

New Jersey Commissioner of Education
Final Decision

Board of Education of the Henry Hudson
Regional School District, Monmouth County;
Board of Education of the Borough of Atlantic
Highlands, Monmouth County, and Board of
Education of the Borough of Highlands,
Monmouth County,

Petitioners,

v.

Dr. Secil Onat, Assistant Commissioner, Division
of Finance and Business Services, New Jersey
Department of Education,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by the petitioners pursuant to *N.J.A.C.* 1:1-18.4, and the reply thereto filed by respondent New Jersey Department of Education (DOE) have been reviewed and considered.

Petitioners in this matter are boards of education that consolidated to form the Henry Hudson Regional School District (Henry Hudson), an all-purpose K-12 regional school district. Petitioners challenge the DOE's determinations that Henry Hudson is ineligible (1) under *N.J.S.A.* 18A:13-47.6 for reimbursement for the costs of a voter referendum to establish the regional school district and (2) under *N.J.S.A.* 18A:7F-68(c)(4) for certain State aid incentives for regional school districts, including a slower reduction in State school aid.

The financial incentives petitioners seek are available under the School Regionalization and Efficiency Program (SREP), which is codified at *N.J.S.A. 18A:13-47.1 to -47.11* and in other statutory provisions, including *N.J.S.A. 18A:7F-68(c)(4)*. The purpose of SREP is to provide for reimbursement of eligible costs associated with conducting feasibility studies to form or expand regional school districts. *N.J.S.A. 18A:13-47.2*. In addition, through SREP, grant funds are made available to boards of education of two or more school districts which have conducted a feasibility study within two years prior to the enactment of P.L. 2021, c.402 (C. 18A:13-47.1 et al.)¹ for which no prior reimbursement was made. *Ibid.* Boards of education of two or more school districts seeking to form a regional district and seeking funding under the SREP grant program must submit a joint application to the Department of Community Affairs, Division of Local Government Services (DLGS) for approval. *N.J.S.A. 18A:13-47.3(a)*. Petitioners have not alleged that they applied for or received a SREP grant established under *N.J.S.A. 18A:13-47.1 to -47.11*.

Prior to 2024, Henry Hudson was a limited-purpose school district serving grades 7-12 from Atlantic Highlands and Highlands. On April 22, 2021, DLGS awarded Henry Hudson a \$65,000 Local Efficiency Achievement Program (LEAP) grant to study the feasibility of consolidating the following school districts: Highlands Elementary, Atlantic Highlands Elementary, Henry Hudson Regional (then-limited purpose), and Sea Bright.² Petitioners subsequently commissioned studies for regionalization.

¹ P.L. 2021, c. 402 was enacted on January 18, 2022, and established SREP.

² Petitioners ultimately moved forward with regionalization without Sea Bright.

On March 17, 2023, petitioners filed an amended petition to create an all-purpose preK-12 regional school district consisting of the boroughs of Highlands and Atlantic Highlands. See *N.J.S.A. 18A:13-34*. On July 21, 2023, the Commissioner of Education approved the petition. On September 23, 2023, a voter referendum was held pursuant to *N.J.S.A. 18A:13-35*, whereby the people of Highlands and Atlantic Highlands approved of the Henry Hudson preK-12 regional school district. As of July 1, 2024, Henry Hudson has operated as an all-purpose regional school district comprised of the boroughs of Highlands and Atlantic Highlands, serving grades PreK-12.

On February 29, 2024, Henry Hudson received a State aid notice for the 2024-2025 school year from the DOE. Henry Hudson's superintendent, Dr. Tara Beams, contested the notice, arguing that as a LEAP grant recipient, the district was entitled to certain state aid incentives set forth in *N.J.S.A. 18A:7F-68*. Dr. Beams also contested that the amount of State aid was significantly less than expected. On March 28, 2024, the DOE informed Beams that Henry Hudson did not qualify for a slower reduction in State school aid pursuant to *N.J.S.A. 18A:7F-68(c)(4)* because petitioners did not receive a grant for a regionalization study pursuant to SREP. Instead, the DOE noted that Henry Hudson received a LEAP grant, which is ineligible for a slower State school aid reduction schedule under *N.J.S.A. 18A:7F-68(c)(4)*. Secondly, the DOE determined that Henry Hudson was ineligible for the slower reduction under *N.J.S.A. 18A:7F-68(c)(4)* because the district did not have a positive State aid differential for the 2024-2025 school year.

