

EDU # 508-00  
C # 116-01  
SB # 16-01

CARRIER FOUNDATION – EAST MOUNTAIN :  
SCHOOL, SOMERSET COUNTY,

PETITIONER-APPELLANT, : STATE BOARD OF EDUCATION  
V. : DECISION  
NEW JERSEY STATE DEPARTMENT OF :  
EDUCATION, OFFICE OF COMPLIANCE, :  
RESPONDENT-RESPONDENT. :

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Decided by the Commissioner of Education, April 12, 2001

Remanded by the State Board of Education, October 3, 2001

Decision on remand by the Commissioner of Education, July 11, 2002

For the Petitioner-Appellant, Riker, Danzig, Scherer, Hyland & Perretti,  
L.L.P. (James S. Rothschild, Jr., Esq., of Counsel)

For the Respondent-Respondent, Allison Colsey Eck, Deputy Attorney  
General (David Samson, Attorney General of New Jersey)

Carrier Foundation, a private statewide behavioral healthcare system providing  
inpatient, outpatient and residential services, challenged the determination by the  
Department of Education's Office of Compliance that certain expenses were  
non-allowable in calculating the annual cost per student for its East Mountain School.

On October 3, 2001, the State Board of Education affirmed in part and remanded  
in part the determination of the Commissioner of Education to grant summary decision

to the Department. We found that the record did not clearly indicate the rationale relied upon by the Office of Compliance in disallowing \$72,132 in expenses which the school had allocated as indirect costs and which therefore had not been included as direct costs. Without such rationale, we found that we were not able to review the merits of the school's appeal of the disallowance of this amount. Consequently, we remanded the matter to the Commissioner for the limited purpose of establishing the basis on which the Office of Compliance had made its determination that \$72,132 allocated by the school as indirect general and administrative costs was non-allowable. In all other respects, we affirmed the decision of the Commissioner. We retained jurisdiction.

During the proceedings on remand in the Office of Administrative Law, the parties agreed to a proposed settlement of the issue on remand. As indicated by the Administrative Law Judge ("ALJ"):

The parties agreed to a "Revised G&A Overhead Calculation" which depicts the parties' agreement concerning the calculation of general and administrative overhead costs in this remanded matter, taking into consideration Carrier's step-down allocations as well as the regulatory requirements for allocating overhead costs.

Initial Decision on Remand, slip op. at 3.

The ALJ found that the agreement represented the parties' resolution of the dispute with regard to the issue on remand.

On July 11, 2002, the Commissioner approved the proposed settlement and forwarded the matter to the State Board pursuant to our retention of jurisdiction.

We have reviewed the proposed settlement and find it to be in accord with the principles expressed in In re Cardonick, decided by the State Board of Education,

April 6, 1983. We therefore affirm the Commissioner's determination to approve the settlement.

October 2, 2002

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