

EDU #328-02  
C #211-03  
SB # 20-03

IN THE MATTER OF THE DIVISION OF :  
ASSETS AND LIABILITIES AMONG THE : STATE BOARD OF EDUCATION  
CONSTITUENT DISTRICTS OF LOWER : DECISION  
CAMDEN COUNTY REGIONAL HIGH :  
SCHOOL DISTRICT NO. 1, CAMDEN :  
COUNTY. :

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Decided by the Commissioner of Education, May 2, 2003

Decision on motion by the Commissioner of Education, July 8, 2003

Decision on motion by the State Board of Education, September 3, 2003

For the Respondent-Appellant Lindenwold Borough Board of Education,  
Jacob & Chiarello, LLC (Frederick A. Jacob, Esq., of Counsel)

For the Respondent-Appellant Winslow Township, Weber, Goldstein,  
Greenberg & Gallagher, LLP (Richard K. Tavani, Esq., of Counsel)

For the Respondent-Appellant Winslow Township Board of Education,  
David M. Serlin, Esq.

For the Petitioner-Cross/Appellant Waterford Township and the  
Respondent-Respondent Waterford Township Board of Education,  
Cooper, Levenson, April, Niedelman & Wagenheim, P.A. (John R.  
Armstrong, Esq., of Counsel)

For the Respondent-Respondent Camden County Superintendent of  
Schools, Allison C. Eck, Deputy Attorney General (Peter C. Harvey,  
Attorney General of New Jersey)

For the Respondent-Respondent Chesilhurst Borough, Harvey C. Johnson, Esq.

For the Respondent-Respondent Chesilhurst Borough Board of Education, Emmett E. Primas, Jr., Esq

For the Respondents-Respondents Clementon Borough and Berlin Township Boards of Education, Capehart & Scatchard, P.A. (Robert A. Muccilli, Esq., of Counsel)

For the Respondent-Respondent Pine Hill Borough Board of Education, Sahli & Padovani (Anthony I. Padovani, Esq., of Counsel)

In October 2001, the Township of Waterford filed a petition with the Commissioner of Education challenging a report issued by the Camden County Superintendent on June 30, 2001, in which he set forth the distribution of the assets and liabilities of the Lower Camden County Regional High School District (hereinafter “District” or “Regional District”) following the Regional District’s dissolution. In his report, the County Superintendent allocated a portion of the value of the Regional District’s liquid assets to the constituent districts which did not have a building in order to equalize the distribution.<sup>1</sup> Specifically, he indicated that the liquid assets should be distributed to all seven constituent districts in proportion to the amount each had contributed to the overall tax levy for the Regional District as of the 2000-01 school year.

Waterford sought to have the liquid asset distribution formula devised by the County Superintendent modified so that all of the Regional District’s liquid assets were distributed to the districts which did not have buildings. The respondents countered that any redistribution of the liquid assets was contrary to statute, the Supreme Court’s decision in In re Dist. of Liquid Assets, 168 N.J. 1 (2001) (“Liquid Assets”), which

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<sup>1</sup> The Regional District consisted of Berlin, Chesilhurst, Clementon, Lindenwold, Pine Hill, Waterford and Winslow. The District’s buildings were located in Lindenwold, Pine Hill and Winslow.

involved the dissolution of Union County Regional High School District No. 1, and an alleged agreement between the constituent districts.

On June 11, 2002, the Administrative Law Judge (“ALJ”) issued a prehearing order in which he indicated that the parties had agreed to have the matter determined on a summary basis. Waterford subsequently filed a motion for summary decision.

On March 6, 2003, the ALJ recommended granting Waterford’s motion, concluding that deviation from the distribution formula in the County Superintendent’s report was necessary in order to correct inequities in the treatment of those districts that had buildings and those districts which did not. In so doing, the ALJ found that the non-building districts had been treated disproportionately and inequitably by the County Superintendent when compared to the building districts. The ALJ further found that there had not been a binding agreement between the parties with regard to the distribution of liquid assets. He recommended granting Waterford’s motion for summary decision, concluding that redistribution of the liquid assets to Waterford was appropriate. In making this recommendation, the ALJ concluded that the liquid assets should not be distributed to the other non-building districts, i.e., Berlin, Chesilhurst and Clementon, since they had entered into sending/receiving relationships with building districts and therefore would benefit from the building districts’ liquid assets.