In addition to a slower reduction in State school aid, petitioners sought from the DOE reimbursement for the costs of the voter referendum. On May 2, 2024, the DOE determined that Henry Hudson was ineligible for reimbursement under *N.J.S.A. 18A:13-47.6* because the district had not received a SREP grant pursuant to *N.J.S.A. 18A:13-47.1 to -47.11*. Petitioners appealed

the DOE's determinations to the Commissioner of Education. In response, the DOE filed a motion to dismiss. Petitioners then filed a cross motion for summary decision.

The Administrative Law Judge (ALJ) granted the DOE's motion to dismiss for failure to state a claim upon which relief may be granted; consequently, the ALJ deemed it unnecessary to address petitioners' cross motion for summary decision. In reaching her determination, the ALJ deemed admitted all facts alleged in the petition of appeal for the purposes of the DOE's motion. The ALJ then concluded that a plain reading of the relevant statutes shows that only school districts that applied for and received a SREP grant (and not a LEAP grant) are eligible for the regionalization benefits available under *N.J.S.A. 18A:13-47.6* and *N.J.S.A. 18A:7F-68(c)(4)*. In doing so, the ALJ rejected petitioners' arguments that the DOE's determinations were based on its misinterpretation of the relevant provisions of P.L. 2021, c. 402. The ALJ noted that although Henry Hudson had received a LEAP grant, the district had not alleged it applied for or received a SREP grant; thus, the ALJ concluded that *N.J.S.A. 18A:13-47.6* and *N.J.S.A. 18A:7F-68(c)(4)* do not apply to petitioners.

Next, the ALJ rejected petitioners' argument that the Legislature intended *N.J.S.A. 18A:13-47.2*, which permits districts to receive funds for feasibility studies conducted within two years prior to the enactment of SREP, to apply to a district like Henry Hudson. Upon a plain language review of the statute, the ALJ noted that the funds under this provision are only available for a feasibility study for which no prior reimbursement was made. Since petitioners had already received funds for its feasibility study through the LEAP grant, the ALJ deemed *N.J.S.A. 18A:13-47.2* inapplicable. The ALJ also dismissed petitioners' argument that certain sponsors of the bill that later became the SREP bill, such as Senator Vin Gopal, "undoubtedly

intended” Henry Hudson to benefit from the new law. The ALJ noted that subsequent legislation introduced by Senator Gopal contradicts petitioners’ claim regarding legislative intent. Specifically, the ALJ referenced S2048, which expands eligibility for the benefits conferred under *N.J.S.A. 18A:7F-68(c)(4)* and *N.J.S.A. 18A:13-47.2* but does not include a district that received a LEAP grant within its coverage.

In their exceptions, petitioners argue that “the unique circumstances surrounding the implementation of P.L. 2021, c. 402, warranted a careful consideration by the court as the legislative history compels a liberal construction.” (Petitioners’ Exceptions at 4). Specifically, petitioners contend that the ALJ should have considered the totality of circumstances, including the genesis and drafting of the bill, as well as their claim that P.L. 2021, c. 402 evolved from LEAP. Petitioners further contend that during the bill’s promotion, various legislative and executive branch members told school districts that the bill’s incentives would be applied to them retroactively since the legislation was written to refine the LEAP guidelines, not create a new grant program. Petitioners allege they have suffered consequences due to their detrimental reliance on the representations of said legislative and executive branch members and contend that the ALJ should have addressed this in her analysis.

