

C #91-98  
SB #33-98

BOARD OF EDUCATION OF THE	:	
BOROUGH OF WALLINGTON,	:	
	:	
PETITIONER-APPELLANT,	:	STATE BOARD OF EDUCATION
	:	
V.	:	DECISION
	:	
MAYOR AND COUNCIL OF THE	:	
BOROUGH OF WALLINGTON, BERGEN	:	
COUNTY,	:	
	:	
RESPONDENT-CROSS/APPELLANT.	:	
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Decided by the Commissioner of Education, February 26, 1998

For the Petitioner-Appellant, Walter M. Slomienski, Jr., Esq.

For the Respondent-Cross/Appellant, Joseph Rosa, Jr., Esq.

This matter arises from reductions made by the Mayor and Council of the Borough of Wallington (hereinafter "Borough") pursuant to N.J.S.A. 18A:22-37 to the budget proposed by the Board of Education of the Borough of Wallington (hereinafter "Board") for the 1997-98 school year following defeat of the proposed budget at the annual school election held on April 15, 1997. Those reductions totaled \$507,872 from a proposed general fund tax levy of \$8,232,189, and were effectuated by reduction of 34 line items included in the Board's proposed budget.

Because the general fund budget proposed by the Board was below the minimum amount which, as established under the Comprehensive Educational Improvement and Financing Act of 1996, was necessary in order for the district to

provide a thorough and efficient education to its students, the Commissioner of Education required the Borough to demonstrate that its reductions would not negatively impact the district's stability or its ability to provide a thorough and efficient education. Under that standard, and permitting the district to exclude an additional State aid appropriation from consideration,<sup>1</sup> the Commissioner determined that \$406,201 of the reductions disputed by the Board should be restored.

The Commissioner sustained reductions totaling \$87,141. These reductions included \$34,000 designated as "Transfer/Food Service Deficit," leaving that account with no balance. In sustaining this reduction, the Commissioner reasoned that he could not "condone the running of a food service program that is anticipated to be in a continual deficit," and he directed the Board to "take such steps as are necessary to operate its food service program on a break-even basis." Commissioner's Decision, slip op. at 30.

The Borough appealed to the State Board from the Commissioner's determination to restore \$406,201 of its reductions. The Board appealed that part of the determination sustaining the \$34,000 reduction to its lunch program, arguing that this item included supplies, salaries for a lunch program coordinator and aides, as well as the funds necessary to cover a \$5,735 deficit. The Board argues that if this reduction were to be sustained, it would not be able to provide a lunch program.

After reviewing the record and the arguments of counsel, the State Board affirms the Commissioner's determination with the following modification. Given the Commissioner's rationale for sustaining the \$34,000 reduction to the food service

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<sup>1</sup> Such exclusion was given on the condition that any portion of those funds not used for the purpose designated be reserved to be appropriated as tax relief in 1998-99.

program and his directive to the Board, we affirm only \$5,735 of that reduction, representing the amount which the Board had appropriated to fund the deficit in its program. We therefore direct restoration of an additional \$28,265, representing the amount appropriated for salaries and supplies in order for the Board to provide a food service program for its students.

Sam Podietz did not participate in deliberations in this matter.

July 1, 1998

Date of mailing \_\_\_\_\_