On May 2, 2003, the Commissioner agreed that deviation from the asset distribution ordered in the County Superintendent’s report was justified, but he modified the ALJ’s recommendation. The Commissioner found that the most equitable allocation of the Regional District’s assets would be to divide the total liquid assets among the four non-building districts in proportion to the percentages of school taxes that each of those

districts paid to the Regional District, without regard to the contribution of the building districts. In doing so, the Commissioner rejected the ALJ's conclusion that involvement in a sending-receiving relationship constituted a quantifiable asset that must be factored into an equitable distribution scheme. He therefore directed that each building district make payments to each of the non-building districts in five equal annual installments commencing on July 1, 2004. The Commissioner noted that his decision did not include any award of interest.

The Lindenwold Board, Winslow Township and the Winslow Township Board filed the instant appeal to the State Board. Waterford filed a cross-appeal seeking interest.

On June 23, 2003, the Lindenwold Board filed a motion seeking to reopen the proceedings so as to take testimony in the Office of Administrative Law on the issues of whether the constituent districts had agreed to a division of the non-liquid assets before the County Superintendent's report was issued, whether a sending/receiving relationship constituted a quantifiable asset, and to afford the County Superintendent the opportunity to defend his report. On September 3, 2003, the State Board denied that motion, concluding that the Lindenwold Board had not provided any basis for reopening the record.

We turn therefore to the merits of this matter, and, after a thorough review of the record, we affirm the decision of the Commissioner. We find that the formula articulated in his decision, i.e., dividing the liquid assets among the four non-building districts in proportion to the percentages of school taxes that each of those districts paid to the Regional District, without regard to the contribution of the building districts, provides the

most equitable means of distributing the Regional District's liquid assets. See Liquid Assets, supra (the overriding goal of the statutory scheme is to distribute equitably a regional district's assets and liabilities following dissolution). In so doing, we fully concur with the Commissioner's rejection of the ALJ's position that involvement in a sending-receiving relationship with a building district constitutes a quantifiable asset that must be factored into an equitable distribution formula.

We also deny Waterford's request for interest. N.J.A.C. 6A:3-1.17(b) defines post-judgment interest as "interest determined by the Commissioner to be due to a petitioning party for that period of time after the claim has been successfully adjudicated but remains unsatisfied." The criteria to be applied when awarding post-judgment interest are set forth in N.J.A.C. 6A:3-1.17(c)2:

The Commissioner shall award postjudgment interest when a respondent has been determined through adjudication to be responsible for such payment, the precise amount of such claim has been established or could have been established and the party responsible for the payment of the judgment has neither applied for nor obtained a stay of the decision but has failed to satisfy the claim within 60 days of its award.

That regulation, which was originally codified at N.J.A.C. 6:24-1.18, was designed to establish criteria for the awarding of post-judgment interest. 18 N.J.R. 405(a). Since the Commissioner's decision in this case established July 1, 2004 as the due date for the first annual installment payment to the non-building districts, there are not any payments due and owing at this time. Consequently, a request for post-judgment interest under the criteria established by N.J.A.C. 6A:3-1.17 would be premature.

Nor do we find that interest should be awarded in order to create a more equitable distribution scheme, as Waterford argues. The five-year installment payment plan, which was proposed by the County Superintendent in his report and adopted by the Commissioner in his decision, will minimize the impact of the reallocation of the liquid assets on the educational budgets of the districts with buildings, thereby avoiding the possibility that the education programs offered by these districts may be negatively affected by such reallocation. The imposition of interest payments on the building districts would be contrary to this objective, and, like the Commissioner, we decline to do so.

Accordingly, we affirm the decision of the Commissioner for the reasons expressed in his decision as well as for the reasons stated herein.

October 1, 2003

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