Secondly, petitioners contend that the ALJ erred in failing to consider that petitioners’ regionalization proposals,³ which stated petitioners’ expectation that they would be afforded the financial benefits under P.L. 2021, c. 402, had been approved by the DOE; therefore, petitioners contend that the DOE knew or should have known that petitioners did not have a SREP grant but were seeking the financial benefits offered under P.L. 2021, c. 402. Petitioners further contend

³ Required pursuant to *N.J.S.A. 18A:13-34*.

that by virtue of its review, the DOE had condoned all of petitioners' ensuing approvals. In addition, petitioners take exception to the ALJ's interpretation of 18A:13-47.1 et seq. Ultimately, petitioners argue that when granted all favorable inferences from the facts in their pleadings and certifications, the DOE's motion to dismiss must be denied.

In response, the DOE contends that the ALJ appropriately granted the motion to dismiss. The DOE further contends that when parties have a dispute regarding statutory interpretation, a court must first look at the statute's plain language to determine legislative intent. The DOE asserts that upon a reading of the plain language of *N.J.S.A. 18A:13-47.6* and *N.J.S.A. 18A:7F-68(c)(4)*, the ALJ correctly determined that a SREP grant and a LEAP grant are not the same and are pursuant to two different statutory schemes. In addition, the DOE argues that the plain language of *N.J.S.A. 18A:13-47.2* excludes Henry Hudson from receiving funding from a SREP grant. The DOE maintains that since receipt of an SREP grant is a prerequisite for receiving reimbursement of election costs under *N.J.S.A. 18A:13-47.6*, petitioners are ineligible for this benefit.

The DOE also argues that petitioners have failed to cite any legal authority that supports their claim that the application of the plain language of a statute can be altered due to a party's alleged detrimental reliance during the legislative process. Lastly, the DOE contends that the Commissioner's approval of petitioners' application for regionalization should not lead any reasonable person to believe that a district automatically qualifies for a SREP grant without ever undergoing the SREP application process.

Upon review, and for the reasons thoroughly detailed in the Initial Decision, the Commissioner concurs with the ALJ that a plain reading of the relevant laws shows that only

districts that applied for and received a SREP grant (not a LEAP grant) are eligible for the benefits under *N.J.S.A. 18A:13-47.6* and *N.J.S.A. 18A:7F-68(c)(4)*. The Commissioner further concurs with the ALJ that it is appropriate to grant the DOE's motion to dismiss for failure to state a claim upon which relief may be granted under the aforementioned statutes because those laws do not apply to Henry Hudson.

The ALJ's conclusion that *N.J.S.A. 18A:13-47.6* and *N.J.S.A. 18A:7F-68(c)(4)* are inapplicable to districts who have neither applied for or received a SREP grant is supported by the statutes' plain language. "There is no more persuasive evidence of legislative intent than the words by which the Legislature undertook to express its purpose" *Perez v. Zagami, LLC*, 218 N.J. 202, 209-10 (2014). When a statute's "plain language leads to a clear and unambiguous result, then our interpretive process is over." *Richardson v. Bd. of Trs., Police & Fireman's Ret. Sys.*, 192 N.J. 189, 195 (2007). As noted by the ALJ, *N.J.S.A. 18A:7F-68(c)(4)* requires a district to have received a grant "under subsection b. of section 4 of P.L. 2021, c. 402 (C. 18A:13-47.1)." Additionally, the ALJ cited *N.J.S.A. 18A:13-47.6*, which provides reimbursement to a district for election costs provided that "the decision to establish or enlarge a . . . regional district stems from the completion of a feasibility study conducted in connection with the grant program established pursuant to section 2 of P.L. 2021, c. 402 (C. 18A:13-47. 2)."

The Commissioner is not persuaded by petitioners' exceptions. Petitioners maintain that the SREP bill evolved from LEAP and that the ALJ did not consider the unique circumstances regarding the creation of the SREP statutory scheme. However, the plain language of *N.J.S.A. 18A:13-47.1 et seq.* does not support petitioners' contention. LEAP and SREP are separate grant programs. The process to obtain a LEAP grant is detailed under *N.J.S.A. 40A:65-1 et seq.*, and the

LEAP grant remains available for districts to utilize even after the enactment of SREP. Furthermore, petitioners acknowledge that the Legislature removed any reference to the LEAP grant program from the bill that would eventually become P.L. 2021, c. 402. This omission indicates the Legislature's intent to create a grant program separate from LEAP. Furthermore, petitioners have failed to cite any authority supporting their claim that the plain reading of a statute can be altered due to a party's alleged detrimental reliance on information provided during the legislative process.

