

BOARD OF EDUCATION OF THE :
CITY OF PLAINFIELD, UNION :
COUNTY, :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
NEW JERSEY STATE DEPARTMENT :
OF EDUCATION, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioning “Abbott” District appealed the Department’s determination of its 2003-04 preliminary “maintenance budget,” alleging that the Department’s review was not in accordance with the July 23, 2003 order of the Supreme Court.

The ALJ found that the duly promulgated rule implementing the Court’s order for “maintenance” controlled in this proceeding, and that the Office of Administrative Law lacked jurisdiction to determine its validity. The ALJ also concluded that: 1) the Department correctly adjusted the maintenance calculation for Funds 11 and 15 and the excess fund balance, and that any adjustments for new information will be audited and adjusted with the 2002-03 CAFR and 2) the Department’s methodology for calculating the maintenance budget for the Early Childhood Plan is reasonable. The ALJ further ordered that, as set forth in Joint Exhibit No. 1, the parties will review the PSEA revenue adjustment to determine if this amount was counted twice, the Department will calculate the District’s CPI adjustment based on the June 30, 2003 Board Secretaries Report at 2.1% and the maintenance budget worksheet will be revised accordingly, and that, in all other respects, the Department’s determination was affirmed with respect to Plainfield’s 2003-04 budget, as set forth in the determination letter of August 27, 2003.

The Commissioner concurred with the ALJ’s findings and conclusions and adopted the Initial Decision for the reasons expressed therein.

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.

October 20, 2003

OAL DKT. NO. EDU 5502-03
AGENCY DKT. NO. 206-6/03

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The record of this local “Abbott” District’s appeal of the Department of Education’s (Department) decision on its supplemental funding request for the 2003-04 school year, and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The Board of Education of the Plainfield School District’s (District) exceptions and the Department’s reply thereto were duly submitted in accordance with the schedule established in response to the Court’s order for expedition and were considered by the Commissioner in reaching this decision.

Initially, the Commissioner concurs with the Administrative Law Judge (ALJ), that the OAL does not have jurisdiction to determine directly or indirectly the validity of *N.J.A.C.* 6A:10-1.2, as such determination is solely within the jurisdictional purview of the Appellate Division or the Supreme Court. *R. 2:2-3(a)*; *see, also, Pascucci v. Vagott*, 71 *N.J.* 40, 51-52 (1976); *Wendling v. N.J. Racing Com’n*, 279 *N.J. Super.* 477, 485 (App. Div. 1995). However, to the extent that he may appropriately do so in an administrative proceeding, the

Commissioner opines that the regulation at issue is fully consistent with the language and intent of the Court. Thus, like the ALJ, the Commissioner finds the regulatory definition controlling herein, with no conflict between it and the underlying Court order. Accordingly, the Department's application of such regulatory definition in its review and approval of the District's 2003-04 budget is appropriate.

Upon careful and independent review of the record, and based upon the credibility assessments of the ALJ, *N.J.S.A. 52:14B-10(c)*, the Commissioner accepts the ALJ's factual findings and determines that her analysis and legal conclusions are consistent with the Supreme Court's Order of July 23, 2003, as well as the Department's regulatory amendments adopted on August 22, 2003.

Accordingly, the Initial Decision is adopted for the reasons expressed therein.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: October 20, 2003

Date of Mailing: N/A

* Pursuant to *P.L. 2003, c. 122*, "*Abbott*" determinations are final agency actions appealable directly to the Appellate Division of the New Jersey Superior Court.