

New Jersey Commissioner of Education**Decision**

Board of Education of the Clearview Regional School
District, Gloucester County,

Petitioners,

v.

New Jersey Department of Education and
Dr. Angelica Allen-McMillan, Acting Commissioner,

Respondents.

Synopsis

The Clearview Regional Board of Education challenged a March 2023 State Aid determination by the respondent, New Jersey Department of Education (Department), projecting that petitioner's aid for the 2023-2024 school year would be reduced by \$1,044,568. Petitioner contended that, pursuant to *N.J.S.A. 18A:7F-68(c)(3)*, the District qualifies for a statutory exemption from state school aid reductions such that the Department's projected 2023-2024 aid determination is incorrect; further, petitioner sought to restore the District's state aid to the 2020-2021 school year level. The Department contended that the plain language of *18A:7F-68(c)(3)* does not apply to regional school districts like Clearview, which serves students from the municipalities of Harrison and Mantua. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue here, and the matter is ripe for summary decision; there is no dispute that Clearview is a regional district comprised of two constituent municipalities; while the District is arguably "located" in a municipality because all of its buildings are situated in Harrison, the statutory funding scheme for regional school districts must take into account the equalized valuation of each constituent municipality; applying the statutory provisions as interpreted by petitioner would only take into account the equalized total tax rate of Harrison, which is inconsistent with the statutory funding scheme for regional school districts; therefore, petitioner's argument that it can qualify for an exemption from a state aid reduction due to having all its buildings located in Harrison is without merit. The ALJ concluded that a plain reading of *N.J.S.A. 18A:7F-68(c)(3)* does not support petitioner's position that the statutory exemption applies to regional school districts. Accordingly, the ALJ granted the Department's motion for summary decision, and denied Clearview's cross-motion.

Upon review, the Commissioner adopted the ALJ's thorough and well-reasoned Initial Decision as the final decision in this matter. Summary decision was granted in favor of the Department and the petition was dismissed.

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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Agency Dkt. No. 73-3/23

New Jersey Commissioner of Education
Final Decision

Board of Education of the Clearview Regional
School District, Gloucester County,

Petitioner,

v.

New Jersey Department of Education and
Dr. Angelica Allen-McMillan, Acting
Commissioner,

Respondents.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by petitioner pursuant to *N.J.A.C. 1:1-18.4*, and respondents' reply thereto, have been reviewed and considered.

At issue is petitioner's challenge to respondents' 2023-2024 projected state school aid determination for petitioner's regional school district, which is comprised of students from the municipalities of Harrison and Mantua. On March 2, 2023, the Department of Education's Division of Finance and Business Services, Office of School Funding, projected that petitioner's state school aid would be reduced by \$1,044,568 for the 2023-2024 school year. Petitioner contends that it qualifies for a statutory exemption from state school aid reductions, codified at

N.J.S.A. 18A:7F-68(c)(3), and that, consequently, respondents' projected state school aid determination is erroneous.¹

N.J.S.A. 18A:7F-68(c)(3) states:

A school district, other than an SDA district, that is located in a municipality in which the equalized total tax rate is at least 10 percent greater than the Statewide average equalized total tax rate for the most recent available calendar year and is spending at least 10 percent below adequacy as calculated pursuant to section 1 of P.L. 2018, c.67 (C.18A:7F-70) shall not be subject to a reduction in State aid pursuant to subsection b. of this section.

Petitioner asserts that the statutory exemption applies to it because: (1) it is not an SDA district; (2) its buildings are "located in" the municipality of Harrison; (3) Harrison Township's equalized total tax rate is at least 10 percent greater than the Statewide average equalized total tax rate for the most recent available calendar year (122.316%); and (4) the district's spending is at least 10 percent below adequacy (85.072%). Respondents contend that *N.J.S.A.* 18A:7F-68(c)(3) is not applicable to regional school districts and that petitioner's district is therefore ineligible for the statutory exemption. Specifically, respondents point out that the plain language of *N.J.S.A.* 18A:7F-68(c)(3) only provides a method of calculation for single municipality school districts that is predicated on the existence of a single equalized total tax rate.

Petitioner initially moved for emergent relief but later withdrew its emergent application without prejudice. Once the matter was transmitted to the OAL, the parties jointly requested

¹ Petitioner further contends that it was eligible for the statutory exemption for the 2021-2022 and 2022-2023 school years, during which respondents also reduced its state school aid. Therefore, petitioner seeks a retroactive restoration of state school aid for those years. However, petitioner's challenge of respondents' state school aid determinations for the 2021-2022 and 2022-2023 school years is untimely. See *N.J.A.C.* 6A:3-1.3(i) (explaining that petitions of appeal must be filed "no later than the 90th day from the date of receipt of the notice of a final order, ruling or other action by the . . . agency").

that petitioner's filing be converted to a motion for summary decision, and respondents cross-moved for summary decision. Overall, the Administrative Law Judge (ALJ) agreed with respondents that a plain reading of *N.J.S.A. 18A:7F-68(c)(3)* does not support petitioner's position that the statutory exemption applies to regional school districts.