Petitioners acknowledge that they received a LEAP grant. Petitioners also acknowledge that they neither applied for nor received a SREP grant. As such, petitioners are not entitled to the benefits conferred under *N.J.S.A. 18A:13-47.6* and *N.J.S.A. 18A:7F-68(c)(4)*.

Accordingly, the Initial Decision is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.⁴


ASSISTANT COMMISSIONER OF EDUCATION⁵

Date of Decision: August 12, 2025
Date of Mailing: August 13, 2025

⁴ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

⁵ Pursuant to *N.J.S.A. 18A:4-34*, this matter has been designated to Assistant Commissioner Kathleen Ehling.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 09873-24

AGENCY DKT. NO. 164-5/24

**HENRY HUDSON REGIONAL SCHOOL
DISTRICT BOARD OF EDUCATION,
MONMOUTH COUNTY; BOROUGH OF
ATLANTIC HIGHLANDS BOARD OF
EDUCATION, MONMOUTH COUNTY AND
BOROUGH OF HIGHLANDS BOARD OF
EDUCATION, ATLANTIC COUNTY,**

Petitioners,

v.

**DR. SECIL ONAT/ASSISTANT
COMMISSIONER, DIVISION OF
FINANCE AND BUSINESS SERVICES,
NEW JERSEY DEPARTMENT OF
EDUCATION,**

Respondent.

Jonathan M. Busch, Esq., and Nicholas Celso III, Esq., for petitioners (The
Busch Law Group, attorneys)

Vijayasri G. Aryama, Deputy Attorney General, for respondent (Matthew J.
Platkin, Attorney General of New Jersey, attorney)

Record Closed: April 8, 2025

Decided: May 14, 2025

BEFORE **MARY ANN BOGAN**, ALJ:**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Petitioner Henry Hudson Regional School District Board of Education (Henry Hudson) appeals from respondent Department of Education's (DOE) determination that Henry Hudson, which began operating as a regional school district at the start of the 2024–2025 school year, is ineligible (1) under N.J.S.A. 18A:13-47.6 for reimbursement for the costs of a voter referendum to establish the regional district and (2) under N.J.S.A. 18A:7F-68(c)(4) for certain State aid incentives for regional school districts. The DOE reached this conclusion because, prior to the enactment of those laws, Henry Hudson received a Local Efficiency Achievement Program (LEAP) grant under N.J.S.A. 40A:65-30 to support its efforts to regionalize, and neither applied for nor received what is known as a School Regionalization Efficiency Program (SREP) grant for which the financial incentives under N.J.S.A. 18A:13-47.6 and N.J.S.A. 18A:7F-68(c)(4) are available. By way of appeal, Henry Hudson seeks an order from the Commissioner “directing the revision of State aid to include all incentives and benefits” and “directing payment of election reimbursement costs” due to Henry Hudson under N.J.S.A. 18A:13-47.6 and N.J.S.A. 18A:7F-68(c)(4).

In response to Henry Hudson's petition of appeal, the DOE filed a motion to dismiss in lieu of an answer under N.J.A.C. 6A:3-1.5(g) and N.J.A.C. 6A:3-1.10. The DOE reiterates that Henry Hudson is not entitled to State aid under N.J.S.A. 18A:7F-68(c)(4) or reimbursement under N.J.S.A. 18A:13-47.6 because the district did not apply for or receive an SREP grant under N.J.S.A. 18A:13-47.1 to -47.11. The Commissioner of the DOE transmitted Henry Hudson's petition of appeal and the DOE's motion to the Office of Administrative Law (OAL), where on July 17, 2024, the matter was filed as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform

Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6. Henry Hudson opposes the DOE's motion and has filed a "Cross Motion for Summary Decision."

