

BOARD OF EDUCATION OF THE :
BOROUGH OF WALLINGTON :
 :
 PETITIONER, : COMMISSIONER OF
 EDUCATION :
 V. :
 : DECISION
 MAYOR AND COUNCIL OF THE :
 BOROUGH OF WALLINGTON, :
 BERGEN COUNTY, :
 :
 RESPONDENT. :
 _____:

For the Board of Education, Walter M. Slomienski, Jr., Esq.

For the Mayor and Council, Joseph Rosa, Jr., Esq.

PROCEDURAL HISTORY

This matter was opened before the Commissioner of Education on June 12, 1997 through the filing of a Petition of Appeal by the Wallington Board of Education (Board), seeking restoration of reductions to the school budget made by the Mayor and Council of the Borough of Wallington (Council) pursuant to N.J.S.A. 18A:22-37 following defeat of the budget at the annual school election on April 15, 1997.

At that election, the voters rejected a public question proposing a General Fund tax levy of \$8,232,189 for the 1997-98 school year. On May 15, 1997, following consultation with the Board as required by law, the Council adopted a resolution determining to certify a General Fund tax levy of \$7,724,317 as sufficient to provide for a thorough and efficient system of education (T&E) in the District. This amount represented a reduction of \$507,872 from the tax levy proposed by the Board, and was effectuated through cuts in 34 line items, for the reasons given in the schedule attached to the implementing resolution. By resolution dated June 9, 1997, the Board determined to appeal the Council's reductions and duly filed the within petition.

The amounts in dispute in this appeal are as follows:

<u>Tax Levy Proposed by Board</u>		<u>Tax Levy Certified by Council</u>	
General Fund	\$8,232,189	General Fund	\$7,724,317
<u>Amount of Reduction by Council</u>		<u>Amount of Reduction in Dispute</u>	
General Fund	\$507,872	General Fund	\$493,342 ¹

An answer to the Board's petition was filed by the Council on June 26, 1997. On July 10, 1997, the Board filed its position statement and on July 22, 1997, the Council filed a response to the Board's position statement. On July 25, 1997, the Board filed a document labeled as both a response to the Council's position statement and a final summation, and on July 30, 1997, the Council submitted its final summation.²

In addition, as the parties had been advised by letter from the Assistant Commissioner dated April 16, 1997, distributed through the County Superintendent to boards and municipalities experiencing budget defeats and again in conjunction with proceedings herein, as part of the record of the within appeal, the Commissioner took official notice of the Board's revised budget, its June 30 financial report filed by August 1 pursuant to N.J.S.A. 18A:17-10, applicable portions of the School Report Card and the Comparative Spending Guide, and the annual audit for purposes of verifying surplus information given in the June 30 report and any prior year data relied upon by the Commissioner in making his determinations.

¹ During the course of this appeal, Council determined to withdraw its request for reduction to 3 accounts: Line No. 06440, Act. No. 11-000-213-300, Health Purchased Services, \$3,000; Line No. 07150, Act. No. 11-000-260-520, Operation and Maintenance of Plant Services - Insurance, \$5,000; and Line No. 07160, Act. No. 11-000-200-590, Operation and Maintenance of Plant Services - Miscellaneous Purchased Services, \$1,000. Accordingly, because they are not reflected in the tax levy certified, these amounts are restored in full in the final tally below, but are not discussed as contested line items. Additionally, it is here noted that the Board agreed to accept the Council's full \$14,530 reduction to the Unemployment Insurance account. Accordingly, this amount is not deemed in dispute and does not appear in discussions or tallies below.

² On August 8, 1997, the Board submitted a letter from the Superintendent of its schools to the Commissioner, which purported to be the Board's "response to the Borough's final summation," notwithstanding that it was categorized in the accompanying memo of the Board's attorney as a "Final Summation." On August 14, 1997, counsel for the Borough filed an objection to this submission, terming it an improper filing in that it was not only untimely, pursuant to N.J.A.C. 6:24-7.8(a)5, but the Board had already filed a final summation on July 25, 1997. Upon review, the Commissioner concurs with the position of the Borough and, as such, the Board's August 8, 1997 filing is not considered herein.

Finally, the Board was advised by letter dated July 11, 1997, from Assistant Commissioner Mike Azzara, that as a result of the recently approved Appropriations Act for the fiscal year ending June 30, 1998, the District would receive additional school aid in the amount of \$50,000. Such letter further advised the Board that this additional school aid would be considered by the Commissioner in making his determinations in the instant budget appeal. As noted below, the Board submitted a letter regarding this matter, but no comment was made by Council.

Consistent with the above, upon filing of the Board's annual audit, the record of the within appeal was closed and the matter proceeded to determination.

STANDARD OF REVIEW

In rendering judgment relative to budgetary appeals, the Commissioner notes that the Constitution of the State of New Jersey requires the Legislature to provide for a thorough and efficient system of education. The Legislature by way of statutory scheme has delegated the responsibility for providing such thorough and efficient system to local boards of education. Additionally, the Legislature pursuant to N.J.S.A. 18A:6-9, 22-14, 22-17 and 22-37 has authorized the Commissioner of Education to review and decide appeals by boards of education seeking restoration of budgetary reductions imposed by local governing bodies. In reviewing such appeals, the Commissioner's standard has historically been whether a district board of education has demonstrated that the amount by which a specific line-item reduction imposed by the governing body is necessary for the provision of a thorough and efficient system of education (T&E). Board of Education of East Brunswick Township v. Township Council of East Brunswick, 48 N.J. 94 (1966) and Board of Education of Deptford Township v. Mayor and Council of Deptford Township, 116 N.J. 305 (1989). However, on December 20, 1996, the Legislature enacted the Comprehensive Educational Improvement and Financing Act of 1996 (CEIFA), wherein a prescribed level of expenditure range was established as sufficient for provision of T&E. Therein, appeal of General Fund budget amounts in excess of that range, following voter defeat and municipal reduction, was expressly restricted to grounds of negative impact on the stability of the district given the need for long term planning and budgeting, while appeal of General Fund budget amounts within that range could also be based on necessity for

T&E. For budgets proposed or reduced below the established minimum T&E amount, however, the law provides for automatic review by the Commissioner, construed within the context of then-current budget appeal regulations as a mandatory appeal, with the burden of proof on the governing body to demonstrate to the Commissioner that the proposed reductions shall not adversely affect the ability of the school district to provide T&E or the stability of the district given the need for long term planning and budgeting. Additionally, the Act provided for standards of efficiency to be established by the Commissioner, setting forth the appropriate cost of the various programs, activities, materials and services necessary to achieve T&E. P.L. 1996, c. 138; N.J.S.A. 18A:7F-1 et seq.

In the present instance, the Board proposed a General Fund budget which was below the minimum T&E amount established for the District pursuant to CEIFA, which budget was then further reduced by the governing body. Accordingly, the burden in this matter lies with the Council to demonstrate that its reductions will not negatively impact upon the District's ability to provide T&E or the stability of the District. Id., Section 5e(2)

Mindful, then, of the standard to be applied, the Commissioner makes specific determinations as set forth below.

COMMISSIONER'S DETERMINATION

Disputed Line-Item Number 1

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
2710	Various	Teaching Salaries	\$3,443,704	\$65,000

The Council notes that the Board's financial statements, when projected to the end of the school year, indicate that roughly \$3.2 million will be expended for teacher salaries. Some May and June spending will be higher than the normal monthly averages due to substitutes and other items, but in any event, the amount to be expended should not exceed the Board's current estimate of \$3,203,331. The 1997-98 budget, therefore, is 7.5 percent higher than the amount expected to be spent this year. Though the Council supports the hiring of the additional full-time and two part-time teachers, the funding can likely come from breakage (the reduction in expenditures when one employee at the top of the pay scale leaves and is replaced by an employee at the lower end of the scale). Even after factoring the salaries of the new positions, the salary

increases are far over the projected 4.3 percent increase necessitated by negotiated raises which, would not normally be the resulting increase in actual spending due to breakage. The Council believes that the teaching salary account is overbudgeted substantially and recommends the reduction of \$65,000 from this line item, which still leaves room for the new teachers and only marginally takes advantage of breakage.

The Board counters that “breakage” is very difficult to predict. It avers that several existing full-time positions will be filled for 1997, and, in fact, at this time the salaries for these replacements will be higher than those being replaced. The Board avers that its position statement included a complete description of all accounts, with all salaries specifically being accounted for. It contends that any reduction in funding would result in a reduction in staff and negatively impact the Board’s ability to provide T&E in the District.

