

EDU #2637-00 through 2646-00, 2649-00 through 2652-00, 2654-00 through 2656-00
C # 50-03
SB # 4-03

ROSALIE BACON, individually and on behalf :
of G.P., Z.P., J.B., J.B., M.B., D.B., AND Z.H.; :
JOSEPH BARUFFI, individually and on :
behalf of J.B.; ELIZABETH CULLEN, :
individually and on behalf of T.C.; :
EDIE RILEY, individually and on behalf :
of S.R.; ARNETTA RIDGEWAY AND :
CHRISTOPHER GLASS, individually and :
on behalf of J.G., F.G., AND D.G., :

PETITIONERS, :

STATE BOARD OF EDUCATION

AND :

DECISION ON MOTION

BUENA REGIONAL, CLAYTON, :
COMMERCIAL, EGG HARBOR CITY, :
FAIRFIELD, LAKEHURST, LAKEWOOD, :
LAWRENCE, MAURICE RIVER, AND :
WOODBINE SCHOOL DISTRICTS, :

PETITIONERS-APPELLANTS, :

AND :

HAMMONTON, LITTLE EGG HARBOR, :
OCEAN, QUINTON, SALEM CITY, :
UPPER DEERFIELD, AND WALLINGTON :
SCHOOL DISTRICTS, :

PETITIONERS, :

V. :

NEW JERSEY STATE DEPARTMENT :
OF EDUCATION, :

RESPONDENT-RESPONDENT. :

Decided by the Commissioner of Education, February 10, 2003

Decision on motion by the State Board of Education, July 2, 2003

Decision on motion by the State Board of Education, November 5, 2003

For the Petitioner-Appellant Lakewood Board of Education, Michael I. Inzelbuch, Esq.

For the Petitioners-Appellants Buena, Clayton, Egg Harbor, Fairfield, Lakehurst, Lawrence and Woodbine Boards of Education, Jacob, Ferrigno & Chiarello (Frederick A. Jacob, Esq. and Kathy Balin, Esq., of Counsel)

For the Respondent-Respondent, Kathleen Asher and Michael C. Walters, Deputy Attorneys General (Peter C. Harvey, Attorney General of New Jersey)

For the Amicus Curiae, Gibbons, Del Deo, Dolan, Griffinger & Vecchione (Shavar D. Jeffries, Esq., of Counsel)

Seventeen school districts and the parents of children in those districts filed a petition with the Commissioner of Education challenging the constitutionality of the Comprehensive Educational Improvement and Financing Act of 1996 ("CEIFA") as applied to them. The petitioners claimed that the school districts involved did not have the economic capacity to provide a thorough and efficient education and that CEIFA did not provide adequate redress for such deficiency.

The Administrative Law Judge ("ALJ") found that five of the petitioning districts were entitled to "special needs" status, but that 12 of them had not established that they were entitled to relief.

The Commissioner adopted the ALJ's determination that 12 of the districts were not entitled to relief. The Commissioner also adopted the ALJ's conclusion that Salem

City was entitled to “special needs” status, but he rejected the ALJ’s conclusion that Buena Regional, Commercial, Fairfield, and Woodbine should be afforded such status.

Buena Regional, Clayton, Egg Harbor, Fairfield, Lakehurst, Lawrence, Woodbine, Commercial, and Maurice River appealed to the State Board from the Commissioner’s decision, but on July 2, 2003, Commercial and Maurice River withdrew their appeals.

On July 2, 2003, the State Board of Education granted leave to the Education Law Center to appear as amicus curiae in the matter, and, on August 6, 2003, a Deputy Attorney General representing the State respondent filed a motion seeking, inter alia, to strike two pages of the brief filed by the amicus curiae that referenced the Commercial school district. On November 5, 2003, the State Board denied that motion.

On December 31, 2003, the Deputy Attorney General filed the instant motion on behalf of the State respondent seeking to strike portions of the appellant’s reply brief that reference the Commercial school district.

After reviewing the arguments, we deny the State respondent’s motion.

March 3, 2004

Date of mailing _____