For the following reasons, the DOE's motion must be granted.

FACTUAL DISCUSSION

For purposes of the DOE's motion, all the facts alleged by Henry Hudson in July 17, 2024, petition of appeal are deemed admitted. On April 22, 2021, the Department of Community Affairs, Division of Local Government Services (DLGS), awarded Henry Hudson a \$65,000 LEAP grant to study the feasibility of consolidating three school districts: Highlands, Atlantic Highlands, and Sea Bright. Petition of Appeal, Ex. A.

One of the feasibility studies commissioned by Henry Hudson concluded in May 2022 that "[t]he tax savings created through regionalization . . . stem [from] the cost savings due to consolidation of duplicative services in the all-purpose regional [school district] and the additional [S]tate aid gained from the alternative [S]tate-aid formula for regionalized districts in Senate Bill S3488, P.L. 2021, c. 402," which Governor Murphy signed into law on January 18, 2022, and is codified at N.J.S.A. 18A:13-47.1 to -47.11 and various other statutory provisions, including N.J.S.A. 18A:7F-68(c)(4). Petition of Appeal, ¶¶ 37, 50. Eventually, Henry Hudson moved forward with regionalization without Sea Bright, and on July 21, 2023, the DOE approved Henry Hudson's regionalization proposal. Id. at ¶¶ 54, 59. Upon a voter referendum held on September 23, 2023, the people of Highlands and Atlantic Highlands approved of the regional school district. Id. at ¶ 5.

On February 24, 2024, Henry Hudson received a State aid notice from the DOE. Id. at ¶ 61. According to Henry Hudson, "[t]he subject [S]tate aid notice did not contain the expected [S]tate aid benefits promised by P.L. 2021, c. 402." Id. at ¶ 62. Thereafter, Henry Hudson's superintendent wrote to the DOE about the agency's "Failure to Award State Aid Incentives" and "Henry Hudson Regionalization Election Costs Reimbursement." Id. at Ex. C and Ex. E.

The superintendent contended that “[a]s a LEAP Grant recipient, certain state aid incentives [under N.J.S.A. 18A:7F-68] are due to a district that is successful in completing the regionalization process.” Id. at Ex. C. The superintendent explained that “[t]he financial analysis conducted for the feasibility study indicates that we should have received” an additional \$229,060 in [S]tate aid for FY 2024 and FY 2025 and that if the DOE “continues to fail to comply with the statutorily guaranteed incentives,” Henry Hudson would also be shortchanged several hundreds of thousands of dollars in State aid in future years. Ibid.

On March 28, 2024, the DOE responded to Henry Hudson’s superintendent:

Upon review of the relevant statutes and the information provided by the school district, Henry Hudson . . . does not qualify for a slower reduction in State school aid pursuant to N.J.S.A. 18A:7F-68(c)(4). First, . . . the school districts involved in the consolidation did not receive a grant for a regionalization study pursuant to N.J.S.A. 18A:13-47.2 or 47.4 [SREP][.] Second, the newly constituted district does not have a positive State aid differential; it is not subject to a reduction under N.J.S.A. 18A:7F-68(c) (district has a negative State-aid differential of \$56,527 [for the 2024–2025 school year].

[Id. at Ex. D.]

On May 2, 2024, the DOE informed the Henry Hudson superintendent that the district was ineligible for reimbursement of election costs under N.J.S.A. 18A:13-47.6 for the same reason Henry Hudson was not entitled to State-aid incentives under N.J.S.A. 18A:7F-68(c), i.e., Henry Hudson received a LEAP grant, and not an SREP grant under N.J.S.A. 18A:13-47.1 to -47.11. Id. at Ex. E.

Henry Hudson alleges that the DOE’s determinations are “based on the mistaken interpretation of P.L. 2021, c. 402” and that the district has “been financially harmed [due to its] good faith reliance on the provisions of P.L. 2021, c. 402, clearly articulated legislative intent and SREP.” Petition of Appeal, ¶¶ IV and V.

