

BOARD OF EDUCATION OF THE :
TOWNSHIP OF LAKEWOOD, OCEAN :
COUNTY, :

PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION

NEW JERSEY STATE DEPARTMENT :
OF EDUCATION, OFFICE OF :
COMPLIANCE, :

RESPONDENT. :

SYNOPSIS

Petitioning Board contested respondent's conclusion that it is required to repay \$153,238.60 as a result of a transportation department audit.

The ALJ determined that the Board improperly awarded a contract without competitive bidding to the Helfgott Group (the Helfgott contract) for a review of the District's transportation operations since the contract did not represent "extraordinary unspecifiable services" pursuant to *N.J.S.A. 18A:18A-5a(2)* so as to be exempt from the public bidding requirements of the Public Schools Contracts Law. The ALJ also determined that the Board improperly awarded a contract without competitive bidding to Dingman and James Auctioneers (the Dingman and James contract) to conduct two auctions to dispose of the District's fleet of buses since the services of an auctioneer do not fall within the "professional services" public bidding exception pursuant to *N.J.S.A. 18A:18A-5a(1)*. The ALJ concluded that, pursuant to *N.J.S.A. 18A:18A-46.1*, respondent cannot recover the State aid disbursed in connection with the Helfgott contract (\$7,075.50) because there is no evidence of bad faith or collusion on the part of the Board but that the expenditures derived from the Dingman and James contract are recoverable because *N.J.S.A. 18:18A-46.1* does not reach violations made under the professional services exception to the bidding guidelines. Thus, the ALJ determined that the amount of State aid that the Board must return to respondent is \$146,163.10.

The Commissioner affirmed the recommended decision of the ALJ for the reasons expressed therein and adopted the Initial Decision as the final decision in this matter.

March 8, 2000

OAL DKT. NO. EDU 4397-99
AGENCY DKT. NO. 5-1/99

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The record in this matter and the Initial Decision of the Office of Administrative Law have been reviewed. No exceptions were filed by the parties.

Upon his careful and independent review of the record, the Commissioner determines to affirm the recommended decision of the Administrative Law Judge (ALJ) for the reasons expressed therein.

Accordingly, the Initial Decision of the ALJ is adopted as the final decision in this matter.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: March 8, 2000

* This decision, as the Commissioner's final determination, 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.