



# New Jersey School Boards Association

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## MEMORANDUM

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**To: SCHOOL BUSINESS ADMINISTRATORS AND BOARD ATTORNEYS**

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**From: MARIE S. BILIK, EXECUTIVE DIRECTOR**

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**Date: MAY 2010**

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**Re: BUDGET REVIEW AND RESTORATION OF REDUCTIONS MEMORANDUM  
2010-2011**

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The following document is the 2010-2011 "Budget Review and Restoration of Reductions Memorandum" prepared by the Legal and Policy Services Department of the New Jersey School Boards Association. This memorandum is designed to assist boards of education in determining whether to apply for restoration of reductions made by the governing body(ies), and in preparing the application for restoration of reductions for filing with the Commissioner of Education.

P.L. 2003, c. 275, permanently extended the deadline for the Governor's annual budget message to the Legislature to the 4th Tuesday in February. The Department of Education has revised certain dates pursuant to N.J.S.A. 18A:7F-5c, which authorizes the Commissioner to make any adjustments to the school budget calendar that may be necessary to conform with the state aid notification date within two days after the Governor's budget message. The changed dates reflect a March 16, 2010 date for the Governor's budget address, which date was extended from February 23 by P.L. 2009, c. 269. Click here for the [2010 School Budget and Election Calendar](#). Other 2010 school budget information can be found on the [NJDOE District Wide Budget page](#).

Districts having questions about this memorandum, the defeated budget review process, and/or the restoration of reductions application process in general, should contact the [NJSBA Legal and Policy Services Department](#) and their local board attorney.

## **2010-11 BUDGET REVIEW AND RESTORATION OF REDUCTIONS**

### **I. BACKGROUND**

Along with the excitement of new and returning candidates for school board offices across New Jersey, election season brings with it the budget approval process. The school budget and the fire district budgets are the only budgets that require the approval of the voters. This approval process understandably causes concern for board members as they move through the process. Where voters reject the board's proposed budget, boards of education may be required to cut programs and/or personnel that may negatively impact district operations and the district's ability to provide the thorough and efficient education mandated by the state constitution. Because the New Jersey constitution guarantees a thorough and efficient (T&E) education to each schoolchild residing in the state, boards of education have the right to apply to the Commissioner of Education for restoration of reductions where the district's proposed budget has been defeated and the tax levy reduced by the governing body.<sup>1</sup> The application process is fairly detailed and complicated; therefore, it is strongly recommended that boards work in close conjunction with the chief school administrator and the board attorney when applying for restoration of reductions.

Several New Jersey statutes<sup>2</sup> authorize the Commissioner of Education ("Commissioner") to review and decide appeals by boards of education seeking restoration of budgetary reductions imposed by local governing bodies.<sup>3</sup> Historically, the Commissioner's standard of review has been whether a board has demonstrated that the amount by which a specific line-item has been reduced by the governing body is necessary to provide a thorough and efficient education.<sup>4</sup> That standard changed on December 20, 1996, when the Legislature enacted the Comprehensive Educational Improvement and Financing Act of 1996 (CEIFA).

Pursuant to CEIFA, and continued under the newly enacted [School Funding Reform Act \(SFRA\) P.L. 2007, c. 260](#), budget appeals were eliminated as contested cases and are no longer deemed to be controversies before the Commissioner. The State Board was authorized to establish an expedited budget review process based on a district's application to the Commissioner for an order to restore a budget reduction.<sup>5</sup> Budget appeals under CEIFA and the SFRA were replaced with an administratively developed procedure, an Application for Restoration of Reductions. The process to apply for restoration of reductions differed based upon whether a district's proposed budget was above, within, or below the T&E budget range

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<sup>1</sup> Technically, voters vote to approve a tax levy, not a budget, but the term budget is used throughout this document for ease of use.

<sup>2</sup> [N.J.S.A. 18A:6-9, 18A:22-14, 22-17, and 22-37.](#)

<sup>3</sup> [Board of Ed., Absecon, Commr., 1997: Nov. 17.](#)

<sup>4</sup> [Id.](#) at 3, citing [Board of Ed., Deptford v. Deptford Township](#), 116 N.J. 305 (1989), [Board of Ed., East Brunswick v. Township Council of East Brunswick](#), 48 N.J. 94 (1966).

<sup>5</sup> [N.J.S.A. 18A:7F-5\(e\)\(3\)](#),

or “box.” Rules adopted by the State Board of Education now provided for an expedited budget review process, in lieu of appeals, for requests to restore municipal governing body or board of school estimate reductions.<sup>6</sup>

Under CIEFA and now the SFRA, the restoration of budget reductions is carried out according to the following:

Proposed base budgets in excess of the adequacy budget - Any reductions can be restored only if the board of education has documented by clear and convincing evidence for each item reduced, that such reductions will negatively impact on the stability of the district, given the need for long term planning and budgeting (“stability grounds”). In such cases a district may not argue that any of the reductions will adversely affect the district board of education’s ability to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-4b; N.J.A.C. 6A:23A-9.9(a)(1)(ii).

Under the SFRA, in determining the impact of reductions on the stability of a district, the Commissioner can consider enrollment increases or decreases within the district; the history of voter or board of school estimate approval or rejection of district budgets; the impact on the local tax levy; whether the reductions would have impacted the ability of the district to fulfill its contractual obligations, and the other factors listed at N.J.A.C. 6A:23A-9.9(b)(4), N.J.A.C. 6A:23A-9.9(b)(3).

Proposed base budgets at or below the adequacy budget - Under the SFRA, any reductions can be restored on grounds that the reductions would either adversely affect the district board of education’s ability to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-4a and b (“T&E grounds;” N.J.A.C. 6A:23A-9.9(a)(2)(i)) or would adversely affect the stability of the district given the need for long term planning and budgeting (“stability grounds” N.J.A.C. 6A:23A-9.9(a)(1)(i)). In considering the application, the Commissioner considered enrollment increases or decreases within the district; the history of voter or board of school estimate approval or rejection of district budgets; the impact on the local tax levy; whether the reductions would have impacted the ability of the district to fulfill its contractual obligations, and the other factors listed at N.J.A.C. 6A:23A-9.9(b)(4), N.J.A.C. 6A:23A-9.9(b)(3).

## **II. THE SCHOOL FUNDING REFORM ACT**

On January 13, 2008 *P.L. 2007, c. 260, The School Funding Reform Act (SFRA)* was approved by the Governor, became effectively immediately, and is applicable to the 2008-09 school year and beyond. The SFRA, as well as, *P.L. 2007, c. 53, The School District Accountability Act (A5)*, *P.L. 2007, c. 62, The Tax Levy Cap Law (A1)*, and *P.L. 2007, c. 63, The Uniform Shared Services and Consolidation Act (A4)* all impact school districts’ budgetary preparation

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<sup>6</sup> N.J.A.C. 6A:23-9.9.

procedures.

The SFRA indicates that for the 2008-09 school year, the pre-budget year total stabilized aid must include:

- Core Content Curriculum Standards Aid;
- Supplemental Core Curriculum Standards Aid;
- Education Opportunity Aid;
- Above Average Enrollment Aid;
- High Expectations for Learning Proficiency Aid;
- Instructional Supplement Aid;
- Demonstrably Effective Program Aid;
- Stabilization Aid;
- Supplemental Stabilization Aid Adult and Post Secondary Education Aid;
- Bilingual Education Aid;
- Special Education Aid;
- County Vocational Program Aid;
- Transportation Aid; School Choice Aid;
- Consolidated Aid; Additional Formula Aid;
- Full-Day Kindergarten Supplemental Aid;
- Targeted-At-Risk Aid;
- Abbott-Bordered District Aid;
- Non-Preschool Early Childhood Program Aid;
- Extraordinary Special Education Aid paid in 2006-07; and
- Aid for Enrollment Adjustments, taking into consideration the June 2008 payment made in July 2008.