According to Henry Hudson, Senator Vin Gopal, a sponsor of S3488, which became L. 2021, c. 402, “undoubtedly intended [Henry Hudson] to benefit from” the new law. Id. at ¶ 19. Henry Hudson further alleges that “[e]arly drafts of S3488 specifically referenced the existing LEAP Grant Program, but because the legislative intent was to ensure [that] grants for school regionalization studies would be available permanently, [the statutory] reference to the grant program [is] generic in case future administrations wanted to rename it.” Id. at ¶ 22. Henry Hudson also alleges that “[t]he legislation was written with the intent of refining the guidelines for an existing grant program already being administered by the DGLS, not creating a new one.” Ibid.

Standards for a Motion to Dismiss

Under the procedural rules governing petitions of appeal filed with the Commissioner of Education, a respondent can move to dismiss in lieu of an answer for various reasons, including “on the grounds that the petitioner has advanced no cause of action even if the petitioner’s factual allegations are accepted as true” N.J.A.C. 6A:3-1.10; N.J.A.C. 6A:3-1.5(g). Such a motion is assessed under the same standards as a motion to dismiss for a complainant’s failure to state a claim upon which relief can be granted under New Jersey Court Rule 4:6-2(e).

Under those standards, “the test for determining the adequacy of [the] pleading [is] whether a cause of action is ‘suggested’ by the facts,” such that the “inquiry is limited to examining the legal sufficiency of the facts alleged on the face of the complaint.” Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989) (citing R. 4:6-2(e); Velantzas v. Colgate-Palmolive Co., 109 N.J. 189, 192 (1988); Rieder v. Dep’t of Transp., 221 N.J. Super. 547, 552 (App. Div. 1987)).

Importantly, for purposes of the motion, it does not matter whether a petitioner can ultimately “prove the allegation contained in the complaint” because “all facts alleged in the complaint and the legitimate inferences drawn therefrom are deemed admitted.” Ibid. (citing Somers Constr. Co. v. Bd. of Educ., 198 F. Supp. 732, 734 (D.N.J. 1961)); Smith v. City of Newark, 136 N.J. Super. 107, 112 (App. Div. 1975) (citing Heavner v. Uniroyal, Inc., 63 N.J. 130, 133 (1973); J.H. Becker, Inc. v. Marlboro Twp., 82 N.J. Super. 519, 524

(App. Div. 1964)). While “[a] complaint should not be dismissed . . . where a cause of action is suggested by the facts,” “a dismissal is mandated where the factual allegations are palpably insufficient to support a claim upon which relief can be granted.” Rieder, 221 N.J. Super. at 552.

LEGAL ANALYSIS AND CONCLUSION

The DOE is entitled to prevail on its motion to dismiss because Henry Hudson has failed to state a claim upon which relief may be granted under N.J.S.A. 18A:7F-68(c)(4) or N.J.S.A. 18A:13-47.6. In opposition to the DOE’s motion, Henry Hudson incorrectly maintains that the agency has misinterpreted the statutory provisions emanating from P.L. 2021, c. 402, and that the Legislature intended to reward a newly formed regional district like Henry Hudson with the financial benefits under N.J.S.A. 18A:7F-68(c)(4) and N.J.S.A. 18A:13-47.6. Simply put, those laws do not apply to Henry Hudson.

Under N.J.S.A. 18A:13-47.2, the DLGS “shall establish a grant program, . . . the purpose of which shall be to provide for the reimbursement of eligible costs associated with conducting feasibility studies . . . to form or expand regional school districts.” That provision further provides:

In addition to funds being made available to boards of education . . . seeking to conduct feasibility studies after the date of enactment of P.L.2021, c.402 (C.18A:13-47.1 et al.), funds under the grant program shall be made available to:

- a. the boards of education . . . of two or more school districts which have conducted within two years prior to the enactment of P.L.2021, c.402 (C.18A:13-47.1 et al.) a feasibility study for which no prior reimbursement was made

N.J.S.A. 18A:13-47.3(a) directs that “[t]he boards of education . . . of two or more school districts seeking to form a . . . regional district and that wish to apply for funding under the grant program established pursuant to section 2 of P.L.2021, c.402 (C.18A:13-47.2) shall jointly submit an application to the [DLGS].”

