

EDU #543-98
C #545-03L
SB # 38-03

IN THE MATTER OF THE TENURE :
HEARING OF LEWIS SHINKLE, : STATE BOARD OF EDUCATION
SCHOOL DISTRICT OF THE : DECISION ON MOTION
TOWNSHIP OF HAMILTON, MERCER :
COUNTY. :

Decision on motion by the Commissioner of Education,
September 18, 2003

For the Petitioner-Respondent, Paglione & Massi (Michael R. Paglione,
Esq., of Counsel)

For the Respondent-Appellant, Wills, O'Neill & Mellk (Arnold M. Mellk,
Esq., of Counsel)

The Board of Education of the Township of Hamilton (hereinafter "Board") certified tenure charges against Lewis Shinkle (hereinafter "respondent"), a tenured teaching staff member, alleging that he had engaged in sexual activity with a 16-year-old student. During the proceedings in the Office of Administrative Law, the respondent filed a motion seeking to strike an addendum filed by the Board to the statement of evidence in support of the tenure charges. On September 4, 2003, the Administrative Law Judge ("ALJ") denied that motion, rejecting the respondent's contention that the addendum failed to satisfy the procedural requirements of N.J.S.A.

18A:6-11 and N.J.A.C. 6A:3-5.1. On September 18, 2003, the Commissioner of Education declined the respondent's request for interlocutory review.

The respondent has filed a motion with the State Board of Education pursuant to N.J.A.C. 6A:4-2.3 requesting leave to appeal the Commissioner's decision.

After reviewing the papers submitted, we deny the respondent's request pursuant to our discretion under N.J.A.C. 1:1-14.10. "[I]nterlocutory review may be granted only in the interest of justice or for good cause shown." In re Certain Sections of the Uniform Admin. Procedure Rules, 90 N.J. 85 (1982). We find that the respondent has not demonstrated good cause requiring our review of the Commissioner's determination not to grant interlocutory review of the ALJ's ruling at this time. We note, however, that interlocutory rulings may be subject to review by the State Board upon appeal from a final decision of the Commissioner on the merits of the case. N.J.A.C. 1:1-14.10.

December 3, 2003

Date of mailing _____