For the 2008-09 school year, total stabilized aid must include:

- Equalization Aid (calculated according to N.J.S.A. 18A:7F-48);
- Special Education Categorical Aid;
- Extraordinary Special Education Aid Projected for 2008-09;
- Security Aid; and
- Transportation Aid.

For the 2009-10 school year and beyond, total stabilized aid will include Equalization Aid; Special Education Categorical Aid; Security Aid, and Transportation Aid.<sup>7</sup>

Along with the type of aid that is available to school districts, it is also important to understand that the total stabilized aid for each district cannot be increased by more than the district's State aid growth limit. In the event that total stabilized aid exceeds the pre-budget year total by a rate greater than the State aid growth limit, the commissioner is required to adjust the components of

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<sup>7</sup> N.J.S.A. 18A:7F-47(b).

total stabilized aid so that they total exactly the pre-budget year total increased by the state aid growth limit.<sup>8</sup> The state aid growth limit is 10% for districts spending above adequacy and 20% for districts spending below adequacy.<sup>9</sup> For the 2009-10 budget year the state aid growth limit was 0% for districts spending above adequacy and 5% for districts spending below adequacy and 5% for districts spending below adequacy. P.L. 2009, c. 68. For the 2010-11 budget year the state aid growth limit is proposed to be 0% for all districts.

The SFRA also established base pupil amounts for the 2008-09 school year. The base per pupil amounts were based on an extensive assessment of educational costs in New Jersey, [A Formula for Success: All Children All Communities](#), issued December 18, 2007. SFRA requires that the amounts contained in this report will be adjusted by the Consumer Price Index (CPI) in the 2009-10 and 2010-11 school years; for the 2009-2010 school year, the CPI has been established at 3.34%<sup>10</sup>. For the 2010-11 school year the CPI is defined as per N.J.S.A. 52:27D-442 and is 0%. For subsequent years, the base pupil amount and grade level weights are to be established in the Educational Adequacy Report, a report that will be issued every three years beginning September 1, 2010. The costs established in that report will be applicable during the year issued and adjusted by the CPI for the following two years. The base pupil amounts for the 2008-09 school year are as follows:

	<b>Elementary K-5</b>	<b>Middle 6-8</b>	<b>High School</b>	<b>Vocational Ed.</b>
<b>Base Cost</b>	\$9,649	\$10,035	\$11,289	\$14,789
<b>At-Risk</b>	\$14,184-\$15,149	\$14,751-\$15,755	\$16,595-\$17,724	\$20,095-\$21,224
<b>LEP</b>	\$14,474	\$15,052	\$16,934	\$21,506
<b>At-Risk/LEP</b>	\$15,390-\$16,355	\$16,006-\$17,009	\$18,006-\$19,135	\$21,506-\$22,635
<b>Sp. Ed.</b>	\$20,547	\$20,933	\$22,187	\$25,687
<b>Speech</b>	\$10,731	\$11,117	\$12,371	\$15,871

The base pupil amounts for the 2009-2010 school year, adjusted by the CPI of 3.34% and for 2010-11, further adjusted by the CPI of 0%, are as follows:

	<b>Elementary K-5</b>	<b>Middle 6-8</b>	<b>High School</b>	<b>Vocational Ed.</b>
<b>Base Cost</b>	\$9,971	10,370	\$11,666	\$15,282
<b>At-Risk</b>	\$14,657-\$15,654	\$15,243-\$16,301	\$17,149-\$18,315	\$20,766-\$21,932
<b>LEP</b>	\$14,957	\$15,554	\$17,499	\$22,224
<b>At-Risk/LEP</b>	\$15,904-\$16,901	\$16,540-\$17,577	\$18,607-\$19,774	\$22,224-\$23,391
<b>Sp. Ed.</b>	\$21,233	\$21,632	\$22,928	\$26,544
<b>Speech</b>	\$11,089	\$11,488	\$12,784	\$16,401

Note: Differing per pupil amounts for at-risk students reflect the different costs of educating at-

<sup>8</sup> N.J.S.A. 18A:7F-47(a).

<sup>9</sup> N.J.S.A. 18A:7F-47(d).

<sup>10</sup> [2009-2010 Budget Guidelines, NJ Dept. of Educ., Div. of Finance @ 190.](#)

risk pupils of different categories I each grade level. The SFRA has defined “at-risk” pupils as those resident pupils from households with an income at or below the most recent federal poverty guidelines available on October 15, of the pre-budget year, multiplied by 1.85.

Under the SFRA, each district’s adequacy budget is calculated based on the number of resident pupils at each grade level. For the 2009-10 and 2010-11 school years, the Department of Education has established an elementary (1<sup>st</sup> to 5<sup>th</sup> grade) per pupil cost of \$9,971; middle school (6<sup>th</sup> to 8<sup>th</sup> grade) pupil costs are determined by multiplying the elementary per pupil cost by 1.04; the high school (9<sup>th</sup> to 12<sup>th</sup> grade) per pupil cost is determined by multiplying the elementary amount by 1.17; while the vocational per pupil cost is determined by multiplying the base pupil amount by 1.31. Please note that that per pupil costs for kindergarten are multiplied by .5 if the district has only half-day kindergarten, but by 1.0 if the district has full-day kindergarten. The district’s per pupil count is multiplied by the appropriate per pupil adequacy amount for that grade level. The adequacy budget also includes weights for at-risk & LEP students, and county vocational districts; two-thirds of the census-based costs for the general special education category; and all of the census-based costs for speech. The sum of those amounts establishes the adequacy budget for each district.

In addition, school districts are precluded from adopting a budget that exceeds their tax levy growth limitation.<sup>11</sup> That tax levy growth limitation is equal to: the sum of the pre-budget year adjusted tax levy and the adjustment for increases in enrollment multiplied by four percent, an adjustment for a reduction in total unrestricted state aid from the pre-budget year, an adjustment for increase in health care costs, and waivers approved for various extraordinary costs granted by the Commissioner pursuant to N.J.S.A. 18A:7F-39.

According to N.J.S.A. 18A:7F-5(b), each district is required to have a local share of the school district’s budget. Districts receiving educational adequacy aid pursuant to N.J.S.A. 18A:7F-58, must calculate their required local share according to the provisions of that section. For all other districts, the required local share is the lesser of the local share calculated at the district’s Adequacy Budget, or the district’s budgeted local share for the prebudget year.<sup>12</sup> In addition, no municipal governing body or board of school estimate may certify a general fund tax levy that does not meet the required local share, sometimes referred to as the minimum tax levy.<sup>13</sup>

Beginning in the 2008-2009 school year, the tax levy growth limitation for a district that is spending above its adequacy budget<sup>14</sup> and has a pre-budget year general fund tax levy greater than its local share as calculated pursuant to N.J.S.A. 18A:7F-52 and which receives an increase in State aid between the pre-budget and budget years that is greater than 2% or the CPI, whichever is greater, shall be reduced by the amount of the state aid increase that exceeds 2% or the CPI, whichever is greater. For the purposes of this section, the CPI may not exceed 4%. The reduction shall be made following the calculation of any adjustments for increases in enrollment,

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<sup>11</sup> N.J.S.A. 18A:7F-38(a).