Under N.J.S.A. 18A:13-47.4(a), the DLGS “shall review all applications submitted pursuant to section 3 of P.L.2021, c.402 (C.18A:13-47.3) and shall only approve applications that meet the eligibility criteria set forth in subsection b. of section 3 of P.L.2021, c.402 (C.18A:13-47.3) and that are certified by the [Commissioner of Education] pursuant to subsection c. of section 3 of P.L.2021, c.402 (C.18A:13-47.3).”

Further, under N.J.S.A. 18A:13-47.4(e):

[b]oards of education . . . receiving application approval pursuant to subsection a. of this section, which have conducted within two years prior to the enactment of P.L.2021, c.402 (C.18A:13-47.1 et al.) a feasibility study for which no prior reimbursement was made, shall be eligible for reimbursement up to an amount or percentage to be determined by the division of any costs associated with conducting the study upon execution of the regionalization outlined in the boards’ . . . application.

Next, N.J.S.A. 18A:13-47.6 states:

The Department of Education shall reimburse participating districts for any costs incurred to hold an election to establish or enlarge a limited purpose or all purpose regional district provided that the decision to establish or enlarge a limited purpose or all purpose regional district stems from the completion of a feasibility study conducted in connection with the grant program established pursuant to section 2 of P.L.2021, c.402 (C.18A:13-47.2).

Finally, N.J.S.A. 18A:7F-68(c)(4), which was added as part of L. 2021, c. 402, provides:

A school district that is a participating district under an application that is approved for a grant pursuant to subsection a. of section 4 of P.L.2021, c.402 (C.18A:13-47.4) or a school district that is a participating district under an application that receives preliminary approval pursuant to subsection b. of section 4 of P.L.2021, c.402 (C.18A:13-47.4) and that has a State aid differential that is positive may elect to receive State school aid in an amount equal to the district’s State aid in the

prior school year minus a percent of the State aid differential according to the following schedule:

- (a) 30 percent in the 2021–2022 school year;
- (b) 37 percent in the 2022–2023 school year;
- (c) 46 percent in the 2023–2024 school year;
- (d) 55 percent in the 2024–2025 school year;
- (e) 65.5 percent in the 2025–2026 school year;
- (f) 76 percent in the 2026–2027 school year;
- (g) 88 percent in the 2027–2028 school year; and
- (h) 100 percent in the 2028–2029 school year.

Under a plain reading of these laws, Henry Hudson has no claim for relief under N.J.S.A. 18A:7F-68(c)(4) or N.J.S.A. 18A:13-47.6. Although all Henry Hudson’s allegations are deemed admitted for purposes of the DOE’s motion, Henry Hudson received a LEAP grant on April 22, 2021, and has not alleged that the district applied for or received an SREP grant established under N.J.S.A. 18A:13-47.1 to -47.11, which became effective on January 18, 2022. This means Henry Hudson did not receive, as required by N.J.S.A. 18A:7F-68(c)(4), “a grant pursuant to subsection a. of section 4 of P.L.2021, c.402 (C.18A:13-47.4)” and, as required by N.J.S.A. 18A:13-47.6, Henry Hudson’s “decision to establish [an] all purpose regional district” did not “stem[] from the completion of a feasibility study conducted in connection with the grant program established pursuant to section 2 of P.L.2021, c.402 (C.18A:13-47.2).”¹

And to the extent that Henry Hudson relies on N.J.S.A. 18A:13-47.2 for the proposition that the Legislature intended to make funds available under the new grant program to a regional district which, like Henry Hudson, “conducted within two years prior to the enactment of P.L.2021, c.402 (C.18A:13-47.1 et al.) a feasibility study,” that provision only addresses funding for a feasibility study and specifically limits such funding for “a feasibility study for which no prior reimbursement was made.” Contrary to this provision, Henry Hudson received money for a feasibility study under its LEAP grant.