Upon review, the Commissioner finds that the Board’s papers account for all proposed staff expenditures, so that any loss of budgeted funds would necessitate reductions to a level of proposed staffing that is well within efficiency standards established pursuant to CEIFA. The Council has not contended that reductions in staff are supportable. Accordingly, the Council has not met its burden, and the Commissioner determines to restore the \$65,000 reduction.

Disputed Line-Item Number 2

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
02640	11-190-100-106	Other Salaries/Instruction	\$79,250	\$30,000

The Council observes that the Board had projected \$79,250 in new positions for teacher aides in this account, but had no budget or spending here in the past. The budget document, however, shows one teacher full-time and one part-time aide currently, and another new one budgeted in 1998. As such, it maintains that the current aides are not charged to this account this year and are likely charged to the regular teaching account. The Council posits that since the regular teaching account was analyzed without this information, there is already enough funding provided therein to cover those positions. Council further avers that, although the teaching aide position is important, a budget of \$79,250 for two full-time and one part-time teacher aides is excessive.

In response, the Board asserts that the aide referenced in the report is currently employed in its elementary school, but was previously in place, and budgeted, for a special services student. The Board further takes exception to the Council's assertion that the amount budgeted in this account is excessive. It explains that this item was included in the regular teacher account in the last two budgets but, at the suggestion of its new board secretary, was broken out to allow for a closer analysis. The Board contends that this appropriation includes substitute teachers at all levels for the full school year which, for the 1996-97 school year, represented a cost of \$54,105, and cannot be reduced without affecting the Board's ability to offer a thorough, efficient and stable educational program.

The Council contends that if this account was, indeed, fully budgeted under Teaching Salaries for the last two years, then the amount of overbudgeting in this account for 1998 is even more excessive. Further, it argues that this account should not include substitute salaries for all teachers since these are properly budgeted with the regular teacher salaries. The Council proffers that if substitutes are included, then the \$30,000 budget reduction in this line item can simply be added to the Teaching Salaries account reduction and the Board will feel no ill effects from this cut.

Upon review, the Commissioner finds that notwithstanding its manner of accounting for such expenditures, the Board's costs in the areas of aides and substitutes are well within the standards of efficiency established by the Commissioner pursuant to CEIFA. The Commissioner further finds that the Council has made no showing that the Board could sustain reductions in staff while still providing T&E. Accordingly, the Council has not met its burden and the Commissioner determines to restore the \$30,000 reduction.

Disputed Line-Item Number 3

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
02680	11-190-100-610	General Supplies	\$128,252	\$10,000

The Council maintains that if all encumbrances outstanding in this area are ultimately spent, the Board will be expected to finish 1997 with the same \$110,000 average annual supply spending as in the prior three years. Further, it observes that, notwithstanding that the District is below the State averages on supply spending, this fact cannot be used as

justification for increasing this line item. It posits that increases in supply accounts should roughly parallel increased enrollments and increased prices, though not all supplies are directly parallel to enrollment. Therefore, a 17 percent increase in this account would not appear justifiable when compared to the District’s student population estimates and today’s inflationary environment. The Council advances that a \$10,000 reduction could be sustained in this account while still providing for a generous increase over normal annual spending.

The Board asserts that the Council’s observation that the District is below the State averages on supply spending is a gross understatement. It argues that the Department’s Comparative Spending Guide lists Wallington as ranking last of the 57 K-12 districts with less than 1800 students in New Jersey in the General Supplies and Textbook indicator. It maintains, however, that this fact alone is not responsible for the budget increase in this line item. The Board advances that the District is scheduled for state monitoring in 1997-98, is well behind in technology, and is beginning to respond to curriculum revision as per the new Core Curriculum Content Standards. As such, it argues that responding only to the 17 percent increase in this account is insensitive to the needs of the children in the District and reflects ignorance of the many new mandates imposed on the District’s schools.

In reply, the Council contends that the Board has had a very predictable pattern in supply spending over the last several years, notwithstanding that there have been new mandates imposed every year. Further, it posits that revisions in curriculum do not necessarily mean an increase in supply needs, just a change in the component of supplies. As such, the Council maintains that the Board has offered no proof that a 17 percent increase in supplies is warranted.

Upon review, the Commissioner finds that the Council’s sole basis for this reduction is the amount of increase over prior year expenditures, without regard to the needs being addressed in light of newly established standards for T&E. Accordingly, the Commissioner finds that the Council has not met its burden, and determines to restore the \$10,000 reduction.

Disputed Line-Item Number 4

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
02690	11-190-100-640	Textbooks	\$78,112	\$20,000

The Council argues that the District anticipates spending \$78,112 in textbook replacements in 1998, despite spending \$113,599 for the entire four-year period prior to 1998. It avers that, although textbooks in the District should be consistently updated and modernized, a carefully planned replacement program should be maintained rather than charging one budget for such a large appropriation. The Council contends that a budget of \$58,112, which is more than double the average annual spending of the past four years, will be sufficient and appropriate.

The Board, although agreeing that the increase in this area is significant, strongly contends that it is necessary. It argues that a review of past budgets and purchases will reveal that the Board has been undertaking as carefully planned textbook replacement program as could be expected under a series of 27 consecutive budget defeats. It explains that the District has a K-6 reading series that is 12 years old and replacements which have been planned over the past two years had to be eliminated due to budget constraints. Now, it argues, a new reading series is a must, with these replacements planned over the next two years, 1997-98 and 1998-99, and \$48,000 of the total amount budgeted for this account is earmarked for this series in grades K-4.

The Council advances the Board's admission that the textbook replacement program is not a priority by virtue of the fact that more important budgetary needs have routinely displaced spending in this area. It contends that the \$20,000 reduction to this account, which still leaves double the amount of average annual spending here over the past four years, gives the Board ample room to begin a replacement program.

Upon review, the Commissioner finds that the Board's budgeted textbook replacement expenditures, apart from some of the costs arising from the unique circumstance of being required to replace an entire K-6 reading series over a two-year period, are well within standards of efficiency established pursuant to CEIFA. Moreover, Council has not demonstrated how the District can adequately meet Core Curriculum Content Standards if it is unable to effectuate the reading series replacement as planned. Accordingly, the Commissioner restores the Council's reduction of \$20,000 as necessary for the District to provide T&E.

Disputed Line-Item Number 5

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
03920	11-213-100-640	Resource Room Textbooks	\$1,500	\$500

The Council contends that this account increases for no apparent reason. It proffers that spending for four years combined has been \$2,903, with the Board's budgeted amount escalating to \$1,500 for this one year for no apparent reason. The Council observes that there is an existing balance of \$397 in this account yet no textbooks were purchased with this funding. As such, it points out that the Board spent less than 60 percent of this account's allocation in 1997, yet proposes to increase the original budget by 50 percent in 1998, which would actually be 2-1/2 times the amount spent in 1997, with no substantiated justification.

The Board argues that the District employs 4-1/2 teachers to implement its resource center program from grades 1-12. This budget reflects an increase from \$1,000 in 1996-97 to \$1,500 for 1997-98, which is largely due to changes in instruction due to Core Curriculum Standards. It argues that the \$397 balance in this account as of April 1997 is insignificant, as is the projected increase here.

Upon review, the Commissioner finds that the Council has not shown that the District can meet new Core Curriculum Standards with its present Resource Room supplies, instead relying solely on the degree of increase in this account over last year's expenditures. Moreover, the Commissioner notes that the District spends well within efficiency standards for nonsalary special education costs established pursuant to CEIFA. Accordingly, the Commissioner determines to restore the \$500 reduction as necessary for provision of T&E.

Disputed Line-Item Number 6

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
04860	11-230-100-610	General Supplies/Basic Skills	\$2,400	\$1,600

The Council asserts that, again, the budget appears to climb for no obvious reason and with no historical spending pattern to support the increase. It observes that in a total of four years, less than \$4,000 was spent for these supplies, yet this budget climbs to \$2,400 for one year alone in 1998. The Council maintains that while it wishes to provide for generous annual increases in this area, a jump from \$536 in 1997 spending to \$2,400 in 1998 is inappropriate.

The Board advances that a total of \$2,400 is budgeted for the Basic Skills Instruction Program districtwide. It observes that this program addresses remediation of deficiencies as per the California Achievement Test, EWT and HSPT, and will be expanded due to

the new grade 4 ESPA. It further observes that there is also the concern regarding student Review Assessments. The Board argues that as of May 1997, it has 279 students in its math and language arts remediation program, at a cost of \$8.60 per student. As such, a reduction of \$1,600 as recommended would leave the Board with \$800 in this account. Moreover, it avers that the amount of supplies provided by the Title 1 grant in this particular area is minimal, and that it is reduced each year by 15 percent, increasing the local share required for remediation.

