

BOARD OF EDUCATION OF THE	:	
CITY OF VINELAND,	:	
CUMBERLAND COUNTY,	:	COMMISSIONER OF EDUCATION
	:	
PETITIONER,	:	DECISION
	:	
V.	:	
	:	
NEW JERSEY STATE	:	
DEPARTMENT OF EDUCATION,	:	
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

Petitioning Abbott District Board of Education challenged the Department’s denial of funding for certain items in its revised 2005-2006 Preschool Operational Plan, which the Board asserts are necessary to provide a well-planned, high quality preschool program for Vineland’s children. Specifically, the Board challenged the Department’s denial regarding: 1) unconditional approval of the request for matching funds for its Families and Children Early Education Services (FACES) grant; and 2) the request for a food service worker’s salary and benefits.

On the first issue, the ALJ denied the Board’s claim, emphasizing that the Department did not deny Vineland’s request, but took the position that a commitment to fully match the FACES grant, which has not been officially funded, will not be made until the monies are actually needed, which may, if such approval occurs after final district budget approval, require the Board to review its preschool account to determine if additional funds are available or can be reallocated at the time that the grant award is approved. In so concluding, the ALJ cited the Department’s obligation to scrutinize closely the spending of state monies by local school districts. On the second issue, the ALJ ordered the Department to direct Vineland to include the food service worker’s salary and benefits in the preschool budget, concluding that, as a mandated preschool program expense, it is properly part of the preschool budget. The ALJ found that the Department’s directive to include food services costs for the preschool program in the K-12 district budget as part of the Fund 50 (“enterprise account”) line item would unnecessarily commingle expenditures, leading to accounting confusions and inaccurate reflections of the financial condition of each program. Furthermore, the ALJ found inconsistent the Department’s directive to transfer the disputed employee expense into a fund run at a deficit when the Department is concurrently requiring other employee expenses to be moved out of the fund.

The Commissioner concurred with the ALJ’s findings regarding issue #1 above, and adopted that portion of the Initial Decision. With respect to issue #2, however, the Commissioner set aside the Initial Decision, finding that the Department’s directive to place preschool food service worker expenses in Fund 50 was appropriate given the nature of the district’s food service operation and the purpose of the enterprise fund; he also found no basis on the record to conclude that the Department had ordered other food service employee expenses to be transferred out of Fund 50. The Petition of Appeal was dismissed in its entirety.

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.

OAL DKT. NO. EDU 660-05
AGENCY DKT. NO. 41-2/05

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Pursuant to *N.J.A.C. 1:1-18.4*, timely exceptions were filed by the respondent Department of Education (Department); neither exceptions nor replies to the Department’s exceptions were filed by the petitioning Board of Education (Board).

In its exceptions, the Department takes issue with the Initial Decision’s conclusion that salary and benefits for an in-district food service worker should be funded as an approved miscellaneous expenditure within the Board’s preschool budget, rather than accounted for within the district’s overall budget through the enterprise fund (“Fund 50”). According to the Department, although there is no specific statute or rule with respect to where food service worker salary and benefits must be placed within a school budget, Fund 50 is singularly appropriate because of its unique status as an isolated auxiliary fund for programs that generate their own revenues against which to charge associated expenditures. Moreover, because Fund 50 is a district-wide fund from

which the district's entire food service operation is run, it appropriately covers operations associated with all grades within the district, not only those for K-12. Countering the concerns of the Administrative Law Judge (ALJ) with respect to commingling of expenditures, the Department notes that the Board presently funds its preschool food service worker through Fund 50, and that there is no evidence of confusion in accounting or inaccurate reflection of preschool or K-12 fiscal condition occurring as a result. Finally, in response to the ALJ's finding that the Department is inconsistent in requiring transfer of some food service employee expenses into a fund that is running a deficit at the same time it is requiring other such expenses to be transferred out, the Department contends that while the Board has indeed been directed to submit a corrective action plan to decrease the deficit in Fund 50, there is no evidence, either documentary or in testimony of Board and Department witnesses, of any Department directive to effectuate the plan by transferring food service employee expenses to other accounts. (Department's Exceptions at 2-4)

Upon review, the Commissioner initially concurs with the ALJ, for the reasons clearly set forth in the Initial Decision, that the Department was correct in denying unconditional approval to the Board's request for matching funds for its FACES grant. The Commissioner, like the ALJ, fully endorses the Department's position that, if the grant application is acted upon subsequent to approval of the final district budget, funding should be provided only to the extent that matching costs cannot be met through additional revenue or reallocations identified within the approved budget.

With respect to the disputed food service worker expenditure, however, the Commissioner cannot agree that the Department erred in denying the proposed

expenditure and directing instead that it be placed in Fund 50 within the general budget. Rather, the Commissioner concurs with the Department that such allocation is appropriate for two reasons, both of which contrast with the situation facing private providers: 1) School district budgets include a differentiated auxiliary fund (Fund 50) expressly for those programs such as food services which generate both revenue and expenditures, with the expectation that, where a program contributes revenues, associated costs will also be handled through the fund, the goal being to reach eventual self-sufficiency; and 2) the Board's food service operations are district-wide, so that there is no practical or budgetary reason to segregate preschool food service costs from those for K-12. This view is not altered by the fact that the Board's Fund 50 is presently in deficit; that is a matter appropriately addressed, as is being done in this instance, through a corrective action plan to move the fund toward self-sufficiency within the context of the full district budget, not by allocating a cost that clearly belongs in the district-wide enterprise fund to the separate preschool budget.¹ Additionally, there is nothing on record to support the Board's suggested finding that, without approval of the disputed expenditure within the preschool budget, the Board will be unable to ensure that its preschool students receive adequate nutrition and education; the Department, as noted by the ALJ, is not arguing that the Board's preschool food service program requires no staffing, but rather that, because of the nature of the district's food service operation and

¹ There is nothing on record to support the ALJ's statement, at page 5 of the Initial Decision, that the Board's approved corrective action plan includes "the effort to move other food worker related expenses out of fund 50 to show less of a deficit;" certainly there is no evidence that the Department directed any such strategy.

existence of the enterprise fund, such staffing as it needs should be funded and assessed within the context of the district's general budget.²

Accordingly, the Initial Decision of the OAL is adopted for the reasons expressed therein with respect to the Department's denial of unconditional matching funds for the FACES grant, but, for the reasons expressed above, is set aside with respect to denial of funding within the preschool budget for food service worker salary and benefits. The Petition of Appeal is, therefore, dismissed in its entirety.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: April 15, 2005

Date of Mailing: April 15, 2005

² Board testimony indicates that the disputed request is for the same preschool food service worker who is currently funded through Fund 50, and that the Board seeks, as it has done repeatedly in the past, to transfer the cost of this employee from its general budget to the early childhood fund. (Hearing Transcript at 83)

³ Pursuant to P.L. 2004, c. 71, "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 (6) days of the Commissioner's decision.