnecessary to reach to the ALJ’s discussion on pages 9-11 of his decision with respect to the recommended action to be taken had any *N.J.S.A. 18A:12-2* conflict been found.

As to the Board’s petition seeking a determination regarding whether board member Mark Benjamin’s filing of a defamation suit against the Board and seven of its members in Superior Court created a disqualifying conflict of interest under *N.J.S.A. 18A:12-2*, the Commissioner agrees with the ALJ that – because Mr. Benjamin was removed from the Board by a vote of the membership of the Board on March 28, 2012, pursuant to *N.J.S.A. 18A:12-3*, for missing at least three consecutive meetings without good cause, this matter is appropriately dismissed as moot.

Accordingly, the recommended decision of the OAL is adopted as the final decision – for the reasons stated therein – and this consolidated matter is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: April 11, 2013

Date of Mailing: April 12, 2013

¹ This provision – in pertinent part – specifies: “No member of any board of education shall be interested directly or indirectly in any contract with or claim against the board...”

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).