Upon review, the Commissioner notes that, once again, the Board spends well within efficiency standards established pursuant to CEIFA for this area and the Council has argued based on past expenditure patterns without regard to the District’s current actual need. Thus, it has made no showing as to how the District can provide T&E in the wake of the proposed reduction. Accordingly, the Commissioner restores the Council’s reduction of \$1,600.

Disputed Line-Item Number 7

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
05040	11-300-100-610	General Supplies/Vocational	\$500	\$500

Again, the Council asserts, a line item appears where there was no spending at all in the past, most likely due to all charges previously having been made to the general supply account. It contends that if the Board was able to do this in past years, and there was ample room for increases in that account, it should be done again this year so that there is no need for a separate account.

The Board claims that, although this is an area which was not funded last year, this minimal account of funding is necessary as “seed money” due to the workplace readiness component being infused into all areas of the curriculum consistent with Core Curriculum Standards.

Council contends that all vocational teaching supplies were likely charged to the general supplies account in the past, and it has left ample funds in that account for all of the District’s supply needs. Therefore, it argues, this new account is unnecessary.

Upon review, the Commissioner again notes the District’s general efficiency in the area of supplies, viewed in light of standards established pursuant to CEIFA. Additionally, the Commissioner notes that the Council’s argument does not establish how, in the absence of the

budgeted amount, the Board can meet the workplace readiness component of the Core Curriculum Standards while still providing appropriately for other supply needs. Accordingly, the Commissioner restores the Council's \$500 reduction as necessary for provision of T&E.

Disputed Line-Item Numbers 8, 9,10

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
06090	11-402-100-100	Athletics Salaries	\$148,653	\$12,000
06110	11-402-100-600	Athletic Supplies/Materials	\$ 36,660	\$ 2,000
06120	11-402-100-800	Athletics - Other Objects	\$ 10,580	\$ 2,000

While the Council agrees that additional spending in the area of athletics is warranted, it queries whether the budget goes too far compared to the actual programs being offered. It observes that a projection of 1997 spending here is difficult since spring sports are usually the most utilized and many expenses will be incurred in May and June. Therefore, it states that a comparison to the full year is appropriate and the Council sees a total of a 39 percent increase in this account over two years. Although recognizing there have been salary increases, and that an athletic trainer, new coaches and programs, improved security and even goal posts are important, it questions whether a more than \$60,000 increase in appropriation level over 1996 is necessary. Accordingly, it recommends the reduction of \$12,000 from the salary account, \$2,000 from the Athletics Supplies account, and \$2,000 from the Athletics Other Objects account.

The Board initially points out that the District's extracurricular cost per pupil as per the Comparative Spending Guide ranks the Wallington School District 47th out of the 57 Districts in its category. Further, the Council's first misconception regarding this account is that it only represents salaries for coaches. In reality, it proffers, this account includes coaches, ticket sellers, crowd control, chain crews, staff, special and regular police security, scouting and an athletic trainer service. The Board asserts that the program is also being expanded in several areas, a freshman volleyball team to address high levels of participation and Title IX issues and two junior high school programs. It further notes that the original budget for 1997-98 included soccer for the District's exceptionally large Polish student population (60 percent of the student body) and a third junior high school program, both of which were eliminated earlier in the budget process. The Board urges that it has endeavored to focus on programs not offered by the Borough's recreation department, i.e., volleyball and baseball. It further proffers that the portion

of the \$19,000 community allotment to recreation that goes to children is insufficient. It is, therefore, the Board's intent to offer its students a more comprehensive program of cocurricular activities.

The Council maintains that the Board can in no way justify a 36 percent increase in spending for athletic salaries over two years regardless of how many minor programs are added. It proffers that the Board anticipates spending for positions such as ticket sellers, chain crews, etc., which in many cases are provided on a voluntary basis. Council notes that its own recreation programs have virtually all of these types of positions covered by volunteers. It further observes, that many of the areas noted by the Board here are already provided by the Council through its recreation department. The Council also maintains that the Board's discussion with respect to soccer and certain junior high school sports which were cut by the Board prior to the budget introduction is irrelevant in its defense of this budget.

In response, the Board asserts that the athletic salaries are clearly and specifically listed in this account description for the Council's review. It avers that the Council is out of touch if it believes that this work can be performed by volunteers, as these positions carry paid stipends. It avers that it also approves volunteers in any one of its athletic programs if requested by the respective head coach.

With regard to supplies and materials, the Board argues that a close inspection of actual allotments per activity will reveal a very austere projection. The increase of \$6,280 here is largely due to the need for new cheering and boys' basketball uniforms, football goal posts and two junior high school programs. The Board maintains the budgetary provisions here are required to provide a thorough and efficient education and stability in its staffing.

The Council contends that the Board in its arguments points to certain items that need to be purchased in 1998, but these are items purchased every year, including uniforms and field expenses. It asserts that in 1998 it will be boys basketball and cheerleader items and in prior years it might have been wrestling mats, proffering that nothing is offered as to a reason why a 39 percent increase in athletic supply spending is necessary for a thorough and efficient system of education over a two-year period. The Council maintains that its reduction in this area leaves a sufficient provision for inflationary or usage increase.

In response, the Board proffers that the Council is incorrect in its assessment that uniforms are ordered every year rather, they are only ordered upon need. Goal posts, it maintains, are exceptions. The Board notes that as a Cap Waiver district in 1996-97, its athletic costs were frozen at the 1995-96 level and, therefore, comparisons of 1997-98 to 1996-97 are skewed.

The Board advances that its increase in the Other Objects account is due to the reinstatement of funding for clinics/workshops for coaches, which was eliminated for the 1996-97 school year, additional funds for athletic dinners and award ceremonies (All Bergen County Dinner, Herald News Awards Dinner, Bergen County NFL Football Hall of Fame Awards Dinner, etc.), banners, athletic letters which are ordered every two years and registration fees for junior high school programs. It asserts that the success of individuals and/or teams is difficult to predict, as evidenced by the account being well underfunded this year due to outstanding individual and team accomplishments. The Board contends that this account was underfunded and completely expended in 1996-97.

The Council observes that, although these areas are of concern to the Board, they are certainly not a required appropriation for a thorough and efficient system of education within the District. If the Board managed in the past to get by without coaching workshops, it asserts they should be able to do so in 1998 or, alternatively, have the coaches pay for their own workshops. It argues that, when only \$2,500 is spent in 1997, the Board cannot justify spending \$10,580 for the same items in the following year.

The Board advances that it is not up to the Council to define what is and is not required for a thorough and efficient educational program. It contends that cocurricular activities are an essential component of the educational program and, as such, its coaches need to be exposed to new techniques and professional development just as a teachers would. Clinics, it asserts, are only a small part of this appropriation.

Upon review, the Commissioner initially notes that the Board proposes to spend in excess of efficiency levels established for extracurricular activities pursuant to CEIFA. He further finds that the Council has met its burden of demonstrating that its reductions can be sustained without impairing District stability or the Board's ability to provide T&E. Accordingly, the Commissioner determines to sustain the Council's reductions of \$12,000, \$2,000 and \$2,000, respectively, to the three accounts listed above.

Disputed Line-Item Numbers 11, 12, 13

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
06150	11-4XX-100-100	Improvement of Instruction - Salaries	\$5,960	\$2,500
06160	11-4XX-100-500	Improvement of Instruction - Purchased Services	\$ 500	\$ 300
06170	11-4XX-100-600	Improvement of Instruction - Supplies	\$1,350	\$ 600

The Council attests to its recognition that there are new standards for the District to analyze to be certain that students are prepared for basic tests at the fourth, eighth and twelfth grade levels, and to its realization that certain efforts will be needed in order to assure that the District's students are prepared to meet those standards. However, the Council finds excessive increases in these accounts. The Council notes that there are ample professional staff in the District to assist in all analysis of new State standards and does not believe that the District needs to spend significant additional sums for these new programs. While conceding that some amount of staff training will need to be done, the Council believes that the Board is excessive in its projections and recommends the reduction of \$2,500 from salaries, \$300 from other purchased services and \$600 from supplies.

