

C #108-97
SB # 36-97

BOARD OF EDUCATION OF THE TOWNSHIP OF JACKSON,	:	
	:	
PETITIONER-APPELLANT,	:	
	:	
V.	:	STATE BOARD OF EDUCATION
	:	
TOWNSHIP COMMITTEE OF THE TOWNSHIP OF JACKSON, OCEAN COUNTY,	:	DECISION
	:	
RESPONDENT-RESPONDENT.	:	

Decided by the Commissioner of Education, March 10, 1997

For the Petitioner-Appellant, Kalac, Newman, Lavender & Campbell
(Francis J. Campbell, Esq., of Counsel)

For the Respondent-Respondent, Hierung, Hoffman, & Gannon (William T.
Hierung, Jr., Esq., of Counsel)

This matter was initiated when the Board of Education of the Township of Jackson (hereinafter "Board") filed a Petition of Appeal to the Commissioner of Education pursuant to N.J.S.A. 18A:22-37. By its appeal, the Board challenged \$1,563,930 of \$1,763,930 in reductions made by the Township Committee of the Township of Jackson (hereinafter "Township Committee") to the proposed education budget for 1996-97 after it was defeated by the voters.

By decision dated March 10, 1997, the Commissioner directed restoration of \$541,765 of those reductions, but sustained the remainder. The Board then filed an appeal with the State Board of Education.

Review of the brief submitted by the Board in support of its appeal indicates that it is not challenging the reductions that were sustained by the Commissioner. Rather, the Board's appeal constitutes a general challenge to the way the Commissioner has been considering budget appeals under N.J.S.A. 18A:22-37. Specifically, the Board asserts that the conclusions which the Commissioner reached failed to give due weight to the district's financial needs; that the Commissioner should have conducted a hearing as to the necessity of cap waiver monies after the municipal governing body reduced the education budget; and that the length of time it takes the Commissioner to issue budget decisions fails to eliminate the problems pointed out by the New Jersey Supreme Court in its decision in Board of Education of the Township of Deptford, 116 N.J. 305 (1989). However, the only relief which the Board seeks by the appeal is a "determination by the State Board of Education to correct the procedural deficiencies evident from the decision of the Commissioner in his budget decision...." Board's brief, at 16.

It is well settled that the role of the Commissioner in reviewing budget appeals pursuant to N.J.S.A. 18A:22-37 is not to function as an original budget-making body. Board of Education, East Brunswick Township v. Township Council, East Brunswick, 48 N.J. 94, 106 (1966). Rather, it is the function of the Commissioner, and of the State Board on appeal, to sit as a reviewing body which is charged with the responsibility of ensuring that the mandate for a thorough and efficient education is being carried out. Id. Accordingly, we are obligated to defer to a municipal budget decision such as the one involved here so long as we are satisfied that educational goals are not jeopardized. Deptford, supra; East Brunswick, supra.

We fully agree with the Board that it is important for the Commissioner to ensure timely review of budget appeals so that the disputed issues can be resolved to coincide with the school year covered by the budget to the extent possible. Id. However, this is not a case in which the budget involved has evaded meritorious review by the Commissioner. Deptford, supra. Hence, while we do not minimize the significance of the questions which the Board would like us to decide, we find that we can not properly or productively address such questions in the absence of a challenge to the budget reductions which the Commissioner sustained. In this respect, we stress that when the Commissioner rendered his decision in this matter, he made the determination that the resulting budget amount would be sufficient to enable the Board to provide a thorough and efficient education to its students for the school year in question.¹

Therefore, for the reasons stated, we dismiss the appeal.

August 6, 1997

Date of mailing _____

¹ We note that on January 22, 1997, the Commissioner proposed new rules to us to govern the budget review and appeals process, and that since February 18, 1997, we have been entertaining public comment relating thereto pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. See 29 N.J.R. 2591 through 2608.