

SB #15-05

IN THE MATTER OF THE INCLUSION OF :
CERTAIN QUESTIONS ON THE BALLOT : STATE BOARD OF EDUCATION
FOR THE APRIL 2005 CAMDEN SCHOOL : DECISION
ELECTION, CAMDEN COUNTY. :

For the Appellant, Rev. Edward D. Torres, pro se

For the Respondent, Harvey C. Johnson, Esq.

On March 12, 2005, the appellant, acting pro se, appealed to the State Board of Education from a determination of the Camden Board of Education to deny his request to place a referendum regarding school prayer and a Bible-based curriculum on the ballot for the district's annual school election to be held in April 2005. The Camden Board countered that the education laws did not require it to place the referendum proposed by the appellant on the ballot. After reviewing the record, we dismiss the appeal and remand this matter to the Commissioner.

The State Board's quasi-judicial authority and its jurisdiction to exercise that authority are established in N.J.S.A. 18A:6-27 through 18A:6-29. N.J.S.A. 18A:6-27 provides that "[a]ny party aggrieved by any determination of the commissioner may appeal from his determination to the state board." Thus, before a party may pursue a claim with the State Board that a determination made by a district board of education was in violation of the education laws, such party must first invoke the original

jurisdiction conferred on the Commissioner of Education by N.J.S.A. 18A:6-9 “to hear and determine...all controversies and disputes arising under the school laws, excepting those governing higher education, or under the rules of the state board or of the commissioner.”

In this instance, the appellant filed his appeal challenging the determination by the Camden Board to deny his request to place his proposed referendum on the ballot for the district’s annual school election directly to the State Board. Given the statutory framework, we dismiss the appeal and remand this matter to the Commissioner pursuant to the original jurisdiction conferred on him by N.J.S.A. 18A:6-9 so that he may determine in the first instance any claims arising under the school laws.¹

Arcelio Aponte and Frederick J. LaGarde, Jr. abstained.

August 3, 2005

Date of mailing _____

¹ We note that the Legislature amended N.J.S.A. 18A:6-9 in 1995, adding: “For the purposes of this Title, controversies and disputes concerning the conduct of school elections shall not be deemed to arise under the school laws.” L. 1995, c. 278, § 24. At the same time, the Legislature repealed Chapter 14 of Title 18A, “School Elections,” and enacted N.J.S.A. 19:60-1 et seq., “School Elections, Generally,” within Title 19, “Elections.”