The Board asserts that the increase in this area is for home instruction for special services students and SAT salaries; it has nothing to do with Core Curriculum Content Standards or the grade 4, 8 and 11 state tests as stated by the Council. The Board argues that the increase from 1995-96 to 1997-98 levels is due to the realization that past budgets have been seriously underfunded in this area. It avers that home instruction for special services students is projected to increase, and transportation for CST members and parents to placement meetings and site visitations must be provided for. Additionally, a \$1,000 budget for the gifted and talented program is minimal considering it will span grades 3-12. The Board observes that in each of the two prior years, appropriations for special services students included only those registered at that time, which number was always greater with the opening of school in September. It avers that the cost of these additional students was funded by surplus. The Board urges, however, that this does

not account for the unknown number of preschool handicapped students that the District has each year or the enormous increase in Bergen County Special Services tuition. It claims that these items can no longer be funded by surplus, particularly in that last year the District was given a cap waiver which required that surplus be kept at a maximum of 3 percent. The Board argues that it finds the \$500, which represents transportation, to be necessary because of costs of transporting child study team members to meetings regarding home instruction, transportation for parents to the same meetings due to extenuating circumstances and transportation of the student(s) involved to an alternate site for preregistration conferences, if necessary.

The Council urges that the Board has always spent money for these items but fails to advise where these costs were budgeted and paid for the past two years. If \$500 is suddenly necessary for an account with no charges for the past two years, Council wishes to understand where such spending was previously charged so that it may look for reductions in that area.

The Board argues that the appropriation of \$1,350 to this account may seem significant when compared to prior amounts, however, it is, in fact, minimal and most likely insufficient to meet the needs of its SAT preparation and Gifted and Talented Program. The Board urges that the SAT preparation has become more involved in technology and it has therefore, provided \$350 for software and review material. It posits that the G & T program is in need of much more financial support. The Board points out that a G & T teacher/coordinator was originally budgeted for in 1997-98 but removed prior to going to the voters in order to provide some tax relief. It maintains that the \$1,000 provision for G & T supplies is needed for minimal program provision.

The Council advances that the Board, again, refers to components, including SAT preparation, which are normal recurring items of spending for the District, without explaining why a budget of \$1,350 is necessary when only \$100 annually was required for the past two years. It queries whether there were expenditures for SAT preparation in the past, where were these charged, and whether those accounts have been reduced.

Upon review, the Commissioner notes that the Board's proposed expenditures are well within standards of efficiency established pursuant to CEIFA, and that the Council, once again relying on comparison to prior expenditures, has not demonstrated that the District can meet its obligation to provide T&E with a level of expenditure less than proposed. Accordingly,

the Commissioner determines to restore the Council's reductions of \$2,500, \$300 and \$600 to the respective accounts listed above.

Disputed Line-Item Number 14

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
06360	Multiple	Tuition	\$850,692	\$89,742

The Council notes that the budget for tuition is up substantially from \$672,397 to \$850,692, and it assumes that even 1996-1997 spending will not be up to the level of that year's budget. It advances that the budget is up for 1998 to a level 65.7 percent higher than the spending of the last full year of audited data in 1996, which the Council attributes to the Board's extreme conservatism in estimating the number of pupils that may require sending to another district. While recognizing the need for the Board to be somewhat conservative in this account, since a placement into the District after the budget is prepared can cause an unexpected appropriation, the Council contends that it must be recognized that it is also just as likely that a student currently in the District will move out, thus creating a budgetary savings. The Council observes that the Board's budget submission documentation shows \$89,742 in assumed placements with no corresponding school, leading it to believe that this is for anticipated, but as yet unknown, placements. Council avers that it provided for a 3 percent balance in its analysis, which represents an even larger amount considering the conservative manner in which the analysis was performed. As a result, Council contends, any unanticipated placements can be covered by surplus without the need for line-item appropriations for these possibilities.

The Board asserts that there are two major considerations concerning tuition that the Council either ignores or categorizes as "conservatism," these being the dramatic increase in Bergen County Special Services tuition and the unpredictability of special services placements. It proffers that the Bergen County Special Services School District has increased its tuition for 1997-98 significantly due to the loss of State aid. It asserts that this increase has more than compensated for any increase in State aid to the District. Further, it asserts, the number of special services placements is impossible to predict. Budget figures are based upon enrollments at the time of advertising (March 1, 1997), while the actual outside placements in September 1997, could be significantly higher based upon new registrants, new classifications and requests from

parents of preschool handicapped children upon their third birthday. The Board proffers that in past years additions to outside placements have been handled through its surplus account, with no additional funds ever being provided for in the budget. It asserts that the increased cost of tuition and the small surplus no longer make this possible.

Council maintains that the budget should be prepared with all students known at the time of preparation and should not include provisions for potential placements. These, it argues, should be funded by surplus only if there are no savings from budgeted placements that become unneeded after budget adoption.

Upon review, the Commissioner finds the record to support the Board's contentions regarding increased Special Services District tuition and the Board's inability to continue its past practice of funding unanticipated placements from excess surplus. Given the Board's current surplus situation (see below), it is unreasonable for Council to contend that no provision should be made within applicable line-item appropriations for the possibility of unanticipated placements. Council having, thus, not demonstrated how the Board can provide T&E in the wake of its proposed reduction, the Commissioner determines to restore the reduction of \$89,742 to the Board's tuition accounts.

Disputed Line-Item Number 15

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
06560	11-000-218-800	Support Svcs. - Reg. Students		\$3,600
\$3,600		Other Objects		

The Council avers that the Board again creates a new account with no past spending and no other accounts with obvious decreases to justify it. The budget for supplies and materials is appropriate based on past spending, and the provision for \$3,600 would appear to be unnecessary.

The Board argues that this account represents its payment for advanced placement tests taken by its students. It asserts that the Board paid this expense prior to the 1995-96 school year, and then terminated the process for budgetary reasons. The Board claims that a decision was made this year to pay these charges for 1996-97 and to continue payment in 1997-98 for

what it believes is a very sound reason. It contends that many of its students cannot afford the cost of taking the AP exam, as the District is a low socioeconomic community as evidenced by its DFG rating of B. The Board argues that a lack of finances shouldn't prevent its students from the possibility of acquiring college credit in high school. The Board states that it firmly believes that the pinnacle of its educational program is its advanced placement curriculum and, as such, its students must be given the opportunity to take the AP exams and acquire college credit as in any other high school. It notes that when the Board dropped this item in the past, the number of students taking the exam decreased significantly.

The Council asserts that the Board here notes that they dropped spending in this area for budgetary reasons in the past, and the Council encourages it to do the same in the future. It avers if the Board could provide a thorough and efficient system of education without this appropriation in the past, it can do so again.

Upon review, the Commissioner notes that the Board offers advanced placement courses as an integral part of its curricular program and spends well within levels of efficiency for supplies as established pursuant to CEIFA. Therefore, the Council's argument that the proposed expenditure has been omitted in the past and can be omitted again is not sufficient to meet its burden of demonstrating that this reduction will not impair District stability or provision of T&E. Accordingly, the Commissioner restores the \$3,600 reduction.

Disputed Line-Item Number 16

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
06750	11-000-221-102	Salaries/Supervisors of Instruction		\$124,047
			\$40,000	

The Council maintains that the Board should be striving to eliminate non-classroom overhead accounts such as department heads, curriculum coordinators, etc. It posits that the Board is expected to spend approximately \$81,000 this year in this account and wishes to spend \$124,047 next year, a 53 percent increase. The Council believes that all new positions should be in the classroom and not in administration and it, therefore, recommends a complete freeze on all such positions.

In defense of this line item the Board argues that the District hired a new school business administrator in October 1996, and increases in some areas of the budget are due to the change in the manner in which money is appropriated to certain accounts. It maintains that expenditures in this account are clearly explained with respect to each supervisor. The Board advances that its supervisors teach four classes and supervise those remaining, with each of them receiving \$9,250 for the portion of his day dedicated to supervision plus a \$2,150 stipend per department. Further, it asserts that the teaching load is heavier and the stipend is less than that of supervisors in other districts.

In reply, the Council alleges that the Board points to a need for additional spending in this account due to reclassifications but does not offer any corresponding areas with verified reductions because of the transfers. It asserts that, although the Board indicates the components of this account, including supervisors and the amount of teaching they do, this does absolutely nothing to justify the need for an increase of almost 65 percent over two years.

The Board asserts that the Council should be able to cull out the change in the manner of prorating and appropriating the salaries of the department supervisors, as their salaries are specifically listed in the account description packet. It proffers that any reduction here would result in the elimination of supervisory positions, which are crucial in a District already without a vice-principal or curriculum coordinator.