<sup>12</sup> N.J.S.A. 18A:7F-5(b); N.J.S.A. 18A:7F-45.

<sup>13</sup> Id.

<sup>14</sup> As determined pursuant to subsection d. of section 5 of P.L.2007, c.260 N.J.S.A. 18A:7F-47.

a reduction in total unrestricted state aid, and an increase in health care costs and prior to the request or approval of waivers pursuant to N.J.S.A. 18A:7F-39. In the event that the reduction would bring the district's spending below adequacy, the amount of the reduction made to the district's tax levy growth limitation shall not be greater than the amount that brings the district's spending to adequacy.<sup>15</sup>

The SFRA provides that within two days of the Governor's transmittal of the State Budget Message to the Legislature, the Commissioner must notify each district of the maximum amount of state aid that will be available and of each district's adequacy budget for the upcoming year.<sup>16</sup>

Annually, on or before, March 4, each board is required to submit a T&E budget to the Commissioner for approval. This year, 2010, the budget filing date was moved to Monday March 22, reflective of the March 16 Governor's State Budget Message, authorized as per P.L. 2009, c. 269. Several other dates have been changed as well. The 2010 School Election and Budget Procedures Calendar calendar can be found at <http://www.nj.gov/education/finance/fp/dwb/calendar.pdf>. The district must be sure to implement all potential efficiencies in administrative operations or face proposed budget rejection by the executive county superintendent. Additionally, administrative costs must be within the limits established by N.J.S.A. 18A:7F-5(c)(1 and 2). For 2010-11 those limits are \$1,875, \$1,747 and \$1,740 for the north, central and south regions respectively.

Public notice of the budget hearing must be provided at least four days prior to the budget hearing, which for 2010-11 must be conducted between Friday March 26 and Saturday April 3. The board must adopt a budget by April 3, 2009. The board must submit, to the voters or board of school estimate, a general fund tax levy that does not exceed the pre-budget year adjusted tax levy by more than the appropriate tax levy growth limitation when all components of the tax levy growth limitation adjustments have been added.<sup>17</sup>

Pursuant to N.J.S.A. 18A:7F-5.3, the district must provide the public with a "user-friendly" budget in plain language on forms promulgated by the Commissioner. This information must also be posted on the district's website (if one exists) after the annual public budget hearing and before the election. Following the election and municipal review of defeated budgets, the final user-friendly budget must be posted on each district's website, and on the department's website. This information must remain on the district website for the entire year, until the next budget cycle.

The School District Accountability Act and regulations (N.J.A.C. 6A:23A-8.1) require the "user-friendly" budget to include: all line items aggregated by items type; the school tax rate; the equalized school tax rate; revenues by major category; the amount of available surplus; a description of unusual revenues or appropriations, with a description of the circumstances of the revenues and appropriations; and a list of shared services agreements in which the district is participating. In addition, N.J.S.A. 18A:7F-5.3 requires the "user-friendly" budgets to include

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<sup>15</sup> N.J.S.A. 18A:7F-38(a)(2).

<sup>16</sup> N.J.S.A. 18A:7F-5.

<sup>17</sup> N.J.S.A. 18A:7F-5(d); N.J.S.A. 18A:7F-38.

detailed contract terms and benefits for the superintendent, assistant superintendent, the school business administrator, and any employee with an annual salary that exceeds \$75,000 who is not a member of a collective bargaining unit. The contractual information must be from contracts in effect as of January 1, 2010 and must also be submitted to the executive county superintendent along with the annual budget. According to the Division of Finance 2010-11 Budget Guidelines book, salary and benefits include:

**Allowances** are the annualized expense amounts that an employee can submit to the district for payment in a number of specific expense categories such as automobile, meals, tuition, professional fees, etc.

**Bonuses** are annual monetary incentives that are granted above the base pay for meeting specific criteria. They do not become part of the contracted base pay.

**Stipends** are monetary amounts paid for performing specific duties which are outside the scope of the employee's contracted work duties.

**District contributions to insurance** are payments made on behalf of an employee above the base salary for items such as health, dental, or prescription insurance, life and other insurance, and retirement plans. These constitute fringe benefits.

**Other or In-kind remuneration** can be annual payments for such items as buy-back of sick, personal, or vacation time for the year. In this section, enter any other benefits provided to the employee that do not fit into the other categories listed above, with a description of the benefit.

According to N.J.S.A. 18A:7F-5(d)(10), where a district proposes a general fund tax levy in excess of the adequacy budget, it must publish the following statement in the legal notice advertising the public hearing on the budget, "Your school district has proposed programs and services in addition to the core curriculum content standards adopted by the State Board of Education. Information on this budget and the programs and services is available from your local school district."

N.J.S.A. 18A:7F-5(e)(1) provides that any general tax fund levy for a proposed budget that includes a general fund levy and equalization aid in excess of the adequacy budget that is rejected by the voters must be submitted to the governing body of the municipality(ies) to determine the amount to be expended, despite voter rejection of that proposed budget. If the district has a board of school estimate, the general fund tax levy must be submitted to the board for the amount that should be expended. If the governing body or bodies or board of school estimate, as appropriate, reduce the district's proposed budget, the district may appeal the reductions to the Commissioner on the grounds that the reductions will negatively impact on the stability of the district. The statute also provides that a district may not appeal any reductions on the grounds that the reductions are necessary to achieve T&E.

N.J.S.A. 18A:7F-5(e)(2) provides that any general tax fund levy for a proposed budget that

includes a general fund levy and equalization aid that is less than or equal to the adequacy budget that is rejected by the voters must be submitted to the governing body of the municipality(ies) to determine the amount to be expended, despite voter rejection of that proposed budget. If the district has a board of school estimate, the general fund tax levy must be submitted to the board for the amount that should be expended. Districts with proposed budgets that are equal to or below adequacy that have been rejected by the voters may appeal those reductions to the Commissioner on T&E or stability grounds.<sup>18</sup>

## **2009-10 BUDGET REVIEW**

### **III. RESTORATION OF REDUCTION PROCEDURES**

In New Jersey, school districts are divided into Type I and Type II.<sup>19</sup> Generally, Type I boards are appointed by the mayor of the municipality and Type II boards are elected by voters, although exceptions to this rule exist. Certain school districts, mostly Type I, have boards of school estimate to establish appropriations. School appropriations in a Type I district are set by a board of school estimate, which consists of two members from, and chosen by, the board education, two members from, and chosen by, the governing body of the municipality and the mayor or chief executive officer of the municipality. In rare cases, a Type II district may also have a board of school estimate. NJSBA is aware of only one school district in New Jersey that has that configuration. While statute<sup>20</sup> provides for a Type II district with an appointed board, NJSBA is unaware of a district with that structure. Finally, it should be noted that N.J.S.A. 52:27BBB-1 et seq. provides that in certain “qualifying” school districts, the governor appoints three board members, the mayor appoints three board members and voters elect three board members. A recent amendment to that statute, P.L. 2009, c. 337, has that board of education transitioning into a Type I school district for the next four years, after which there will be an election to determine type I or Type II status.

Decisions on school budgets are made in April by either the board of school estimate or the voters. A percentage of proposed school budgets will be rejected or reduced by those decision makers. In that event, boards have the ability to apply for restoration of those reductions by following the statutory and administrative procedures contained in this guide.

This document is intended to inform board members of the dates and procedures to be completed in the event of a rejected or reduced annual school budget. This document is not intended to serve as legal advice and board members are encouraged to seek the advice of the board attorney before proceeding to seek a restoration of a rejected or reduced budget.<sup>21</sup>

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<sup>18</sup> N.J.S.A. 18A:7F-5(e)(2).