Upon review of relevant related school funding statutes and case law, the ALJ reasoned that "[e]ven though it is arguably located in a [single] municipality, the statutory funding scheme for regional school districts must take into account the equalized [tax] valuation of each constituent municipality." Initial Decision, at 10-12. To interpret and apply the statutory exemption as urged by petitioner "would only take into account the equalized total tax rate of Harrison, which is inconsistent with the . . . statutory funding scheme for regional school districts." *Ibid.*

Accordingly, the ALJ held that "a regional school district cannot take into account only one constituent municipality to qualify for an exemption from State aid reductions" pursuant to *N.J.S.A. 18A:7F-68(c)(3)*. *Id.* at 12. The ALJ agreed with respondents that because "the focus of the provision is on a municipality's equalized tax rate and a regional school district is comprised of multiple municipalities," the statutory exemption is not applicable to regional school districts. *Id.* at 13-14. The ALJ further concluded that respondents' interpretation of the statute was reasonable and should be accorded substantial deference. *Id.* at 14-15.

In their exceptions, petitioner argues that the ALJ's interpretation of the statutory exemption is erroneous because a plain reading of *N.J.S.A. 18A:7F-68(c)(3)* only requires consideration of where the district is "located," and not where it "pulls students from." Petitioner's exceptions, at 3-5. Thus, because the municipality of Harrison meets the statutory

criteria, the fact that petitioner’s district also educates students from the municipality of Mantua—and receives property tax dollars from Mantua—is irrelevant. *Ibid.*

In any event, petitioner asserts that the municipality of Mantua also has an equalized total tax rate that is at least 10 percent greater than the Statewide average equalized total tax rate for the most recent available calendar year (120.386%). *Id.* at 6-7. It also contends that because newly formed regional school districts are exempt from state school aid reductions pursuant to *N.J.S.A. 18A:7F-68(c)(5)*, it would defy common sense to exclude existing regional school districts from the statutory exemption codified at *N.J.S.A. 18A:7F-68(c)(3)*. *Ibid.*

In reply, respondents maintain that, by its plain language, the statutory exemption is not applicable to regional districts like petitioner because *N.J.S.A. 18A:7F-68(c)(3)* “only provides a method of calculation for single municipality school districts, and the exemption is predicated on the existence of a single equalized total tax rate.” Respondent’s Exceptions, at 8-10. They explain that “regional school districts . . . are comprised of multiple municipalities with each municipality having [its] own equalized total tax rate.” *Id.* at 10. They contend that “[i]f an average of municipal tax rates within a region – or some other formulation suggested by petitioner – were a possible consideration, the singular forms of ‘the’ and ‘rate’ would not have been used” by the Legislature in *N.J.S.A. 18A:7F-68(c)(3)*. *Id.* at 11. They also point to subsection (c)(5) as evidence that had the Legislature intended for (c)(3) to apply to regional school districts, it would have “provided a method of calculation applicable to regional school districts” as it did in subsection (c)(5).

Upon careful review, the Commissioner adopts the ALJ’s thorough, well-reasoned Initial Decision as the Final Decision in this matter. The Commissioner concurs with the ALJ that,

by its plain language, the statutory exemption is not applicable to regional districts because it presupposes the existence of a single equalized total tax rate. As written, the statutory exemption simply does not allow for consideration of both the municipality of Harrison's equalized total tax rate and the municipality of Mantua's equalized total tax rate. However, both equalized total tax rates are relevant when considering school funding issues pertaining to regional school districts. *See generally Borough of Sea Bright v. State, Dep't of Educ.*, 242 N.J. Super. 225, 231-32 (App. Div. 1990) (explaining that the costs of a regional school district are apportioned "among the constituent municipalities according to their property values") (emphasis added).

Additionally, the Commissioner concurs with the ALJ that petitioner's interpretation of the statutory exemption is inconsistent with the statutory school funding scheme for regional school districts because it only accounts for Harrison Township's equalized total tax rate while ignoring Mantua Township's equalized total tax rate. Contrary to petitioner's assertion, the Commissioner does not find the fact that the district's buildings are located solely in Harrison to be dispositive or persuasive. Moreover, *N.J.S.A. 18A:7F-68(c)(5)* illustrates that had the Legislature wished to craft an exemption for existing regional school districts, it would have done so explicitly. *See also N.J.S.A. 18A:7F-32(b)* (setting forth a specific methodology to calculate supplemental State aid for certain regional school districts).

The Commissioner is not empowered to "rewrite a plainly-written enactment of the Legislature or presume that the Legislature intended something other than that expressed by way of the plain language." *DiProspero v. Penn*, 183 N.J. 477, 492 (2005) (quoting *O'Connell v.*

State, 171 N.J. 484, 488 (2002)). In sum, legislative action is necessary to extend the exemption codified at *N.J.S.A.* 18A:7F-68(c)(3) to existing regional school districts.²

Accordingly, respondents' motion for summary decision is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.³


ANGELINA ALLEN McMILLAN, J.D.S.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 7, 2023

Date of Mailing: September 8, 2023

² *P.L.* 2023, c. 140, enacted August 16, 2023, amends *N.J.S.A.* 18A:7F-68 to add “an exemption from State school aid reductions for a school district that: is a regional school district comprised of five or more constituent districts; has mitigated the costs of regionalization as determined by the Commissioner of Education; spends 15 percent less in administrative costs per pupil than the Statewide average for regional school districts; and has increased the district’s general fund tax levy by the maximum amount permitted by statute in each of the last five years.” *Sponsor’s Statement to S. 3950 (P.L. 2023, c. 140)*.

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.