Upon review, the Commissioner is satisfied that the Board's account description papers support its contention regarding reclassification, and the Commissioner, moreover, notes that the Board spends well within administrative efficiency standards established pursuant to CEIFA. Accordingly, the Council having failed to demonstrate that its reduction would not cause an unsupportable loss of staff, the Commissioner determines to restore the reduction of \$40,000.

Disputed Line-Item Number 17

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
06940	11-000-230-340	Purchased Tech. Svcs./Gen. Admin.	\$23,000	\$7,000

The Council observes that the Board wishes to spend 1-1/2 times as much in this account (\$23,000) as in the 1997 budget (\$14,774). It asserts that administrative costs should be

decreasing rather than increasing and, with this in mind, it wishes to provide for normal overhead without allowing for new initiatives or costs. The Council advances that the average for the three prior full years in spending has been \$11,500 and it believes that a budget will provide for any cost increases in these expenditures over normal patterns.

The Board contends that two of its buildings were erected prior to 1920 and, as such, the District is planning to address several facility issues which include: 1) conversion of an empty industrial arts facility into a classroom, office/conference area; 2) replacement of the classroom floors in all nine of the rooms in the Jefferson Elementary School; 3) replacement of the high school boilers and heating system; 4) replacement of a roof at the high school; 5) replacement of the windows in the Gavlak Elementary School; 6) ADA work; 7) an all-purpose room at the Jefferson Elementary School (the 210 students currently attending this school take gym in a basement hallway); and 8) modular structures to provide four classrooms at the Jefferson Elementary School. The Board argues that although funds are not provided for these projects in the 1997-98 budget, planning for all of them has begun, and \$20,000 of the \$23,000 is dedicated to the necessary architects' fees. The Board observes that even the amount budgeted will most likely be insufficient.

In response, the Council contends that the Board's justification for this line item is a mere "wish list" of projects, of which many are desirable but only those necessary should be funded. It further notes that funding has not been provided for the actual work for any of these projects. The Council contends that it left more funding in this account than has ever been spent by the Board, which should be enough to cover those projects that are deemed most important and most sensitive to the safety of the students.

Upon review, the Commissioner finds that the Council has not shown how the Board can provide for T&E and maintain stability in the wake of clear facility maintenance needs without the planning and exploration needed to implement these projects in future budgets. As the Board spends well within efficiency standards for administrative services established pursuant to CEIFA, the Commissioner restores the Council's reduction of \$7,000.

Disputed Line-Item Number 18

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
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06950 11-000-230-530 Communications/Telephone \$30,500 \$2,000

The Council observes that the Board has been remarkably consistent in its phone expenditures, going from \$19,964 in 1994 to \$20,487 in 1995 to \$22,060 in 1996 to probably near \$25,000 in 1997 and, therefore, a jump to \$30,500 would appear to be unnecessary. It asserts that although there are increasing demands for telephones due to on-line educational services, there are State programs that fund many of the hookup charges for these areas. Council believes that a normal increase should be provided here but finds \$5,000 to be excessive.

The Board posits that the Council's reduction fails to consider the fact that the District is increasing its Internet access in each of two buildings and implementing it in the third for 1997-98. Further, it argues that its District Technology Plan also calls for the creation of a WAN via phone lines, and the projection here includes the cost for all necessary modems. Additionally, FAX machines are being provided to the high school and one of the elementary school offices for the first time. Finally, it asserts, telephones will most likely be placed in the projected modular structures.

In response, the Council points out that its analysis here provided for a healthy increase over normal spending to cover the technological areas noted by the Board. Further, it argues, there is \$12,000 provided by the Distance Network Learning Grant for technology and networking and another \$11,333 for media supplies and equipment. As such, the Council maintains that its modest reduction in this area can be sustained considering all of the grant funding available, a point not mentioned by the Board.

The Board asserts that the funding in this area will be allocated to developing its media centers, Internet access and reinstating a library/media center in Jefferson School, which has been without such a facility since 1994 when it was needed for a classroom.

Upon review, the Commissioner notes that the Board spends well within efficiency standards established pursuant to CEIFA in this area, and that the Council has not demonstrated how the Board can meet its ongoing needs while still providing the increased services necessary to support the Board's proposed use of dedicated grant funds. Accordingly, the Commissioner determines to restore the reduction of \$2,000.

Disputed Line-Item Number 19

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
06970	11-000-230-600	Support Services/General Admin.	\$7,000	\$1,000

The Council asserts that, again, a budget for overhead rises with no substantiation in past spending. The budget for this account at \$7,000 is excessive by \$1,000 and the Council recommends this reduction based on past spending which has never exceeded \$6,000.

The Board maintains that this account provides for supplies and materials for the superintendent and board secretary's offices. It avers that the increase is due to the expanded computer program in the board secretary's office. It states that it is also planning on several additional mailings and other public relations activities as the District pursues funding for the projects discussed above.

The Council purports that perhaps nowhere is the Board's insistence on no budget reductions more obvious than the area of general administration. It posits that from spending of approximately \$5,000 per year for the last two years, the Council provided the Board a budget of \$6,000 for 1998 and this is not enough. Council questions how the Board's desire to have more mailings and other public relations activities affects the education of the students in the District. It maintains that the Board is unreasonable to be increasing overhead accounts in light of continued budget defeats in the District.

In response, the Board avers that an enlightened public is a necessary ingredient of today's educational programs and it has increased mailings accordingly. Further, it does not believe that a \$4,000 appropriation for the superintendent's office is excessive given that this increase is largely due to technological items which will help expedite the workload, which is handled by only the superintendent and one secretary.

Upon review, the Commissioner notes that the Board spends well within applicable efficiency levels as established pursuant to CEIFA, and that the Council's sole basis for reduction is comparison to prior-year spending patterns rather than determination of current need. Accordingly, the Council has not met its burden and the Commissioner restores the reduction of \$1,000.

Disputed Line-Item Number 20

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
06990	11-000-230-890	Gen. Admin./Misc. Expenditures	\$15,600	\$2,000

The Council asserts that a \$15,600 budget cannot be substantiated by past spending of far less than \$10,000 annually. New expenditures in this account have occurred but not at a level warranting such an increase.

The Board observes that the balance in this account as of the advertised budget is misleading, as it does not reflect the costs of the election for 1997 which were approximately \$5,000. It avers that when such cost for 1997-98 is projected at the same level, a minimal amount of monies would remain available for bidding, teaching assignments, flowers for appropriate activities (retirements, teacher recognition grant, funerals, etc.) The Board argues that this particular line item already shows a 25.7 percent decrease from 1995-96 despite including the costs of the annual election.

The Council observes that the Board justifies this line item with flowers for teachers and it asserts that such spending is certainly not necessary for a thorough and efficient system of education within the District.

Upon review, the Commissioner notes that while the Board spends well within established efficiency standards in the area of supplies, the items it proposes to fund over and above election costs should be sufficiently provided for with the appropriation recommended by Council. Accordingly, the Council has met its burden and the Commissioner determines to sustain the reduction of \$2,000.

Disputed Line-Item Numbers 21, 22

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
07060	11-000-240-500	Support Services/Sch Admn. - Other Purchased Services	\$8,865	\$3,000
07070	11-000-240-600	Support Services/Sch. Admn. - Supplies and Materials	\$30,325	\$4,000

The Council notes Wallington's favorable ranking in spending in certain accounts but still believes that its appropriations for 1998 are excessive based on spending that has proven adequate in the past. A total overhead budget across all accounts shows \$39,190 compared to

\$29,304 in spending just two years ago and \$31,600 in spending this year, assuming the unlikely event that the entire budget is expended. Such increases cannot be justified and the Council insists on level overhead spending and increased classroom spending. Accordingly, the Council recommends a reduction of \$3,000 in Purchased Services and \$4,000 in Supplies and Materials.

The Board asserts that the \$8,865 appropriated in the first account represents costs for dues, travel, workshops, contractual issues such as medical physicals and tuition reimbursement, Middle States Association dues, NJSIAA and athletic dues, student awareness and convention expenses which, it contends, are required to provide a thorough and efficient education and stability in its staffing.

The Council asserts that the Board, while providing a listing of the components of this account, fails to explain the need for a \$8,865 budget when only \$5,300 was budgeted for 1996-97 year and only \$3,892 actually spent in 1996.

