

EDU #8816-98
C # 93-00L
SB # 23-00

BOARD OF EDUCATION OF THE TOWNSHIP OF LAKEWOOD, OCEAN COUNTY, :
 :
PETITIONER-APPELLANT, :
 : STATE BOARD OF EDUCATION
V. :
 : DECISION
NEW JERSEY STATE DEPARTMENT OF EDUCATION, :
 :
RESPONDENT-RESPONDENT. :

Decided by the Commissioner of Education, March 16, 2000

For the Petitioner-Appellant, Carluccio, Leme, Dimon, Doyle & Sacks, LLC
(Richard K. Sacks, Esq., of Counsel)

For the Respondent-Respondent, John K. Worthington, Deputy Attorney
General (John J. Farmer, Attorney General of New Jersey)

This matter involves a challenge under N.J.S.A. 18A:7F-15¹ by the Board of Education of the Township of Lakewood (hereinafter "Board") to a determination by the Division of Finance of the Department of Education to reduce its core curriculum standards aid for 1998-99 in the amount of \$1,054,109. The case is currently pending before the Office of Administrative Law ("OAL"), and the primary issue to be resolved is

¹ That statute provides in pertinent part that:

A school district may make an appeal to the commissioner on the amount of its core curriculum standards aid on the basis that the calculation of income within the local share formula under section 14 of this act does not accurately reflect the district's income wealth.

N.J.S.A. 18A:7F-14 provides that each school district shall receive core curriculum standards aid predicated on a local share determined by district property wealth and district income and includes a complex formula for making that determination.

whether the district income wealth data relied upon by the Division of Finance in determining the amount of aid were accurate.

After the case had been transmitted to OAL, the Board moved to compel discovery of all New Jersey State income tax records relied upon by the Department of Treasury and/or the Department of Education to determine Lakewood's district income for the purpose of establishing state aid for 1998-99. On February 16, 2000, the Administrative Law Judge ("ALJ") denied the motion on the grounds that, pursuant to N.J.S.A. 54:50-8(a), such tax records were confidential.

The Board sought interlocutory review by the Commissioner of Education. By letter decision of March 16, 2000, the Commissioner denied the motion to compel discovery, agreeing with the ALJ that the income tax records that had been used by the Department of Treasury were protected from disclosure pursuant to N.J.S.A. 54:50-8.

The Board then moved for leave to appeal to the State Board so as to obtain interlocutory review of its motion. By its motion, the Board seeks limited access to as much of the tax return information as was relied on by the Department of Education and is necessary to determine the accuracy of the figures used to calculate the core curriculum standards aid given to Lakewood.

We grant leave to appeal, but deny the Board's motion. Our determination is based solely on the fact that the records at issue are in the possession of the Department of Treasury, which is not a party to the matter and over which we have no authority.

June 7, 2000

Date of mailing _____