<sup>19</sup> N.J.S.A. 18A:9-1 et. seq.

<sup>20</sup> N.J.S.A. 18A:12-16.

<sup>21</sup> It should be noted that while board members, elected officials, and voters often speak in terms of approving a budget, technically, boards of education in New Jersey seek approval of an annual tax levy. However, this document will use the term budget when speaking of approval, rejection, or restoration.

## A. TYPE II DISTRICTS

### 1. Certification of Tax Levy Upon Defeat by Voters

- a. The annual school election is scheduled for Tuesday, April 20, 2010. The election results are then certified by each board of county canvassers when they meet Monday, April 26, at 12 o'clock noon at the county courthouse.<sup>22</sup>
- b. In a Type II district, if a school budget has been defeated by the voters, the board must deliver the proposed school budget to the governing body of the municipality and to the executive county superintendent by April 28, 2010. Should the Type II district be a regional district, the budget must be submitted to the governing body of each municipality included in the district.<sup>23</sup> Moreover, each regional district must "certify" the items that were rejected to the governing body(ies).<sup>24</sup>
- c. In addition to the proposed school budget, the board shall also submit to the Executive County Superintendent and governing body, pursuant to N.J.A.C. 6A:23A-9.7:
  - i. A complete line-item budget listing each item by code and line description, including actual expenditures for the previous school year, actual budgeted amount for the current school year, proposed budgeted amount for the ensuing school year as proposed to the voters, the advertised budget for the ensuing school year, and all supporting documentation and narrative explanations, including copies of additional spending proposals indicating which were approved and which were rejected by the voters;
  - ii. A copy of the annual progress report submitted to the Commissioner pursuant to N.J.S.A. 18A:7A-11 and N.J.A.C. 6A:30;
  - iii. A copy of the district's most recent annual audit;
  - iv. An explanation of any action(s) to reallocate, direct additional expenditures, and so forth, taken by the Commissioner or the Executive County Superintendent on behalf of the Commissioner pursuant to N.J.S.A. 18A:7F-5 through 7, N.J.S.A. 18A:7F-39 or N.J.S.A. 18A:7-8 or a statement to the effect that no such actions were taken;
  - v. The numbers of professional and nonprofessional staff during the current

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<sup>22</sup> N.J.S.A. 19:19-1.

<sup>23</sup> N.J.S.A. 18A:22-37; 18A:13-19.

<sup>24</sup> N.J.S.A. 18A:13-13.

school year and projected staff for the ensuing school year, together with reasons for any increase or decrease;

- vi. Pupil enrollment by grade for the district as of the preceding June 30, the last school day prior to the preceding October 16 and as projected for October of the ensuing school year;
  - vii. Salary schedules for all employees;
  - viii. The number of schools and classrooms in each school;
  - ix. Tuition received or paid during the previous school year, anticipated for the current school year and projected for the ensuing school year;
  - x. Substantiation of need for any proposed capital projects and/or deposits into the capital reserve including documentation of the project's inclusion in the Long Range Facilities Plan;
  - xi. Any information required for budget submission to the executive county superintendent and not specifically enumerated above;
  - xii. The applicable portions of the Comparative Spending Guide;
  - xiii. The applicable portions of the School Report Card;
  - xiv. Pursuant to [N.J.S.A. 18A:7F-5\(d\)](#)<sup>9</sup>, beginning in 2012-2013, separate questions that were rejected by the voters; and
  - xv. Any other documentary materials or records the Commissioner deems appropriate for a specific board of education.
- d. The Department of Education, through its [Budget Guidelines Fiscal Year 2010-11](#)<sup>25</sup> publication, page 250-51, recommends that the following materials also be included:
- i. Copies of additional spending proposals, if any, indicating which were approved and which were rejected by the voters;
  - ii. Rationale for any new positions;
  - iii. Rationale for any new programs;
  - iv. Rationale for any new and replacement equipment; and

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<sup>25</sup> <http://www.nj.gov/njded/finance/fp/dwb/guidelines>.

- v. Rationale for any major line item increases or decreases.
- e. The governing body(ies) or boards of school estimate must provide the district with acknowledgment of the receipt of the information above. Those bodies, or their formally approved committees, must then meet with the board, or a formally approved committee thereof, to determine the amount of general fund tax levy necessary to provide T&E to all district students or to maintain the stability of district programs. If either body has a quorum present, the meeting must comply with the requirements of the Open Public Meetings Act, N.J.A.C. 6A:23A-9.7(a)(2), (3), and (4).
- f. The governing body(ies) must certify the general fund tax levy to the county board of taxation by May 19, 2010, copies to the district board of education and Executive County Superintendent. The governing body(ies) may not certify an amount that is less than the minimum levy needed to meet the required local share, pursuant to N.J.S.A. 18A:7F-5. The governing body(ies) does not have the authority to recommend a reduction in the debt service levy, only the general fund tax levy.<sup>26</sup> The general fund tax levy certification must be in the form of a resolution and must include the base budget amount and additional amounts approved by the voters of separate questions.<sup>27</sup>
- g. If the amount certified by the governing body is less than that proposed to the voters, the governing body or bodies, in the form of a resolution, shall provide the district board of education and the Executive County Superintendent a statement of the specific line-item expenditure reductions or increases in budgeted revenues or designated general fund balance recommended by the governing body or bodies. The governing body or bodies must also submit a certification attesting that the governing body or bodies has reviewed the budget proposed by the board of education and that the revised budget is sufficient for provision of a thorough and efficient system of education.
- h. Each district shall have a required local share. For districts that receive educational adequacy aid pursuant to subsection b. of section 16 of P.L. 2007, c.260,<sup>28</sup> the required local share shall be calculated in accordance with the provisions of that subsection. For all other districts, the required local share shall equal the lesser of the local share calculated at the district's adequacy budget pursuant to section 9 of P.L. 2007, c.260<sup>29</sup> or the district's budgeted local share for the pre-budget year.<sup>30</sup>

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<sup>26</sup> N.J.A.C. 6A:23A-9.7(a)(5).

<sup>27</sup> Id.

<sup>28</sup> N.J.S.A. 18A:7F-58.

<sup>29</sup> N.J.S.A. 18A:7F-51.

<sup>30</sup> N.J.S.A. 18A:7F-5(b).

In order to meet this requirement, the municipal governing body(ies) or board of school estimate, as appropriate, may not certify a general fund tax levy that is less than the district's required local share, sometimes referred to as the minimum tax levy.<sup>31</sup> N.J.A.C. 6A:23A-9.7(a)(5).