With regard to Supplies, the Board, while recognizing that there is a \$4,025 increase in this line item, rejects Council's assertion that it cannot be justified. The Board proffers that a review of the account description reflects the cost of office supplies, copier supplies, postage, printing, scoring of standardized tests (*i.e.*, CAT, Metropolitan Readiness Test), intensive care for the high school report card/attendance/permanent record data base, and discipline forms. It avers that such monies are required to provide a thorough and efficient education as well as stability.

The Council asserts that the Board has provided nothing more than a listing of the components of this account, completely failing to put forth any justification for the increase here.

Upon review, the Commissioner finds that the Council has again relied solely on prior-year spending patterns without any analysis of actual need. As the Board is spending well within established efficiency levels for items for which the Council does not contest the necessity, the Commissioner determines to restore the reductions of \$3,000 and \$4,000.

Disputed Line-Item Number 23

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
07100	11-000-260-100	Operation & Maintenance	\$343,943	
\$30,000				

of Plant Svcs. - Salaries

The Council states that for the last several years the spending in this account has increased by roughly the amount of the annual negotiated increases. Yet, for 1998 the budget is up 14 percent over the 1997 budget which will likely prove excessive by several thousand dollars. Much of the increase is due to overtime. The Council notes its own efforts to control overhead expenses relative to buildings and grounds and would like the Board to operate under the same constraints. A 15 percent increase in salaries when there are no new positions is simply unacceptable and not necessary in a district in order to maintain the provision of a thorough and efficient system of education. Accordingly, the Council recommends a reduction of \$30,000 from this account which will leave ample amounts for salary increases.

The Board avers that the 1996-97 appropriation for this account is misleading since it does not include the full salary of the supervisor of buildings and grounds. It contends that this position remained open from July 1, 1996 through March 1, 1997 while applicants were reviewed. The 1997-98 budget contains the full appropriation of the \$33,637 salary. Additionally, the Board argues that overtime has been increasing each year due to extended custodial absences due to illness and the increased use of its facilities by community recreation programs. It observes that the Board assumes all the overtime costs for Borough recreation activities held on its field and in its gyms on the weekends.

In reply, the Council asserts that the Board assumed that the Council's analysis failed to account for the temporary vacancy in this account, but that is not the case. It contends that a projection was made through the end of 1997 based on the recent spending which included this position. Further, the Board also notes extra overtime spending due to illness but if this were excessive then the employees out on sick leave would likely receive disability and not have their total salaries charged to the budget, short term illnesses would not have a material effect on any budget. The Council observes that this account had a balance of \$1,000 against a budget of \$301,389 as of May 31, 1997, and queries why then is a budget increase to \$343,943 necessary if there are no new positions in this account. It states that overtime spending can simply not be that excessive and, if it is, it should be eliminated immediately. Council avers that there is absolutely no justification for a 14 percent increase in this account even considering the temporary absence.

Therefore, the Council wishes to restore \$15,000 to this line item and still recommends the reduction of the remaining \$15,000.

Upon review, the Commissioner finds that the Council has borne its burden of demonstrating that the Board evinces no documented need for the full amount of this line item, so as not to be able to absorb a lesser reduction of \$15,000. Accordingly, the Commissioner determines to sustain \$15,000 of the Council's original \$30,000 reduction and restore the remaining \$15,000.

Disputed Line-Item Number 24

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
07350	11-000-270-XXX	Contracted Transp. Services		\$291,230
			\$20,000	

The Council contends that, although there are supportable reasons for the increases in this account, the percentages anticipated by the Board appear excessive. From actual spending for the last three full years that has remained remarkably consistent (\$211,327 in 1994, \$232,709 in 1995 and \$224,173 in 1996), the Board wishes to hike the budget to \$291,230. Certainly new athletic programs will cause more busing and certainly new special education placements will do the same. Overall school enrollment increases will not necessarily cause the budget to rise, but certainly additional routes can be anticipated. However, the Board is being entirely too conservative in its estimates and the Council believes that all new programs, placements and routes can be achieved with a budget that is 20 percent higher than the last full year of spending. The Council maintains that the Board did not justify its budget need here other than to state the components of this account, which has been overbudgeted in the past.

The Board posits that this account represents all transportation between schools, staff transportation, athletics, vocational schools and special services. It states that although the internal traveling needs are relatively easy to project, special services routes are not. Further, it avers that the appropriation here does not provide transportation costs for new registrants. The Board asserts that it did justify the need for this appropriation, as contracted routes are specifically listed in the account description.

Upon review, the Commissioner finds that the Council has based its reduction solely on what it believes to be a reasonable percentage increase over prior year expenditures rather than on an analysis of the District's actual needs, which are, in fact, detailed in the Board's supporting papers. Therefore, the Commissioner restores the reduction of \$20,000 to this account.

Disputed Line-Item Number 25

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
See Below		Social Security Contributions	See Below	\$2,000

The Council avers that it performed an analysis of spending in this account and believes the Board's budget to be excessive by \$2,000 based on current spending, a stable FICA rate, and a small increase in the maximum base with an accounting for Districtwide raises.

The Board purports that social security contributions are distributed through several accounts, *i.e.*, instruction/regular programs, instruction/special programs, instruction/vocational programs, instruction/other programs, attendance and social work services, health services, support services/regular, support services/special, improvement of instruction services, instructional staff training services, school administration and operation of plant services, and it is not clear which area is recommended for the \$2,000 reduction. The Board urges that it would not be prudent to base its projection on current spending, considering that the District will have several new employees in 1997-98, some of which are additions to the budgeted 1996-97 staff. Also, it contends that this account was fully expended in 1996-97.

In reply, the Council states that the reason it is not clear which area within Social Security is recommended for reduction is because there was never any schedule provided by the Board to indicate exactly which positions were covered by Social Security and how much each would be allocated. It observes that the Board notes "several new employees" in 1998 but the full-time positions are those not covered by Social Security. Further, it states that the fact that this account was fully expended in 1997 is of no consequence if the budget is up more than a reasonable amount over the prior-year figure.

Upon review, the Commissioner finds that Council offers no basis for its reduction, other than an unsupported assertion that the Board's appropriation is excessive by \$2,000. The Council having failed to meet its burden and the Commissioner noting that Board expenditures for staffing are well within levels of efficiency established pursuant to CEIFA, the Commissioner determines to restore the reduction of \$2,000.

Disputed Line-Item Number 26

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	
<u>Amount Cut</u>				
Multiple	Multiple	Business/Other Support Svcs.	17,300 Total	\$9,000 Total
07430	11-000-290-330	Purchased Professional Svcs.	\$4,000	\$3,000
07440	11-000-290-340	Purchased Technical Svcs.	4,000	4,000
07450	11-000-290-500	Other Purchased Services	3,330	-0-
07460	11-000-290-600	Supplies & Materials	6,000	2,000

The Council observes that the Board spent \$4,650 in 1994, \$6,624 in 1995, and \$7,725 in 1996 for these accounts and has expended only \$1,874 through nine months of 1997, yet the budget for 1998 escalates to \$17,300. There should be no new overhead programs or spending unless it is absolutely essential to the maintenance of a thorough and efficient system of education in the school District and these expenditures are all classified as instructional and not support. The Council recommends that the following reductions be made in these accounts: \$3,000 from Purchased Professional Services, \$4,000 from Purchased Technical Services and \$2,000 from Supplies and Materials.

The Board asserts that it is in a state of transition due to a change in Board secretaries. It contends that the monies appropriated for these three areas is already insufficient given that the Board is involved in upgrading hardware and software, providing training for the staff involved and networking all three schools with respect to administrative services.

In response, the Council states that the District's Distance Network Learning Grant provides for \$17,319 for elementary workstations and \$15,260 for high school workstations, as well as the aforementioned funding for networking. It contends that its reduction is reasonable considering all of the outside funding already provided.

The Board urges that although the Distance Network Learning Grant provides for some of the elementary and secondary school and central office technology needs, upgrading, training and other technological needs remain.

Upon review, the Commissioner notes that the Board spends well within efficiency standards established pursuant to CEIFA in this area, and that the Council has not demonstrated how the Board can meet its ongoing needs while still providing the increased services necessary to support the Board's proposed use of dedicated grant funds. Accordingly, the Commissioner determines to restore the Council's reduction of \$9,000.

