

BOARD OF EDUCATION OF THE :  
TOWNSHIP OF SPARTA, :  
SUSSEX COUNTY, :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE :  
TOWNSHIP OF BYRAM, :  
SUSSEX COUNTY, :

COMMISSIONER OF EDUCATION

RESPONDENT, :

DECISION

AND :

BOARD OF EDUCATION OF THE KITTATINNY :  
REGIONAL SCHOOL :  
DISTRICT, SUSSEX COUNTY, :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE :  
TOWNSHIP OF BYRAM, :  
SUSSEX COUNTY, :

RESPONDENT. :

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SYNOPSIS

Petitioning Boards appeal a decision by the Executive County Superintendent (ECS) for Sussex County that Sparta and Kittatinny were obligated to purchase heating fuel oil from Petroleum Traders Corporation (PTC) during the 2008-2009 school year under an alleged joint purchasing agreement between the respondent Board and five other boards of education. Petitioners contend, *inter alia*, that respondent Board failed to register and obtain approval of a joint purchasing program from the Director of the Division of Local Government Services (DLGS) as required by *N.J.A.C. 5:34-7.5(a)*, rendering Byrum’s agreement with PTC unenforceable against petitioners; further, the ECS did not have the authority to enforce the agreement between Byrum and PTC on petitioners since no joint purchasing agreement exists between petitioners and respondent.

The ALJ found, *inter alia*, that: the matter was ripe for summary judgment as there are no issues of material fact in dispute; boards of education that pursue joint purchasing on behalf of other school districts may do so only with the approval of the DLGS and in compliance with the Public School Contracts Law (PSCL) *N.J.S.A. 18A:18A-1 et seq.* and the Cooperative Purchasing rules set forth in *N.J.A.C.5:34-7.1 et seq.*; in the instant matter, the requirements for a joint purchasing system and a joint purchasing agreement under the PSCL and CP regulations were not met; since no joint purchasing agreement existed between the parties, the ECS did not possess the jurisdiction to resolve the parties’ dispute and impose purchasing obligations on petitioners; and respondent’s legal and equitable claims must be decided in Superior Court as they do not implicate interpretation of the school laws. Accordingly, the ALJ granted summary decision in favor of petitioners and reversed the decision of the ECS.

Upon careful and independent review, the Acting Commissioner adopted the Initial Decision of the OAL as the final decision in this matter for the reasons stated therein.

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.

OAL DKT. NO. EDU 12573-09 AND 12574-09 (CONSOLIDATED)  
AGENCY DKT. NO. 255-9/09 AND 251-9/09

BOARD OF EDUCATION OF THE :  
TOWNSHIP OF SPARTA, SUSSEX :  
COUNTY, :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE :  
TOWNSHIP OF BYRAM, SUSSEX :  
COUNTY, :

RESPONDENT, : COMMISSIONER OF EDUCATION

AND : DECISION

BOARD OF EDUCATION OF THE :  
KITTATINNY REGIONAL SCHOOL :  
DISTRICT, SUSSEX COUNTY, :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE :  
TOWNSHIP OF BYRAM, SUSSEX :  
COUNTY, :

RESPONDENT. :

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C.* 1:1-18.4 by the Byram Township Board of Education (Byram) and the replies thereto submitted by the Sparta Township Board of Education (Sparta) and the Kittatinny Regional School District (Kittatinny).

Byram takes exception to the Administrative Law Judge's (ALJ) determination that the Executive County Superintendent did not have jurisdiction to decide the dispute between the parties. Byram maintains that the ALJ's interpretation of *N.J.S.A. 18A:18A-14* was too strict. In its exceptions, Byram argues that there is nothing in the statutory authority indicating that an Executive County Superintendent must first find that a joint purchasing agreement was properly formed in accordance with the statutory and regulatory requirements before determining disputes related to joint purchasing agreements or alleged agreements. Therefore, Byram contends that the Executive County Superintendent properly exercised her jurisdiction over this matter, and that her substantive findings should be upheld.

In reply, both Sparta and Kittatinny urged the Commissioner to adopt the Initial Decision, reiterating the fact that Byram failed to legally create a joint purchasing agreement under the applicable statutory and regulatory provisions, and that the Executive County Superintendent's highly circumscribed jurisdiction is limited to controversies involving valid joint purchasing agreements. Finally, Sparta and Kittatinny both maintain that to the extent Byram is seeking relief related to this matter, the issues are properly brought before the New Jersey Superior Court.

Upon a comprehensive review of the record, the Commissioner concurs with the ALJ's determination that a valid joint purchasing agreement was not established and, therefore, the Executive County Superintendent did not have jurisdiction to resolve the parties' dispute or the authority to impose purchasing obligations on Sparta and Kittatinny. Additionally, the Commissioner agrees that any dispute between the parties concerning whether Sparta and Kittatinny breached an agreement or the potential application of equitable doctrines should be

pursued in New Jersey Superior Court. Accordingly, for the reasons thoroughly expressed therein, the Initial Decision is adopted as the final decision in this matter.

IT IS SO ORDERED.\*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: June 24, 2011

Date of Mailing: June 24, 2011

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\* This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).