- i. If the sum of the equalization aid and governing body certified general fund tax levy is at or below the district's adequacy budget, as calculated pursuant to N.J.S.A. 18A:7F-51, the governing body or bodies shall concurrently present to the board of education, and to the Executive County Superintendent, a specific written explanation and document by clear and convincing evidence for each line item reduced that it either will not adversely affect the ability of the district board of education to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-46, or will not adversely affect the stability of a district board of education's overall operations given the need for long term planning and budgeting as required by N.J.S.A. 18A:7F-5e(2).<sup>32</sup>
2. Certification of Tax Levy by Board of School Estimate and Governing Body
- a. In the one Type II district with a board of school estimate, there is no budget election. Rather, pursuant to N.J.S.A. 18A:22-7, the board of education prepares and delivers the budget to each member of the board of school estimate on or before March 26, 2010. While the statutory required date is March 22, this date was changed for 2010 pursuant to N.J.S.A. 18A:7F-5c. The board of education must also submit the defeated budget documents set forth at N.J.A.C. 6A:23A-9.7(a)(1) to the board of school estimate, governing body, and executive county superintendent.<sup>33</sup> The Department of Education, at page 250-251 of its [Budget Guidelines Fiscal Year 2010-11](#)<sup>34</sup> publication recommends that the board also include its rationale for any new positions, new programs, new and replacement equipment and any major line item increases or decreases.
  - b. At or after its public hearing, which for 2010, must take place between March 26, 2010 and April 3, 2010,<sup>35</sup> the board of school estimate, by April 8, 2010, must prepare a certificate, signed by a majority of the full board of school estimate, setting forth the amount of money to be appropriated.<sup>36</sup> The certificate must be delivered to the board of education with certified copies sent to the county board of taxation, the governing bodies of the municipalities concerned, and the executive county superintendent by April 15, 2010.<sup>37</sup>

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<sup>31</sup> Id.

<sup>32</sup> N.J.A.C. 6A:23A-9.7(a)(5)(iii).

<sup>33</sup> N.J.A.C. 6A: 23A-9.7(b)(1).

<sup>34</sup> <http://www.state.nj.us/education/finance/fp/dwb/guidelines/guidelines.pdf>

<sup>35</sup> N.J.S.A. 18A:22-10, 18A:7F-5(c).

<sup>36</sup> N.J.S.A. 18A:22-26.

<sup>37</sup> Id.

- c. Although N.J.S.A. 18A:22-26 also establishes a 15-day notice of appeal requirement, the DOE considers the notice of appeal deadline no longer to be relevant, as budget appeals per se no longer exist. The NJSBA recommends filing the notice of intent to appeal prior to or contemporaneously with the Application for Restoration of Reductions, if only to protect the interests of the board. The last day to file the Application for Restoration of Reductions is April 29, 2010, ten business days after the certification of the tax levy, if the district certified the tax levy on the last possible day, April 15.<sup>38</sup>
- d. The amount appropriated by the board of school estimate for general fund purposes may not be less than the minimum levy needed to meet the district's required local share. However, if the appropriated amount is greater than the minimum levy, but less than that proposed by the local board, the board of school estimate must present the local board, governing body(ies), and Executive County Superintendent with a statement of its specific line-item reductions. The statement must include a certification indicating that the board of school estimate has reviewed the budget proposed by the board of education and that it deems the revised budget sufficient to provide T&E.<sup>39</sup>
- e. The governing body(ies) of each municipality making up the district must appropriate the amount certified by the board of school estimate.<sup>40</sup>
- f. The amount appropriated by the governing body(ies) for general fund purposes may not be less than the minimum tax levy required to meet the local share pursuant to N.J.S.A. 18A:7F-5b. However, if the amount appropriated by the governing body(ies) is more than the minimum levy, but less than the amount certified by the board of school estimate, the governing body(ies) must present the board of school estimate, local board of education, and Executive County Superintendent with a statement of the specific line-item reductions made by the governing body(ies). The text of N.J.A.C. 6A:23A-9.7(c)(2)(ii) requires the board of school estimate to submit a written statement with the certification indicating that the amount appropriated for school purposes is sufficient to provide T&E.
- g. In order to meet this requirement, no board of school estimate is authorized to certify a general fund tax levy that does not meet the district's required local share.<sup>41</sup>
- h. If the revised budget is below the adequacy budget indicated in N.J.S.A. 18A:7F-

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<sup>38</sup> N.J.A.C. 6A:23A-9.9(a)3.

<sup>39</sup> N.J.A.C. 6A:23A-9.7(c)(1)(i).

<sup>40</sup> N.J.A.C. 6A:23A-9.7(c)(2).

<sup>41</sup> N.J.A.C. 6A:23A-9.7(c)(1)(i).

5, the board of school estimate must also present the local board and executive county superintendent with a specific written explanation and document, by clear and convincing evidence, that each line item reduction either will not adversely affect the district's ability to provide T&E or will not adversely affect the district's overall operations given the need for long-term planning and budgeting.<sup>42</sup>

- i. If the board of school estimate has certified a tax levy that is less than that proposed by the local board using reductions that are eligible for restoration through the Commissioner pursuant to N.J.A.C. 6A:23A-9.9, the executive county superintendent is required to schedule a conference between the local board and the board of school estimate, or their formally approved committees, to assist these entities in agreeing to a tax levy sufficient to ensure T&E. If an agreement is reached, any adjustment in the tax levy must be certified to the county board of taxation. If an agreement is not reached, the original levy will stand and an application may be made to the Commissioner for restoration of reductions.<sup>43</sup>
- j. If the board of school estimate has certified a tax levy that is less than that proposed by the local board using only reductions that are not eligible for restoration through the Commissioner pursuant to N.J.A.C. 6A:23A-9.9, the amount certified will remain as the final amount. N.J.A.C. 6A:23A-9.7(d)(3).
- k. Where the governing body(ies) fails to certify a tax levy amount for any item rejected at the annual school election by May 19, or where governing bodies certify different amounts to the county board of taxation, the district must submit the budget and any reductions recommended by the governing body(ies) following voter defeat pursuant to N.J.S.A. 18A:7F-5(e)(1) or (2), to the Commissioner for determination of the tax levy amount to the county board of taxation. N.J.A.C. 6A:23A-9.8.

## **B. TYPE I DISTRICTS**

1. Certification of Tax Levy by the Board of School Estimate and Governing Body
  - a. At the time of the board of education's submission of its proposed budget to the board of school estimate, it must also provide to the board of school estimate, or governing body(ies) and the executive county superintendent, the supporting documents (i-xv) enumerated in N.J.A.C. 6A:23A-9.7(a)(1)(c).<sup>44</sup>
  - b. The Department of Education, through its [Budget Guidelines Fiscal Year](#)

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<sup>42</sup> N.J.A.C. 6A:23A-9.7(c)(2)(ii)

<sup>43</sup> N.J.A.C. 6A:23A-9.7(d).

<sup>44</sup> N.J.A.C. 6A: 23A-9.7(c).

[2010-11](#)<sup>45</sup> publication, pages 250-51, recommends that the following materials also be included.

- i. Copies of additional spending proposals, if any, indicating which were approved and which were rejected by the voters;
- ii. Rationale for any new positions;
- iii. Rationale for any new programs;
- iv. Rationale for any new and replacement equipment; and
- v. Rationale for any major line item increases or decreases.

For Type I districts, the above materials must be submitted to the board of school estimate along with the other budget materials for use in its determination of the amount that should be certified for taxes.<sup>46</sup>

- c. In a Type I district, there is no budget election. After a public hearing for the 2010-11 budget year, held between March 26, and April 3, 2010,<sup>47</sup> the board of school estimate, on or before April 8, 2010, must fix and determine the budget, issue two certificates signed by at least three members, and deliver one each to the governing body and to the board of education.<sup>48</sup> The budget statement certification must also be provided to the executive county superintendent executive county superintendent on April 12.
- d. Within 15 days of receiving the certificate, the board of education must notify the board of school estimate and governing body(ies) if it intends to appeal the board of school estimate's determination to the Commissioner.<sup>49</sup>
  - i. As with Type II districts, the Department of Education has taken the position that the notice of intent to appeal is no longer required as budget "appeals" *per se* no longer exist. Reductions are restored through an application process, an Application for Restoration of Reductions, which has a filing deadline of 10 business days after certification of the tax levy. Notwithstanding the Department's position, NJSBA recommends that a notice of intent be filed with the governing body prior to or contemporaneously with the Application for Restoration of Reductions in order to protect the interests of the board. The last day to file the Application for Restoration of Reductions is Thursday, April 23, 2010, if the budget is certified on the last possible day, April 8.<sup>50</sup>

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<sup>45</sup> <http://www.nj.gov/njded/finance/fp/dwb/guidelines>.