Disputed Line-Item Number 27

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
07550	11-000-310-930	Transfer/Food Service Deficit	\$34,000	\$34,000

The Council, through its survey of other districts, has found many able to obtain no-cost guarantees from food services providers. The Board has not had to fund a deficit in any of the prior three full years and has not had to pay over any funds so far in 1997 despite a budget of \$28,155; yet, the budget for the deficit climbs to \$34,000 in 1998. The Council notes that the Board is moving in the wrong direction for these deficits and contrary to almost every other district surveyed. The Council believes that the Board can and should operate its food program at no cost to the taxpayers of the District and recommends the reduction of the full appropriation of \$34,000 from this account.

The Board posits that it is not possible to operate the National School Lunch Program at no cost to the taxpayer. It asserts that this is not a profit-making venture, there are no cafeterias or hot-lunch provisions, rather a cold lunch is provided through a contract with a neighboring school district. It urges that the actual cost of each lunch is greater than what the Board is permitted to charge. The Board observes that the \$34,000 appropriated in this account is broken down to: 1) Salaries for lunch program coordinator and aides, \$27,965; 2) Supplies & Materials, \$300; and 3) Transfers to Cover Deficit, \$5,735. It avers that as of May 7, 1997 this account shows no remaining balance. It also finds significant that in 1996-97, the State reduced the subsidy for lunches in May and June.

Upon review, the Commissioner finds that he cannot condone the running of a food service program that is anticipated to be in continual deficit. Accordingly, the Council's reduction of \$34,000 is sustained and the Board is directed to take such steps as are necessary to operate its food service program on a break-even basis.

Disputed Line-Item Number 28

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Increased</u>
121	10-303	Budgeted Fund Balance	\$-0-	\$30,000

The Council reviewed carefully the Board's Recapitulation of Fund Balance that was part of the budget document provided. Any increases to the amount of revenue realized from surplus would automatically mean a reduction in the tax rate without any effect whatsoever on the appropriations of the District. Therefore, the Council prepared its own recapitulation of the fund balance anticipated as of June 30, 1997 to determine if such additional funding was available.

First and foremost in this analysis is a determination of an acceptable level of surplus balance for the Board to maintain. In general, a factor of 3 percent of the succeeding year's budget has been determined to be a fair level of surplus to maintain. The Board estimates its surplus balance as of June 30, 1997 at \$167,017, which is slightly under 2 percent of the 1997-98 appropriation level. The Board made no estimate of surplus being generated during 1996-97 and utilized no surplus to balance the 1997-98 budget and provide an offset to the school tax levy. The Board estimate is merely the audited balance of \$235,517 from June 30, 1996, adjusted for \$68,500 utilized as a revenue in the 1996-97 budget.

The Council believes that the assumption that nothing will be credited to surplus in the 1997 budget year is unreasonable based on an analysis of the current year budget and a review of past Board financial results. The Board is already over its budget for interest income by \$11,710 with two months yet to go and is just near the budget for miscellaneous revenues of \$10,000 with \$9,622 after 10 months with some predictable sources certain to bring the total over the budget, though not by much. Tuition is also just \$430 short of the \$4,000 budget and likely to go over by the year's end. As a result, at a minimum, the Council expects the Board to be

\$14,500 over the budget for miscellaneous revenues, thereby rendering the zero estimate for surplus regeneration as inadequate without even beginning an analysis of appropriations.

The Council's analysis of appropriations would indicate that significant balances will lapse to surplus absent any unforeseen emergencies. All salaries have been provided for in the budget except for certain hourly workers and substitutes. Supplies and texts across all budget categories have likely all been paid for since very little needs to be bought in May and June which would be any benefit at all to the 1997 school year. Certain expenses such as graduation and spring sports are yet to be paid but are not material to the overall budget. Tuition, energy and employee benefits, though not always encumbered in the financial statements, still were estimated by the Council to determine the proper amount that may lapse to surplus from unspent budgetary appropriations.

As a result of the Council analysis, it is estimated that \$120,000 will lapse to surplus at the conclusion of the 1997 school year. Primarily these lapses should come from tuition, improvement of instruction, operation of plant and student transportation. All estimates were prepared conservatively and through careful analysis of monthly bills paid versus months left in the year. The Council's estimate of lapsing appropriations is not without historical consistency. In 1996, the last full year audited of the Board's budget, the lapsed appropriations were \$141,537 and in 1995 they were \$330,599 and in 1994 they were \$145,268. If a budget annually increases over a prior budget that has proven to be excessive, it is only natural that the next budget would also prove excessive absent major staff increases or major new initiatives or programs, neither of which has appeared in the Board's budget.

It should be noted that although the Council does project a large balance lapsing to surplus, the Board itself controls the actual amount that will lapse. This is because the Board controls all spending through the end of the year and also controls any major projects that may be funded with an appropriation from surplus before June 30. The Council's estimates assume that the Board will not enter into any advance purchases of items that will, in effect, benefit the 1998 budget year and not the 1997 year, including supplies, textbooks and other items. The Council also assumes that no appropriation will be made for any capital projects which should be reasonable considering that no major capital construction or acquisition projects were included in the 1998 school budget.

The Council also notes that any encumbrances that exist on the books as of June 30, 1997 are mostly for items which have not been delivered and, therefore, have absolutely no benefit to the 1997 budget year, though they are essentially charged there. For the most part, encumbrances really are items for next year charged to this year and, therefore, in almost all cases, the budgets for the future year can be automatically decreased by the amount of open encumbrances if they, in fact, represent purchases that were actually consummated by the District. When utilized for items such as supplies, routine textbooks and similar expenses, encumbrances really become hidden surplus that is designated for use for normal operating expenditures that perhaps should be charged to the succeeding year's budget when the items are utilized. This discussion of encumbrances is significant due to the large balances that existed as of June 30, 1996 (\$106,761) and may possibly exist as of June 30, 1997. These encumbrances were evident in a variety of accounts in the budget. This meant that the first \$106,761 spent by the Board in fiscal 1997 in these accounts actually was charged to the 1996 budget.

The Board argues that its fund balance as of May 31, 1997 was \$167,462, which has been reduced by \$30,000 with the Council's recommended reduction, bringing the Board well under 2 percent. It realizes that there will be some unexpended funds as of June 30, 1997 which will be credited to surplus and it is counting on this to bring surplus to an acceptable level of between 2.5 percent and 3 percent. The Board contends that the Council's assessment is inaccurate, as relying on projected interest is unreliable, tuition costs were underestimated, and miscellaneous revenues will not likely be significant. The Board asserts that the assumption that supplies and texts across all budget categories have likely been paid for is incorrect. The Board has held off on the purchase of many instructional supplies and materials until it had sufficient time to assess its curriculum needs concerning the new Core Curriculum Standards issued by the Department. Also, it asserts that like many other districts, it has delayed ordering materials related to preparation for the new Grade 4 ESPA, administered May 19 - 23. The Board plans to purchase these items now with the funds that have been provided, not as a part of next year's budget. Additionally, although the Council states it estimated tuition, energy and employee benefits, the Board questions its conclusions. It proffers that Council's estimate that \$120,000 will "lapse to surplus" is inaccurate; the Board's estimate is \$60,000. The Board also disputes the statement that there haven't been any major staff increases, initiatives or programs. It states that

the staff has increased by one full-time teacher in 1996-97, by two in 1995-96, and by two in 1994-95. Moreover, it contends that as its enrollment increased from 1,026 in October 1996, to a projected 1,291 in September 1997 (25.8 percent), it will have added five full-time teachers, five part-time teachers, a student assistance counselor and at least three instructional aides over this period of time. The Board contends that this is the primary cause for the increase in its salary account. Further, the Board states that it has undertaken new initiatives which include computerizing its school business administrator's office and adding technology in its schools. Although the amount spent in technology for 1996-97 (\$29,000) may not seem significant, it was when compared to the previous year's budget of zero dollars. The Board contends that the manner in which it encumbers its fund for purchases and/or services for the last two months of the school year should be of no concern to the Council. It proffers that several projects and expenditures were held until this time due to the previously mentioned assessment process, the time of the year and availability. Also, the Board contends that the Council's statement that encumbrances on the books as of June 30, 1997 do not benefit the 1996-97 budget year is misleading and irrelevant. It asserts that it is not aware of any established relevancy timeline, and does not interpret such encumbrances as "hidden surplus."

Upon review, the Commissioner notes that the Board's audited actual surplus for 1996-97 was \$279,486, or \$10,141 above the generally acceptable level of 3 percent. Accordingly, the Commissioner determines to restore \$19,859 of the Council's increase to budgeted fund balance, but to sustain the remaining \$10,141.

