

EDU #3304-96  
C # 30-97  
SB # 19-97

LORETTA COLANTONI, :  
PETITIONER-APPELLANT, :  
V. : STATE BOARD OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION ON MOTION  
TOWNSHIP OF LONG HILL, MORRIS :  
COUNTY, :  
RESPONDENT-RESPONDENT. :

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Decided by the Commissioner of Education, January 23, 1997

Decision on motion by the State Board of Education, June 4, 1997

For the Petitioner-Appellant, Bucceri & Pincus (Louis P. Bucceri, Esq., of Counsel)

For the Respondent-Respondent, Riker, Danzig, Scherer, Hyland & Perretti (Lance Kalik, Esq., of Counsel)

This matter was initiated in February 1996 on behalf of Loretta Colantoni (hereinafter "petitioner"), a tenured teaching staff member employed by the Long Hill Township Board of Education (hereinafter "Board"). Petitioner alleged that the Board had violated her tenure and seniority rights when it eliminated her position as a guidance counselor and subsequently subcontracted with the Morris Union Jointure Commission ("Jointure Commission") to provide guidance services to non-handicapped students. Petitioner sought reassignment to a guidance counselor position.

In April 1996, the Long Hill Township Education Association filed an unfair practice charge against the Board with the Public Employment Relations Commission (“PERC”) based on the same allegations as are involved herein. In June 1996, the Board sought to consolidate the instant case with the PERC matter. The Administrative Law Judge (“ALJ”) denied the Board’s request.

On October 18, 1996, the ALJ issued an initial decision in this matter. Although finding that petitioner was not entitled to any relief, the ALJ concluded that the Board could not properly subcontract with a jointure commission to provide guidance services to non-handicapped students.

On January 23, 1997, the Commissioner adopted that part of the ALJ’s decision which found that petitioner was not entitled to relief. However, the Commissioner rejected the ALJ’s determination that the Board could not subcontract with the Jointure Commission to provide guidance services to non-handicapped students.

Petitioner filed an appeal to the State Board from the Commissioner’s decision.

On October 29, 1998, the Board filed the instant motion seeking dismissal of the appeal. The Board contends that the matter is moot since petitioner had retired from her employment with the district effective January 1, 1998.

In response, petitioner argues that the State Board should decide the appeal. Petitioner maintains that the central issue raised herein—i.e., whether the terms of the enabling statutes that authorize the establishment of jointure commissions, N.J.S.A. 18A:46-24 et seq., permit the Board to contract with a jointure commission for the provision of services to non-handicapped students—is both an issue of public concern and one that is likely to reoccur. Petitioner also contends that the State Board should

resolve the issue because PERC had effectively deferred action on the unfair practice charge pending the outcome of this appeal and that it is our agency's interpretation of N.J.S.A. 18A:46-24 et seq. that will be controlling in the PERC matter.

After careful consideration of the arguments made by counsel, including those in the Board's reply to petitioner's answer to its motion to dismiss, we deny the Board's motion. Resolution of the issue involved herein will have far-reaching implications for New Jersey's system of public education and, therefore, the public interest dictates that the State Board decide it. E.g., Galloway Township Board of Educ. v. Galloway Township Educ. Ass'n, 78 N.J. 25, 46-47 (1978).

In order to decide the merits of this matter as expeditiously as possible, we direct the Board to supplement the record on appeal within ten days of the date of this decision with the agreements and resolutions which had been submitted to the Commissioner for approval pursuant to N.J.S.A. 18A:46-24 et seq. to establish the Morris Union Jointure Commission. N.J.A.C. 6:2-1.9.

January 6, 1999

Date of mailing \_\_\_\_\_