

EDU #2892-03
C # 215-05
SB # 30-05

CHARLOTTE KLUMB, :
PETITIONER-RESPONDENT, :
V. : STATE BOARD OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
MANALAPAN-ENGLISHTOWN REGIONAL
SCHOOL DISTRICT, MONMOUTH COUNTY, :
RESPONDENT-APPELLANT. :

Decided by the Commissioner of Education, June 16, 2005

Decision on motion by the Commissioner of Education, August 15, 2005

Decision on motion by the State Board of Education, November 2, 2005

For the Petitioner-Respondent, Richard C. Swarbrick, Esq.

For the Respondent-Appellant, Law Offices of Stephen E. Gertler, P.C.
(Cynthia A. Satter, Esq., of Counsel)

After a thorough review of the record, the State Board affirms the decision of the Commissioner of Education granting summary decision to the petitioner and directing the Manalapan-Englishtown Regional Board to reinstate her as an elementary teacher as of March 1, 1999, with back pay and emoluments.

In so doing, we grant the motion filed by the Regional Board to suppress that portion of the petitioner's answer brief in which she argues that the Commissioner erred in denying her request for interest and counsel fees. Since the petitioner did not file a cross appeal from the Commissioner's decision, the Commissioner's determination to

deny the petitioner's request for interest and counsel fees is not properly before us. Nonetheless, we agree with the Commissioner that the petitioner has not demonstrated an entitlement to either pre- or post-judgment interest. N.J.A.C. 6A:3-1.17. Moreover, it is well established that "the absence of express statutory authority is fatal to the claim for counsel fees." Balsley v. North Hunterdon Bd. of Educ., 117 N.J. 434, 442 (1990).

January 4, 2006

Date of mailing _____