BOARD OF EDUCATION OF THE

TOWNSHIP OF MIDDLE, CAPE MAY COUNTY, :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

NEW JERSEY STATE DEPARTMENT : DECISION

OF EDUCATION, OFFICE OF

COMPLIANCE, :

RESPONDENT. :

______;

SYNOPSIS

Petitioning Board challenged the Department's determination that due to contract violations, an administrative penalty was due.

ALJ concluded that it was proper for the Department to recoup the State aid improperly expended by the Board. *N.J.S.A.* 18A:55-2; *N.J.A.C.* 6A:2-1.2(a)8. Recoupment was not a penalty; the recoupment was within the statutory and regulatory authority of the Commissioner where it is found and determined that a violation of school law and/or the regulations promulgated by the State Board has been committed. Board's motion for summary decision was denied and petition was dismissed. Department's cross-motion was granted.

Commissioner adopted findings and determination in initial decision as his own.

OAL DKT. NO. EDU 10755-96 AGENCY DKT. NO. 501-10/96

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DECISION

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OF EDUCATION, OFFICE OF

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RESPONDENT.

The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner's exceptions and respondent's reply thereto, were timely filed, pursuant to N.J.A.C. 1:1-18.4, and were duly considered by the Commissioner.

Upon his independent review of the within record, the Commissioner concurs with the findings and conclusion of the Administrative Law Judge that because the Board entered into contracts with Servicemaster and Webb without the benefit of competitive advertised bids as required by the provisions of the Public Schools Contracts Law, N.J.S.A.18A:18A-1 et seq., the Department's recoupment of \$138,361 in State aid expended by the Board in connection with these contracts was proper.

¹ It is noted that petitioner's exceptions essentially reiterate arguments advanced below, which arguments were fully considered and addressed in the initial decision.

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Accordingly, the initial decision of the OAL is adopted as the final decision in this matter for the reasons clearly articulated therein. The Board's motion for summary decision is denied, its Petition of Appeal is dismissed, and the Department's cross-motion for summary decision is granted.²

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

June 3, 1998

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² This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6:2-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.