¹ Even though Henry Hudson also disputes that it is not entitled to the incentives under N.J.S.A. 18A:7F-68(c)(4) because it, or its constituent districts, had a negative, and not a positive, State-aid differential, it is unnecessary to address Henry Hudson’s allegation regarding the DOE’s State-aid calculations because the fact that Henry Hudson did not receive an SREP grant is, alone, sufficient to conclude that N.J.S.A. 18A:7F-68(c)(4) does not apply to the district.

Moreover, N.J.S.A. 18A:13-47.4(e) states that school boards “receiving application approval pursuant to subsection a. of this section, which have conducted within two years prior to the enactment of P.L.2021, c.402 (C.18A:13-47.1 et al.) a feasibility study for which no prior reimbursement was made, shall be eligible for reimbursement up to an amount or percentage to be determined by the division of any costs associated with conducting the study upon execution of the regionalization outlined in the boards’ . . . application.” Not only was Henry Hudson awarded a LEAP grant for its feasibility study, i.e., “prior reimbursement,” the regional district did not apply for an SREP grant and, thus, did not “receiv[e] application approval” under N.J.S.A. 18A:13-47.4(a).

Even though a plain reading of the relevant laws shows that only school districts that applied for and received an SREP grant (and not a LEAP grant) are eligible for the regionalization benefits conferred under N.J.S.A. 18A:13-47.6 and N.J.S.A. 18A:7F-68(c)(4), Henry Hudson contends that certain sponsors of the bill that became L. 2021, c. 402, including Senator Vin Gopal, “undoubtedly intended [Henry Hudson] to benefit from” the new law. Subsequent legislation proposed by Senator Gopal, however, contradicts Henry Hudson’s supposition about legislative intent.

On January 9, 2024, Senator Gopal introduced S2048, which “[m]odifies provisions of grant program that reimburses eligible costs for school district regionalization feasibility studies.” According to the statement to S2048, the bill would amend N.J.S.A. 18A:7F-68(c)(4) to “expand[] eligibility for this modified State aid schedule to a school district that is a participating district under an application for which a lead district has successfully completed a prior grant agreement with the DLGS for the purposes of completing a feasibility study for school district regionalization” and would amend N.J.S.A. 18A:13-47.2 to “expand[] eligibility for funding under the SREP to the boards of education or governing bodies of two or more school districts that conducted a school district regionalization feasibility study within two years prior to the enactment of P.L.2021, c.402, for which the amount of a prior grant award disbursed by the [DLGS] is less than the total cost of the study.”² S2048, proposed by the same legislator who sponsored the bill that became L. 2021, c. 402, shows that the Legislature did not include within the coverage of L. 2021,

² The proposed law would not amend N.J.S.A. 18A:13-47.6.

c. 402, a regional school district which, like Henry Hudson, received an LEAP grant, i.e., “a prior grant agreement with the DLGS,” prior to the enactment of L. 2021, c. 402.

Therefore, I **CONCLUDE** that the DOE is entitled to prevail on its motion to dismiss because Henry Hudson has failed to state a claim upon which relief may be granted under N.J.S.A. 18A:7F-68(c)(4) or N.J.S.A. 18A:13-47.6 because those laws do not apply to Henry Hudson. As such, it is unnecessary to address Henry Hudson’s “Cross Motion for Summary Decision.”

ORDER

It is hereby **ORDERED** that the Department of Education’s motion is **GRANTED**.

I hereby **FILE** this initial decision with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

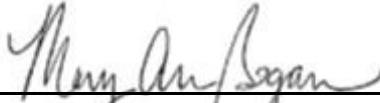
This recommended decision may be adopted, modified, or rejected by the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton,

New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.

May 14, 2025

DATE



MARY ANN BOGAN, ALJ

Date Received at Agency:

Date Mailed to Parties:

MAB/nn