

BOARD OF EDUCATION OF THE CITY :  
OF BAYONNE, :  
PETITIONER-APPELLANT, :  
V. : STATE BOARD OF EDUCATION  
BOARD OF SCHOOL ESTIMATE OF THE : DECISION  
CITY OF BAYONNE AND THE MAYOR :  
AND COUNCIL OF THE CITY OF :  
BAYONNE, HUDSON COUNTY, :  
RESPONDENTS-RESPONDENTS. :

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Decided by the Commissioner of Education, August 14, 1998

For the Petitioner-Appellant, Kenneth R. Hampton, Esq.

For the Respondents-Respondents, John R. Coffey, Esq.

This is an appeal from a decision of the Commissioner of Education made pursuant to N.J.S.A. 18A:7F-5(e)(2) of the Comprehensive Educational Improvement and Financing Act of 1996, N.J.S.A. 18A:7F-1 et seq. ("CEIFA").<sup>1</sup> That statutory provision specifies the grounds for appeal to the Commissioner in those cases in which, as here, a district board has proposed a budget amount at or below the district's maximum "T&E budget" as calculated under N.J.S.A. 18A:7F-13 and the board of school estimate has certified an amount pursuant to N.J.S.A. 18A:22-14 which is less

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<sup>1</sup> N.J.S.A. 18A:7F-5(e)(2) applies both to school districts in which the proposed education budget is submitted to the voters and those, like Bayonne, which have boards of school estimate responsible under N.J.S.A. 18A:22-14 for determining "the amount of money necessary to be appropriated for the use of the public schools in the district for the ensuing school year."

than that proposed by the district board. The grounds for appeal under N.J.S.A. 18A:7F-5(e)(2) are limited to: 1) that the amount at issue is necessary for a thorough and efficient education, or 2) that reductions made by the board of school estimate will negatively impact on the stability of the district given the need for long-term planning and budgeting.

In this case, the Board of Education of the City of Bayonne (“Board” or “Bayonne Board”), which is a Type I school district, proposed a basic education budget (“base budget”) for 1998-99 to its Board of School Estimate (“BSE”) totaling \$60,890,346.<sup>2</sup> As mandated by N.J.S.A. 18A:22-14, the Board of School Estimate then determined “the amount of money necessary to be appropriated for the use of the public schools in the district for the ensuing school year....” In making this determination, the Board of School Estimate reduced the basic education budget proposed by the Bayonne Board by \$5,785,583, representing a 9.5% reduction in each line item of the proposed base budget.

The Bayonne Board availed itself of the expedited budget review process authorized by N.J.S.A. 18A:7F-5(e)(3). As provided by the implementing regulations, the Board filed an application on April 3, 1998 seeking restoration of the full amount by which the Board of School Estimate had reduced its proposed base budget.

After reviewing the documentation and reallocating amounts within the Bayonne Board’s base budget, the Commissioner increased the amount certified by the Board of School Estimate by \$1,532,690 in general fund taxes. This represented a reduction of

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<sup>2</sup> We note that Bayonne also submitted a separate proposal to the BSE for \$6, 610,400 in additional funds pursuant to N.J.S.A. 18A:7F-5(d)(9). The BSE reduced that amount by 23%. This reduction, however, was not appealable to the Commissioner under N.J.S.A. 18A:7F-5(e).

\$4,102,893 in the amount of the base budget originally proposed by the Bayonne Board.

The Bayonne Board then appealed to the State Board. By its appeal, the Board is seeking restoration of the full amount included in the base budget it had originally proposed to the BSE. The thrust of the Board's appeal is twofold. First, the Board contends that it is entitled on procedural grounds to the full amount it proposed to the BSE. The Board argues that it is entitled to such relief under the New Jersey Supreme Court decisions in Board of Education, East Brunswick Township v. Township Council, East Brunswick, 48 N.J. 94 (1966) and Board of Education of Deptford Township v. Mayor and Council of Deptford Township, 116 N.J. 305 (1989) because the Board of School Estimate reduced the amount of its proposed budget in order to maintain a lower tax rate and did not provide a statement of reasons for the resulting line item reductions or an assessment of the educational impact of those reductions. Second, the Board contends that since the Commissioner relied solely on the "efficiency standards" to sustain some reductions, his decision is arbitrary and these amounts must therefore be restored.

We do not agree.

Deptford and East Brunswick involved reductions made pursuant to N.J.S.A. 18A:22-37 to education budgets that had been proposed by the district board of education and rejected by the voters in the annual school election.<sup>3</sup> That statute requires that following such defeat by the voters, the municipal governing body must

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<sup>3</sup> N.J.S.A. 18A:22-37 provides in pertinent part that when voters reject any of the items submitted at the annual school election, the governing body of the municipality must, after consultation with the board of education, "determine the amount which...is necessary to be appropriated for each item appearing in the budget...."

determine the amount necessary for each item in the budget proposal. In contrast, N.J.S.A. 18A:22-14, which governed the Board of School Estimate's action in this case, requires that the BSE determine the "amount of money necessary for the use of the public schools...."