<sup>46</sup> Budget Guidelines Fiscal Year 2010-11, pg. 251.

<sup>47</sup> N.J.S.A. 18A:22-10.

<sup>48</sup> N.J.S.A. 18A:22-14.

<sup>49</sup> Id.

<sup>50</sup> N.J.A.C. 6A:23A-9.9(a)(3).

- e. If the amount of money appropriated by the board of school estimate for general fund purposes for the ensuing year is less than the amount proposed by the board of education, the board of school estimate must present to the board of education, the governing body(ies) and the executive county superintendent, a statement of the specific line-item reductions made by the board of school estimate. This amount may not be less than the minimum tax levy required to meet the required local share established pursuant to N.J.S.A. 18A:7F-5(b). Accompanying the statement shall be a certification that the board of school estimate has reviewed the budget proposed by the board of education and that it deems the revised budget sufficient for provision of a thorough and efficient system of education.<sup>51</sup>
- f. The governing body of each municipality comprising the district is required to appropriate the amount certified by the board of school estimate.<sup>52</sup>
- g. Should the amount of money appropriated by the governing body(ies) for general fund purposes for the ensuing year pursuant to N.J.S.A. 18A:22-17, be less than the amount certified by the board of school estimate, the governing body(ies) must present the board of estimate, the board of education and the executive county superintendent, with a statement of the specific line-item reductions made by the governing body(ies). This amount may not be less than the minimum tax levy required to meet the required local share established pursuant to N.J.S.A. 18A:7F-5(b). Accompanying the statement shall be a certification that the amount appropriated for school purposes is sufficient for provision of a thorough and efficient system of education.<sup>53</sup>
- h. In order to meet this requirement, no board of school estimate or governing body is authorized to certify a general fund tax levy that does not meet the district's required local share.<sup>54</sup>
- i. If the sum of the equalization aid and the general fund tax levy is at or below the district's adequacy budget as calculated pursuant to N.J.S.A. 18A:7F-51, the governing body or bodies shall concurrently present to the district board of education, and to the Executive County Superintendent, a specific written explanation and document by clear and convincing evidence for each line item reduced that it either will not adversely affect the ability of the district board of education to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-46, or will not adversely affect the stability of a district board of education's overall operations given the need for long term

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<sup>51</sup> N.J.A.C. 6A:23A-9.7(c)(1)(i).

<sup>52</sup> N.J.A.C. 6A:23A-9.7(c)(2).

<sup>53</sup> N.J.A.C. 6A:23A-9.7(c)(2)(i)

<sup>54</sup> Id.

planning and budgeting as required by N.J.S.A. 18A:7F-5e(2).<sup>55</sup>

- j. If the board of school estimate has certified a tax levy that is less than that proposed by the local board using reductions that are eligible for restoration through the Commissioner pursuant to N.J.A.C. 6A:23A-9.9, the executive county superintendent is required to schedule a conference between the local board and the board of school estimate, or their formally approved committees, to assist these entities in agreeing to a tax levy sufficient to ensure T&E. If an agreement is reached, any adjustment in the tax levy must be certified to the county board of taxation. If an agreement is not reached, the original levy will stand and an application may be made to the Commissioner for restoration of reductions.<sup>56</sup>
- k. These provisions shall not apply to any instance where the governing body(ies) or the board of school estimate reductions are not eligible for restoration through application to, or automatic review by, the Commissioner. In those cases the amount certified by the governing body(ies) or the board of school estimate shall remain final without further review or consultation.<sup>57</sup>
- l. In those instances where the governing body(ies) or the board of school estimate has certified an amount of tax levy less than that proposed by the board of education as a result of reductions eligible for restoration through application to the Commissioner, the executive county superintendent is required to schedule a conference between the board of education, or a formally approved committee thereof, and the governing body(ies) or the board of school estimate, as the case may be, or a formally approved committee thereof, for the purpose of assisting the respective bodies in reaching agreement on the amount of tax levy sufficient to ensure provision of a T&E education.<sup>58</sup> Should such agreement be reached, any resultant adjustment in tax levy shall be certified forthwith to the county board of taxation.<sup>59</sup>
- m. Should agreement not be reached, where the tax levy has already been certified pursuant to N.J.S.A. 18A:22-37, the levy will stand as originally certified and application to the Commissioner for restoration of reductions may be made.<sup>60</sup>
- n. If the appropriation in a Type I district exceeds 1.5 % of the assessed

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<sup>55</sup> N.J.A.C. 6A:23A-9.7(c)(2)(ii).

<sup>56</sup> N.J.A.C. 6A:23A-9.7(d)(1) and (2).

<sup>57</sup> N.J.A.C. 6A:23A-9.7(d)(3).

<sup>58</sup> N.J.A.C. 6A:23A-9.7(d)

<sup>59</sup> N.J.A.C. 6A:23A:9.7(d)(1).

<sup>60</sup> N.J.A.C. 6A:23A-9.7(d)(2).

valuation of the ratables of the municipality, the governing body must also act on the budget. After the governing body of a municipality within a Type I district appropriates in its tax ordinance, an amount for the schools for the ensuing school year, the board of education has 20 days to notify the governing body if it intends to appeal the amount so appropriated.<sup>61</sup>

- o. Monday, April 28, 2010 is the last possible notification date if the budget is certified on the last possible day, April 8. As discussed previously, the DOE considers this notice of appeal to be no longer applicable. To protect the interests of the board, the NJSBA recommends that a notice of intent be filed with the governing body prior to or contemporaneously with the Application for Restoration of Reductions. The last day to file the Application for Restoration of Reductions is April 23, 2010, if the budget were certified on the last possible day, April 8. Applications for Restoration of Reductions have a filing deadline of 10 business days after certification of the tax levy.<sup>62</sup>

#### **IV. Grounds for Restorations/ Burdens of Proof**

- A. Proposed Base Budgets In Excess Of The Adequacy Budget – According to N.J.S.A. 18A:7F-5(e)(1), any proposed school budget, that includes a general fund tax levy and equalization aid in excess of the adequacy budget, that has been rejected by the voters must be submitted to governing body of the municipality(ies) or the board of school estimate as appropriate to determine the amount to be spent on education notwithstanding the voters' rejection of the proposed budget. If the proposed budget is reduced, the district may apply to the Commissioner for restoration on the grounds that the reductions will negatively impact on the stability of the district, given the need for long term planning and budgeting (stability grounds). A district with a proposed budget in excess of the adequacy budget may not apply for restorations on the grounds that restoration is necessary to fulfill T&E standards established pursuant to N.J.S.A. 18A:7F-4b (T&E grounds).
  - i. In considering the district's application on stability grounds, the Commissioner must consider the following:
    - i. Increases or decreases in enrollment;
    - ii. The history of voter approval or rejection of district budgets;
    - iii. The impact on the local tax levy;
    - iv. The ability of the district to fulfill its existing contractual obligations on the effective date of N.J.S.A. 18A:7F-43 et seq. and the relationship of contractual obligations since the effective date of N.J.S.A. 18A:7F-43 et seq. to Statewide trends in bargaining practices;
    - v. The impact on class sizes relative to instructional space;

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<sup>61</sup> N.J.S.A. 18A:22-17.

