

BOARD OF EDUCATION OF THE CITY OF :
PLEASANTVILLE, ATLANTIC COUNTY, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 NEW JERSEY STATE DEPARTMENT : DECISION
 OF EDUCATION, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioning “Abbott” District appealed the Department’s determination of its 2003-04 preliminary “maintenance budget,” alleging that the Department’s review was not in accordance with the July 23, 2003 Order of the Supreme Court.

The ALJ determined that the OAL does not have jurisdiction to determine the validity of *N.J.A.C. 6A:10-1.2*, as such determination is solely within the jurisdictional purview of the Appellate Division or the Supreme Court.

The Commissioner concurred with the ALJ’s findings and conclusions and adopted the Initial Decision.

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.

October 20, 2003

OAL DKT. NO. EDU 4163-03
AGENCY DKT. NO. 183-6/03

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

The record of this local “Abbott” District’s appeal of the Department’s decision on its supplemental funding request for the 2003-2004 school year, and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Pleasantville’s exceptions and the Department’s reply thereto were duly submitted in accordance with the schedule established in response to the Court’s order for expedition and were considered by the Commissioner in reaching this decision.

Upon careful and independent review of the record, the Commissioner concurs with the Administrative Law Judge (ALJ), that the OAL does not have jurisdiction to determine, directly or indirectly, the validity of *N.J.A.C. 6A:10-1.2*, as such determination is solely within the jurisdictional purview of the Appellate Division or the Supreme Court. *R. 2:2-3(a)*; *see, also, Pascucci v. Vagott*, 71 *N.J.* 40, 51-52 (1976); *Wendling v. N.J. Racing Com’n.*, 279 *N.J. Super.* 477, 485 (App. Div. 1995). Even if it were to be assumed, *arguendo*, that the OAL has jurisdiction to determine “a choice of law” as argued by the District, the Commissioner agrees

with the ALJ that the Department's definition of "maintenance budget," as detailed in *N.J.A.C.* 6A:10-1.2, does not differ in any appreciable way from the Supreme Court's definition of that term contained in its Budget Order of July 23, 2003. Consequently, the Department's application of such regulatory definition in its review and approval of the District's 2003-2004 budget is wholly appropriate.

The Commissioner notes that with respect to the second issue in controversy in this matter, *i.e.*, budget miscalculations, the parties have entered into a Stipulation of Settlement which, pursuant to *N.J.A.C.* 1:1-19.1(c) and (d), is deemed to be the final decision at this time on this issue.

Accordingly, the Initial Decision of the OAL is adopted for the reasons expressed therein.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: October 20, 2003

Date of Mailing: N/A

* 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.