

EDU #543-98
C #370-98ML
SB # 80-98

IN THE MATTER OF THE TENURE :
HEARING OF LEWIS SHINKLE, BOARD :
OF EDUCATION OF THE TOWNSHIP OF : STATE BOARD OF EDUCATION
HAMILTON, MERCER COUNTY. : DECISION ON MOTION

Decided by the Acting Commissioner of Education, August 21, 1998

For the Petitioner-Appellant, Carroll, Weiss & Josephson (Joan Kane
Josephson, Esq., of Counsel)

For the Respondent-Respondent, Wills, O'Neill & Mellk (Arnold M. Mellk, Esq.,
of Counsel)

The Board of Education of the Township of Hamilton (hereinafter "Board") certified tenure charges against Lewis Shinkle (hereinafter "respondent"), a tenured teaching staff member, alleging that he had engaged in sexual activity with a 16-year-old student. During the course of the proceedings in the Office of Administrative Law, the Board moved for an order allowing it to introduce into evidence the results of a polygraph examination administered to the student. On August 10, 1998, the Administrative Law Judge ("ALJ"), stressing the danger of undue prejudice, denied the Board's motion. On August 21, the Acting Commissioner of Education declined the Board's request for interlocutory review, finding no basis to disturb the ALJ's order.

The Board has filed a motion with the State Board pursuant to N.J.A.C. 6:2-2.3 requesting leave to appeal the Acting Commissioner's decision.

After reviewing the papers submitted, we deny the Board's request pursuant to our discretion under N.J.A.C. 1:1-14.10. "[I]nterlocutory review may be granted only in the interest of justice or for good cause shown." In re Certain Sections of the Uniform Admin. Procedure Rules, 90 N.J. 85 (1982). We find that the Board has not demonstrated good cause requiring our review of the ALJ's determination at this time. We note, however, that interlocutory rulings may be subject to review by the State Board upon appeal from a final decision of the Commissioner on the merits of the case. N.J.A.C. 1:1-14.10.

October 7, 1998

Date of mailing _____