The difference in these statutory provisions is significant, reflecting that the proposed budgets in cases involving Type I districts such as Bayonne are not submitted to the voters, but to a board of school estimate. In contrast to N.J.S.A. 18A:22-37, a determination under N.J.S.A. 18A:22-14 is not made by the municipal governing body, but by the board of school estimate, which is comprised of two members of the district board of education, two members of the municipal governing body and the mayor. N.J.S.A. 18A:22-1.

Quite simply, it is well settled that under the terms of N.J.S.A. 18A:22-14, Bayonne's Board of School Estimate was not required to determine the amount necessary for each item. Townsend v. State Board of Education, 88 N.J.L. 97 (1915), 1915 N.J. Super. LEXIS 236. Rather, its duty was to review the itemized statement submitted by the school district and, based on that proposal, determine the total amount necessary for the use of the schools. Id. Hence, we reject the Bayonne Board's contention that because the BSE did not comply with the procedural requirements applicable to governing bodies under N.J.S.A. 18A:22-37, it is entitled to restoration of the full amount by which the BSE reduced its base budget.

We also reject the Board's assertion that it is entitled to additional amounts because the Commissioner relied on the efficiency standards established under

N.J.S.A. 18A:7F-4(b) and (c) to make reallocations and to sustain reductions to the Board's budget proposal.

CEIFA provides the statutory framework under which we must judge the propriety of the Commissioner's determinations in this case. CEIFA is distinguished from prior school funding laws in that it: 1) establishes a definition of a thorough and efficient system of public education which is "uniformly applicable to all districts in the State," 2) establishes the types of programs and services that will accomplish these goals in a manner that is thorough and efficient, 3) provides a level of financial support sufficient to provide those programs and services, 4) provides a funding mechanism to ensure that support, and 5) establishes "a system which assures that the expenditure of public funds will be undertaken both with prudence and sound management." N.J.S.A. 18A:7F-2.

The foundation of that system is the "T&E amount." That amount is "the cost per elementary pupil of delivering the core curriculum content standards and extracurricular and cocurricular activities necessary for a thorough regular education under the assumptions of reasonableness and efficiency contained in the Report on the Cost of Providing a Thorough and Efficient Education." N.J.S.A. 18A:7F-3. A dollar amount, the "T&E flexible amount," is applied to determine a "T&E range," which is the range of regular education spending that will be considered thorough and efficient. Id.

On this basis, State aid is determined, local shares are calculated and school districts are notified of their minimum and maximum T&E budgets for the ensuing school year. N.J.S.A. 18A:7F-5. Hence, the T&E amount and its underlying assumptions are integrated into the budget development process.

The T&E amount, in turn, is established by the Legislature through the process set forth in N.J.S.A. 18A:7F-4. See N.J.S.A. 18A:7F-12 (establishment of basic per pupil T&E amount). The amount is embodied in the recommendations in the Report on the Cost of Providing a Thorough and Efficient Education issued pursuant to N.J.S.A. 18A:7F-4(c). Once that report has been deemed approved by the Legislature, this agency must apply the standards set forth therein.

This system was designed to assure that all budget proposals include sufficient funds to provide a thorough and efficient education. Accordingly, when a district board's proposed base budget is, as in this case, at or below the district's maximum "T&E budget," N.J.S.A. 18A:7F-5(e)(2) permits the district to appeal to the Commissioner for restoration of funds included in that budget on the grounds that such amounts are necessary for a thorough and efficient education. In contrast, N.J.S.A. 18A:7F-5(e)(1) precludes a district from raising a thorough and efficient claim when its proposed budget is in excess of its maximum "T&E budget."

In this case, the Bayonne Board's proposed base budget was at or below its maximum "T&E budget" established under N.J.S.A. 18A:7F-1 et seq. See N.J.S.A. 18A:7F-13 (calculation of minimum and maximum T&E budget). Consequently, N.J.S.A. 18A:7F-5(e)(2) provided the basis upon which the Board could seek restoration of the amounts reduced by the BSE. As set forth by the Commissioner in his decision, the Bayonne Board did not demonstrate that any of the amount reduced by the BSE was necessary for a thorough and efficient education or that the stability of the district required restoration of the full amount of the base budget it had originally submitted to the Board of School Estimate.

Nor has the Board demonstrated in this appeal that it is otherwise entitled to any increase in the budget amount established by the Commissioner in his decision. In this respect, we again stress that the efficiency standards which the Commissioner applied in reviewing this matter were established through the legislative process mandated by N.J.S.A. 18A:7F-4. Hence, neither the Commissioner nor the State Board has the authority to alter those standards without legislative action.

Therefore, for the reasons set forth herein, we affirm the Commissioner's decision and reject the Bayonne Board's claim to increase the district's base budget beyond the amount which the Commissioner determined to be adequate.

February 3, 1999

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