

BOARD OF EDUCATION OF THE	:	
TOWN OF PHILLIPSBURG, WARREN	:	
COUNTY,	:	
	:	
PETITIONER,	:	COMMISSIONER OF EDUCATION
	:	
V.	:	
	:	DECISION
NEW JERSEY STATE DEPARTMENT OF	:	
EDUCATION,	:	
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

Petitioning “Abbott” Board of Education appealed the Department of Education’s determination with respect to funding for the district’s 2004-05 preschool program.

Of the nine issues in dispute, only two remained following settlement negotiations between the parties -- additional funding for special education teachers and additional funds for an extra half hour of preschool teachers’ salaries so that children will receive the full six hours of daily instructional time required by existing regulation. On these remaining issues, noting that the State is not mandated to exclusively fund preschool in the *Abbott* districts, the ALJ concluded the Department used the basic funding formula and petitioner was not entitled to more favorable treatment. Petitioner must utilize other potential funding and exhaust municipal revenues before applying for supplemental aid. As to the funding of the extra half hour of instructional time, the ALJ found that the Department is only responsible for assuring funding for a six-hour “educational component.” If petitioner wants to expand its preschool program beyond six hours, it must look elsewhere for funding.

The Commissioner adopted the ALJ’s decision as his own.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.
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April 21, 2004

OAL DKT. NO. EDU 1707-04
AGENCY DKT. NO. 53-2/04

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The Department filed “exceptions” to the Initial Decision, noting only that it sought to correct the record of exhibits listed on page 13 of the Initial Decision. Specifically, the Department clarifies that the exhibit identified as “R151-R191” is properly titled the “Three-Year Operational Plan Instructions and Forms, School Years 2003-2004 through 2005-2006.” Additionally, the exhibit identified as “R270-R282” is an approval letter dated January 6, 2003, rather than 2004.

Pursuant to *N.J.A.C.* 1:1-19.1(d), the Initial Decision is the final decision in this matter with respect to those issues resolved between the parties. (Initial Decision at 2) With respect to the two issues remaining in dispute, how costs for special education teachers serving preschool disabled children should be funded and whether the Board’s request for funds to pay for an additional one-half hour of teachers’ salaries was properly denied, the Commissioner is satisfied upon a full and independent review of this record, that the findings and conclusions of the Administrative Law Judge (ALJ) are amply supported and should not be disturbed.

Accordingly, for the reasons expressed therein, the Initial Decision is adopted, with the minor corrections noted in respondent's exceptions as quoted above, as the final decision in this matter.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: April 21, 2004

Date of Mailing: April 21, 2004

* Pursuant to *P.L. 2003, c.122*, "Abbott" determinations are final agency actions appealable directly to the Appellate Division of the New Jersey Superior Court. In accordance with the June 24, 2003 Order of the Supreme Court, such appeals must be filed within six days of the Commissioner's decision.