Disputed Line-Item Number 29

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Increased</u>
00253	10-1XXX	Miscellaneous Revenues	\$29,500	\$10,000

The Council contends that the Board has achieved significantly more in interest income than was budgeted, but the budget for 1997-98 drops substantially. The largest portion of the Board revenues comes from the tax levy as billed and collected by the Borough and then paid to the Board on a regular monthly basis. Therefore, the interest earnings by the Board are not subject to major cash flow fluctuations, as they are in the municipal government, so the earnings should be fairly stable and predictable. The only variable in this calculation is the actual interest

rate. Council states that from an actual 1997 figure that should be in excess of \$30,000, the Board should be budgeting more than \$16,000 in 1998 for interest income. As such, Council believes that the Miscellaneous Revenue category can be increased by \$10,000 to \$39,500. This increase will provide a direct benefit to taxpayers with no effect whatsoever on the educational system in the District. Even though the Council recognizes the significant increase in surplus utilization in the budget, the Board will not begin to notice this until the fall because most employees are paid over 10 months, so that the cash outflows in July and August will be minimal while the Borough will still be forwarding the monthly tax checks so that interest income may drop somewhat but not by enough that the \$26,000 budget will prove to be excessive.

In response, the Board disputes the claim of the Council that the tax levy revenue is paid to the Board on a “regular monthly basis.” It avers that payment to the Board has been highly irregular, many times on a weekly basis, which makes the calculation of interest very difficult. The Board rejects the recommendation that this area of the budget be increased by \$10,000 and suggests that if the Council were to pay the Board via the tax levy on a quarterly schedule, such an action would deserve consideration.

Upon review, the Commissioner finds that the Council has met its burden of demonstrating that additional interest income could be anticipated under the circumstances it describes. Accordingly, the Commissioner determines to sustain the Council’s \$10,000 increase to revenue, but concomitantly notes that such decision is predicated on the forwarding of tax levy by the Borough to the Board on a monthly basis as stated.

Disputed Line-Item Number 30

<u>Description</u>	<u>Amount Appropriated as Revenue Increase</u>
Unemployment Trust Fund Revenue	\$50,000

Council states that the Board has a self-funded unemployment trust fund which generates revenue in three ways: from employer contributions, from employee withholdings and from interest income. It states that the District has a fund that has a balance at June 30, 1996 of \$353,503 with annual earnings which more than paid for claims in 1996 that amounted to \$9,304. The Board is permitted by State regulations to recapture past contributions if they are still in the

fund and are not necessary for future claims. It asserts that in a district this size, layoffs are not material and no layoffs are planned in the 1997-98 budget, therefore, this account is a potential source of revenue which may be utilized in the budget.

The Board asserts that it has been advised that, according to the New Jersey Department of Labor, this action is not appropriate due to required timelines.

In response, the Council contends that it investigated this matter and was advised that such an action to access these reserve balances for a revenue source is entirely possible and only has to be completed prior to June 30, 1998 in order to have a favorable impact on the 1998 budget. Council warrants that there is over \$350,000 sitting in this fund which is not ever likely to be utilized by the Board, noting that payments from this account have been minimal and can actually be made through the income of the fund on an annual basis.

Upon review, the Commissioner finds that the Council has not met its burden of demonstrating that the Board can effectuate this increase in revenue without impairing the District's stability or its ability to provide T&E, in that the Council provides no substantiation in the record as to factual basis for its claims. Accordingly, the Commissioner restores the \$50,000 increase in revenue.

APPLICATION OF ADDITIONAL APPROPRIATION

The Board states, in a letter responding to notice from the Assistant Commissioner that an additional State appropriation of \$50,000 would be considered within the context of this appeal, that the additional aid was requested, and is to be used, for a program having no direct relationship to the District's instructional program. Specifically, in an effort to further assist the District's non-English speaking students, the Board has arranged for an after-school/summer/Saturday language immersion program operated by Berlitz, International. The Board opines that this appropriation should have no bearing on the within appeal, and the Council submits no comment on the matter.

Upon review, the Commissioner finds that, in view of the circumstances and purpose of the appropriation at issue, it should not be reallocated to offset restorations directed herein. However, any portion of the appropriation *not* used for the designated purpose shall

specifically be reserved as excess surplus to be appropriated in the 1998-99 budget for purposes of tax relief.

APPLICATION OF SURPLUS

As set forth at line item No. 28 above, the Commissioner finds no surplus over and above the \$10,141 already allocated to offset restorations to appropriations directed herein.

SUMMARY

In summary, the Commissioner directs restoration or sustaining of the Council's line-item reductions to appropriations and increases to revenue as set forth below.

<u>Line Item</u>	<u>Description</u>	<u>Sustained</u>	<u>Restored</u>
2710	Teaching Salaries	\$ -0-	\$ 65,000
2640	Other Salaries/Instruction	-0-	30,000
2680	General Supplies	-0-	10,000
2690	Textbooks	-0-	20,000
3920	Resource Room Textbooks	-0-	500
4860	General Supplies/Basic Skills	-0-	1,600
5040	General Supplies/Vocational	-0-	500
6090	Athletic Salaries	12,000	-0-
6110	Athletic Supplies/Materials	2,000	-0-
6120	Athletics - Other Objects	2,000	-0-
6150	Improvement of Instruction - Salaries	-0-	2,500
6160	Improvement of Instruction - Purch. Serv.	-0-	300
6170	Improvement of Instruction - Supplies	-0-	600
6360	Tuition	-0-	89,742
6560	Support Services - Reg. Students	-0-	3,600
6750	Salaries/Supervisors of Instruction	-0-	40,000
6940	Purchased Technical Services	-0-	7,000
6950	Communications/Telephone	-0-	2,000
6970	Support Services/General Administration	-0-	1,000
6990	Gen. Administration/Misc. Expenditures	2,000	-0-
7060	Support Services/Sch. Admn. - Purchased Serv.	-0-	3,000
7070	Support Services/Sch. Admn. - Supplies/Mat.	-0-	4,000
7100	Operation & Maintenance - Salaries	15,000	15,000*
7350	Contracted Transportation Services	-0-	20,000
--	Social Security Contributions	-0-	2,000
7430	Purchased Professional Services	-0-	3,000
7440	Purchased Technical Services	-0-	4,000
7460	Supplies and Materials	\$ -0-	\$ 2,000

7550	Transfer/Food Service Deficit	34,000	-0-
121	Budgeted Fund Balance	10,141	19,859
253	Miscellaneous Revenues	10,000	-0-
--	Unemployment Trust Fund Revenue	-0-	50,000
6440	Health Purchased Services	-0-	3,000**
7150	Operation & Maintenance - Insurance	-0-	5,000**
7160	Operation & Maintenance - Misc. Purch. Serv.	<u>-0-</u>	<u>1,000**</u>
Total Line-Item Determinations:		\$ 87,141	\$ 406,201

*Undisputed by Council, See Line Item 23 above

**Undisputed by Council, See Note 1 above

General Fund Tax Levy Certified by Governing Body:	\$7,724,317
Restoration of Reductions:	406,201
Amount of Restoration Funded by Surplus:	(0)
Amount of Restoration Funded by Additional Appropriation:	(0)
Total General Fund Tax Levy for 1997-98:	\$8,130,518

Accordingly, the Bergen County Board of Taxation is directed to make the necessary adjustments, as set forth above, to reflect a total of \$8,130,518 to be raised in tax levy for General Fund purposes of the Wallington Board of Education for the 1997-98 school year. Additionally, the Board is reminded that it has been permitted to exclude its additional State appropriation from consideration herein under the express condition that any portion of such appropriation not used for the designated purpose, as set forth above, shall be reserved as excess surplus to be appropriated in the 1998-99 budget as tax relief.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE :
BOROUGH OF WALLINGTON :

PETITIONER,
EDUCATION
V. :

COMMISSIONER OF

DECISION

MAYOR AND COUNCIL OF THE :
BOROUGH OF WALLINGTON, :
BERGEN COUNTY, :

RESPONDENT. :
_____ :

SYNOPSIS

Board appealed General Fund tax levy reductions totaling \$493,342 made by governing body following voter rejection of proposed budget on April 15, 1997.

Upon review to determine whether governing body had demonstrated that such reductions, which resulted in a budget below the minimum T&E amount established pursuant to the Comprehensive Educational Improvement and Financing Act of 1996 (CEIFA), would not negatively impact upon the ability of the District to provide T&E or on the stability of the District, Commissioner determined to restore \$406,201 for a total General Fund Tax Levy of \$8,130,518 for 1997-98 school purposes.