<sup>62</sup> N.J.A.C. 6A:23A-9.9(a)(3).

- vi. The impact on class sizes relative to teaching staff reductions under existing teacher contracts;
- vii. The link between the proposed reduction and classroom instruction or health and safety;
- viii. The nature of the reduction as to whether it is a continuation expenditure or a new or increased expenditure;
- ix. The district's relative standing in the Comparative Spending Guide on the indicators for Total Administration, Administrative Salaries and Benefits, Total Operations and Maintenance of Plant, Board Contributions to the Food Service Program and Extracurricular Costs;
- x. The district's original budget to actual spending and undesignated general fund balance usage and projections trend histories;
- xi. Nonrecurring costs;
- xii. The degree to which a district exceeds the adequacy budget; and
- xiii. Any facts or data which would provide evidence of the reduction's impact.

Any reductions may be restored only if the board of education can document by clear and convincing evidence that such reductions will negatively impact on the stability of the district given the need for long term planning and budgeting, or other factors listed in [N.J.A.C. 6A:23A-9.9\(b\)\(4\)](#).

- ii. Stability grounds means reductions that would require long-term planning and budgeting and cannot be accomplished within the budget year; reductions that would adversely affect the local board's ability to operate a school system; and reductions that are not a program, service or other expenditure contained within efficiency standards published pursuant to [N.J.S.A. 18A:7F-46](#) or are expenditures that are in excess of those established pursuant to that statute.<sup>63</sup>
- B. Proposed Base Budgets At Or Below The Adequacy Budget – Any proposed school budget, that includes a general fund tax levy and equalization aid at or below the adequacy budget, that has been rejected by the voters must be submitted to governing body of the municipality(ies) or the board of school estimate as appropriate to determine the amount to be spent on education notwithstanding the voters' rejection of the proposed budget. Any reductions may be appealed to the Commissioner on the grounds that the amount reduced is necessary to meet T&E standards (T&E grounds) or on the grounds that the reductions will negatively impact on the stability of the district, given the need for long term planning and budgeting (stability grounds). In addition, the municipal governing body or board of school estimate must clearly demonstrate to the commissioner that the proposed budget reductions will not adversely affect the ability of the school district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting.<sup>64</sup>

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<sup>63</sup> [N.J.A.C. 6A:23A-9.9\(a\)\(1\)\(i\)](#).

<sup>64</sup> [N.J.S.A. 18A:7F-5\(e\)\(2\)](#).

- i. In considering the district's application on stability grounds, the Commissioner must consider the following:
  - i. Increases or decreases in enrollment;
  - ii. The history of voter approval or rejection of district budgets;
  - iv. The impact on the local tax levy;
  - iv. The ability of the district to fulfill its existing contractual obligations on the effective date of N.J.S.A. 18A:7F-43 et seq. and the relationship of contractual obligations since the effective date of N.J.S.A. 18A:7F-43 et seq. to Statewide trends in bargaining practices;
  - v. The impact on class sizes relative to instructional space;
  - vi. The impact on class sizes relative to teaching staff reductions under existing teacher contracts;
  - vii. The link between the proposed reduction and classroom instruction or health and safety;
  - viii. The nature of the reduction as to whether it is a continuation expenditure or a new or increased expenditure;
  - ix. The district's relative standing in the Comparative Spending Guide on the indicators for Total Administration, Administrative Salaries and Benefits, Total Operations and Maintenance of Plant, Board Contributions to the Food Service Program and Extracurricular Costs;
  - x. The district's original budget to actual spending and undesignated general fund balance usage and projections trend histories;
  - xi. Nonrecurring costs;
  - xii. The degree to which a district exceeds the adequacy budget; and
  - xiii. Any facts or data which would provide evidence of the reduction's impact.

Any reductions may be restored only if the board of education can document by clear and convincing evidence that such reductions will negatively impact on the stability of the district given the need for long term planning and budgeting, or other factors listed in HN.J.A.C. 6A:23A-9.9(b)(4)

- ii. T&E grounds means that the reduction would adversely affect the local board's ability to implement programs and services at the level prescribed in the efficiency standards established in N.J.S.A. 18A:7F-4b in order to assure that students achieve the Core Content Curriculum Standards.
- iii. Stability grounds means reductions that would require long-term planning and budgeting and cannot be accomplished within the budget year; reductions that would adversely affect the local board's ability to operate a school system; and reductions that are not a program, service or other expenditure contained within efficiency standards published pursuant to N.J.S.A. 18A:7F-46 or are

expenditures that are in excess of those established pursuant to that statute.<sup>65</sup>

## V. Restoration of Reductions Procedures

- A. Within 10 business days after the certification of the general fund tax levy by the governing body(ies) or board of school estimate, a board of education that is eligible for restoration of budget reductions on either stability or T&E grounds<sup>66</sup> may submit an application to the Commissioner on a form deemed appropriate by the district. No specific form exists.<sup>67</sup> The form must:
- i. Address each line-item reduction made by the governing body(ies) or board of school estimate;<sup>68</sup> and
  - ii. Provide a specific written explanation supported by attached documentation or specific reference to information contained in materials submitted pursuant to N.J.A.C. 6A:23A-9.7(a)(1) as to why each reduction will adversely affect the district's ability to provide T&E or the stability of the district given the need for long-term planning and budgeting, as appropriate.<sup>69</sup>
- B. The application for restoration of reductions must also be submitted to the Executive County Superintendent, and the governing body(ies) or board of school estimate, as appropriate.<sup>70</sup> The governing body(ies) or board of school estimate then have 10 business days from receipt of the board's application to respond to the Executive County Superintendent. Copies of the response must be sent to the local board at the same time as the response to the Commissioner.<sup>71</sup>
- C. For the purposes of determining the grounds on which a district board of education may submit an application for restoration of reduction, the calculation of the district's adequacy budget does not include a sending district's requirement of tuition payment or number of students sent.<sup>72</sup>
- i. Applications for Restorations – Upon the Commissioner's receipt of all applications and responses on budgets below the minimum T&E level, the Commissioner will review the materials submitted and issue an order directing any restorations or

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<sup>65</sup> N.J.A.C. 6A:23A-9.9(a)(1)(i).

<sup>66</sup> Exclusive of a sending district's required tuition payment or number of student sent. N.J.A.C. 6A:23A-9.7(a)(1)(ix).

<sup>67</sup> N.J.A.C. 6A:23A-9.9(a)(3).

<sup>68</sup> N.J.A.C. 6A:23A-9.9(a)(3)(i).

<sup>69</sup> N.J.A.C. 6A:23A-9.9(a)(3)(ii).

<sup>70</sup> N.J.A.C. 6A:23A-9.9(a)(4).

<sup>71</sup> N.J.A.C. 6A:23A-9.9(a)(5).

