

EDU #2686-97
C # 282-98
SB # 71-98

BOARD OF EDUCATION OF THE TOWN- :
SHIP OF LACEY, OCEAN COUNTY, :
PETITIONER-RESPONDENT, :
V. : STATE BOARD OF EDUCATION
MICHAEL J. KIRK, : DECISION
RESPONDENT-APPELLANT. :

Decided by the Commissioner of Education, June 26, 1998

For the Petitioner-Respondent (Cooper, Perskie, April, Niedelman,
Wagenheim & Levenson (John R. Armstrong, Esq., of Counsel)

For the Respondent-Appellant, Shea & Novy (Robert C. Shea, Esq., of
Counsel)

On June 26, 1998, the Commissioner of Education dismissed as moot the petition of appeal filed in this matter by the Board of Education of the Township of Lacey (hereinafter "Board") seeking to remove Michael J. Kirk (hereinafter "appellant") from his seat on the board as the result of an alleged conflict of interest. In so doing, the Commissioner also denied appellant's request for indemnification of his legal expenses incurred in defense of that matter.

On July 22, 1998, appellant filed a notice of appeal with the State Board of Education.

Pursuant to N.J.A.C. 6:2-1.11(a), appellant's brief in support of his appeal was due on August 11, 1998, 20 days after he filed his notice of appeal. Appellant, however,

failed to file a brief by that date. By letter dated August 27, 1998, the Director of the State Board Appeals Office notified appellant of his failure to file a brief and informed him that this matter was being referred to the Legal Committee of the State Board for consideration of his failure to perfect the appeal. By letter dated October 2, 1998, the Board requested that this matter be dismissed as a result of appellant's failure to perfect.

Appellant has still failed to file a brief in support of his appeal, nearly three months after the deadline for such filing. Nor has he offered any explanation for his failure to file a brief or requested an extension of time for such filing. As a result, we dismiss the appeal in this matter for failure to perfect. N.J.A.C. 6:2-1.12(a). See Paszamant v. Board of Education of the Borough of Highland Park, decided by the State Board, April 1, 1992, aff'd, Docket #A-4812-91-3 (App. Div. 1993).

November 4, 1998

Date of mailing _____