

C #6-99L
SB #7-99

BOARD OF EDUCATION OF THE :
TOWNSHIP OF BERKELEY, OCEAN :
COUNTY, :

PETITIONER-APPELLANT, : STATE BOARD OF EDUCATION

V. : DECISION

NEW JERSEY STATE DEPARTMENT OF :
EDUCATION AND LEO F. KLAGHOLZ, :
COMMISSIONER OF EDUCATION, :

RESPONDENT-RESPONDENT. :

Decided by the Commissioner of Education, January 8, 1999

For the Petitioner-Appellant, Patrick Sheehan, Esq.

For the Respondent-Respondent, Michelle Lynn Miller, Deputy Attorney
General (Peter Verniero, Attorney General of New Jersey)

Petitioner, the Township of Berkeley, a constituent municipality within the Central Regional School District, filed a petition of appeal with the Commissioner of Education challenging a determination by the Department of Education that it was not entitled to supplemental senior citizen stabilization aid for the 1998-99 school year under N.J.S.A. 18A:7F-10(g) of the Comprehensive Educational Improvement and Financing Act ("CEIFA").¹

¹ N.J.S.A. 18A:7F-10(g) provides:

Additional supplemental stabilization aid shall be paid to any district which is located in a municipality which has a population composed of more than 45% senior citizens age 65 or older according to the most recent federal decennial census. The aid shall equal \$200 multiplied by the district's resident enrollment projected for October 1997.

In a letter decision dated January 8, 1999, the Commissioner dismissed the petition, noting that the Appropriations Act passed by the Legislature for the fiscal year ending June 30, 1998 had expressly provided additional senior citizen stabilization aid to the Central Regional School District for the 1997-98 school year “[n]otwithstanding the provisions of section 10 of P.L. 1996, c.138 (C.18A:7F-10).” P.L. 1997, c.131.² The Commissioner concluded that: “It is only logical that if CEIFA conferred upon the [Central Regional School] District the entitlement which petitioner urges, the language in the FY98 Appropriations Act is rendered superfluous. Statutes of like subject matter are to be construed together in order to ascertain legislative intent.” Commissioner’s Decision, slip op. at 2. The Commissioner concluded that “[a] regional district, by its very nature, cannot meet the standard of N.J.S.A. 18A:7F-10(g) unless all of its constituents qualify, notwithstanding that its buildings may happen to be clustered in a qualifying municipality within the district.” Id. at 3.

Petitioner filed the instant appeal to the State Board, arguing that the Commissioner’s interpretation of N.J.S.A. 18A:7F-10(g) was not consistent with the true legislative intent. According to the petitioner, the Legislature intended to provide aid to municipalities with a large composition of senior citizens, including individual municipalities within a regional district. The petitioner points out that approximately 70% of the students enrolled in the Central Regional School District are from Berkeley

² That Act provided, in pertinent part:

Notwithstanding the provisions of section 10 of P.L. 1996, c.138 (C.18A:7F-10), the Central Regional School District shall be entitled to Additional Senior Citizen Stabilization Aid as provided herein. The regional school tax levy shall be calculated without the Additional Senior Citizen Stabilization Aid and then the amount appropriated herein shall be applied in full toward the Berkeley Township share of the regional tax apportionment. The district shall amend its certification of the amounts

Township, that both the Central Regional High School and Middle School are located in Berkeley Township, and that more than 45% of the population of Berkeley Township is 65 and older.

After review of the parties' arguments and the pertinent statutes, we find that the language of N.J.S.A. 18A:7F-10(g) may be subject to various interpretations with regard to municipalities located within regional districts. Moreover, we recognize the inequitable effect of the Commissioner's interpretation of that legislation on municipalities such as Berkeley Township which might otherwise qualify for such aid but for their situation within a regional district. However, given the legislative intent as reflected in the FY98 Appropriations Act, we are compelled to affirm the Commissioner's determination and to dismiss the petition.

May 5, 1999

Date of mailing _____

to be raised by each constituent municipality to support the regional district and notify the county Board of Taxation accordingly.