<sup>72</sup> N.J.A.C. 6A:23A-9.9(a)(6).

reallocations deemed warranted.<sup>73</sup>

- ii. Where pursuant to N.J.A.C. 6A:23-9.8, the Commissioner has certified a tax levy because the governing body(ies) failed to certify a tax levy by May 19 or certified different amount, or pursuant to N.J.A.C. 6A:23-9.9(a) a district has applied for restoration of reductions based on stability or T&E grounds, the Commissioner may consider:
  - a. Enrollment increases or decreases within the district;
  - b. The history of voter or board of school estimate approval or rejection;
  - c. The impact on the local tax levy;
  - d. Whether reductions made will impact the ability of the district to meet its contractual obligations;
  - e. The ability of the school district to fulfill its existing contractual obligations on the effective date of N.J.S.A. 18A:7F-43 et seq. and the relationship of contractual obligations since the effective date of N.J.S.A. 18A:7F-43 et seq. to Statewide trends in bargaining practices;
  - f. The impact on class sizes relative to instructional space;
  - g. The impact on class sizes relative to teaching staff reductions under existing teacher contracts;
  - h. The link between the proposed reduction and classroom instruction or health and safety;
  - i. The nature of the reduction as to whether it is a continuation expenditure or a new or increased expenditure;
  - j. The school district's relative standing in the Comparative Spending Guide on the indicators for Total Administration, Administrative Salaries and Benefits, Total Operations and Maintenance of Plant, Board Contributions to the Food Service Program and Extracurricular Costs;
  - k. The school district's original budget to actual spending and undesignated general fund balance usage and projections trend histories;
  - l. Nonrecurring costs;

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<sup>73</sup> N.J.A.C. 6A:23A-9.9(b).

- m. The degree to which a school district exceeds the adequacy budget; and
  - n. Any facts or data that would provide evidence of the reduction's impact.<sup>74</sup>
- iii. In directing adjustments to budgets that are subject to Commissioner certification, applications for restorations, or required review, the Commissioner may reallocate or sustain reductions to surplus where they do not decrease surplus below \$250,000 or the minimum amount necessary based on the district's specific circumstances and needs, whichever is greater, notwithstanding that budgeted amounts are within the level permitted by N.J.S.A. 18A:7F-7.<sup>75</sup>
  - iv. Any reallocations directed as a result of this review shall be made consistent with the provision of N.J.S.A. 18A:7F-6(e).
  - v. Decisions of the Commissioner are final decisions that may be appealed to the Appellate Division pursuant to P.L. 2008, c. 32.

## **VI. Issues for All Districts**

### **A. Separate Proposals**

- 1. At the annual school election, any district may submit a separate proposal(s) for additional general fund tax levies to the voters or to the board of school estimate, as appropriate. Any proposal submitted to the voters or the board of school estimate shall not: include any programs and services that were included in the district's pre-budget year net budget unless the proposal is approved by the Commissioner upon submission by the district of sufficient reason for an exemption; or include any new programs and services necessary for the students of the district to achieve the thoroughness standards established pursuant to N.J.S.A. 18A:7F-4. The executive county superintendent of schools may prohibit the submission of a separate proposal or proposals to the voters or board of school estimate if he determines that the district has not implemented all potential efficiencies in the administrative operations of the school district, which efficiencies would eliminate the need for the raising of additional general fund tax levy.<sup>76</sup> The decision of the voters or board of school estimate with regard to separate proposals is final and no appeal may be taken to the Commissioner.<sup>77</sup>
- 2. P.L. 2007 c. 62, (A1), implemented several substantial changes in the approval of separate proposal questions.

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<sup>74</sup> N.J.A.C. 6A:23A-9.7(b)(3) and (4).

<sup>75</sup> N.J.A.C. 6A:23A-9.7(b)(5).

<sup>76</sup> N.J.S.A. 18A:7F-5(d)(9).

<sup>77</sup> Id.

- a. For the 2008-2009 through 2011-2012 school years, if the Commissioner fails to grant a waiver, pursuant to N.J.S.A. 18A:7F-39, or if the local board chooses not to request a waiver, the local board may submit a proposal or proposals to increase the tax levy by more than the allowable amount authorized pursuant to N.J.S.A. 18A:7F-38.
  - b. A separate proposal to increase the tax levy will only be approved if 60 percent of the people voting at the April 2008 through April 2011 school elections vote in the affirmative. In the case of a school district with a board of school estimate, the additional tax levy shall be authorized only if a quorum is present for the vote and a majority of those board members who are present vote in the affirmative to authorize the additional tax levy.<sup>78</sup>
  - c. A separate proposal submitted to the voters or the board of school estimate to increase the tax levy may not include any programs or services necessary for students to achieve the core curriculum content standards.<sup>79</sup>
  - d. All separate proposals to increase the tax levy must include interpretive statements specifically identifying the program purposes for which the proposed funds shall be used and a clear statement on whether approval will affect only the current year or result in a permanent increase in the levy. The proposals shall be submitted and approved pursuant to N.J.S.A. 18A:7F-5 and N.J.S.A. 18A:7F-6.<sup>80</sup>
3. Pursuant to N.J.A.C. 6A:23A-12.13, any proposal:
- a. May not contain programs or services necessary for students to achieve the core curriculum content standards.<sup>81</sup>
  - b. May not include any capital outlays necessary for health and safety reasons or which constitute eligible costs of a T&E construction project.<sup>82</sup>;
  - c. May not include any existing programs or services included in the prebudget year except when documented to the satisfaction of the Executive County Superintendent that reallocation is required to maintain or achieve T&E or that such programs and services are not necessary for T&E.<sup>83</sup>;

<sup>78</sup> N.J.S.A. 18A:7F-39(c); N.J.A.C. 6A:23A-12.13.

<sup>79</sup> N.J.S.A. 18A:7F-39(c)(1).

<sup>80</sup> N.J.S.A. 18A:7F-39(c)(2).

<sup>81</sup> N.J.S.A. 18A:7F-4a; N.J.A.C. 6A:23A-12.13(a)(2).

<sup>82</sup> N.J.S.A. 18A:7F-4b; N.J.A.C. 6A:23A-12.13(a)(3).

<sup>83</sup> N.J.A.C. 6A:23A-12.13(a)(4).

- d. A district board of education must frame each question to request sufficient funds to carry out the specific purpose or purposes contained in the separate proposal. A district board of education shall include in the base budget only those funds for purposes that can be implemented without the approval of a separate question.<sup>84</sup>
- e. All proposals to increase the tax levy shall include interpretive statements specifically identifying the program purposes for which the proposed funds shall be used and a clear statement on whether approval will affect only the current year or result in a permanent increase in the levy.<sup>85</sup>
- f. The Executive County Superintendent may prohibit the submission of a separate proposal or proposals to the voters or board of school estimate if he or she determines that the school district has not implemented all potential efficiencies in the administrative operations of the school district, if implementation of those efficiencies would eliminate the need for the raising of additional general fund tax levy.<sup>86</sup>
- g. Any voter rejection of a separate proposal or proposals shall be final and conclusive with no appeal. The local municipal governing body or bodies or the board of school estimate shall not authorize the raising of additional tax levy upon rejection by the voters of a school district's separate proposals.<sup>87</sup>
- h. A district board of education shall not modify the base budget to execute such purposes pursuant to vii above, except as allowed in xiii below.<sup>88</sup>
- i. A district board of education must use amounts approved by the local voters or board of school estimate exclusively for the purpose or purposes contained in the associated question. If multiple purposes are approved, a board of education may approve a transfer of amounts among purposes, if necessary, as long as all purposes in the statement originally approved by the local voters or board of school estimate can be completed.<sup>89</sup>
- j. The board must maintain a separate accounting of expenditures for each purpose, and shall expend or encumber approved amounts by the end of the school year. For any unexpended or unencumbered balances, the

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<sup>84</sup> N.J.A.C. 6A:23A-12.13(a)(5).

<sup>85</sup> N.J.A.C. 6A:23A-12.13(a)(6).

<sup>86</sup> N.J.S.A. 18A:7F-5(d)(9); N.J.A.C. 6A:23A-12.13(a)(7).

<sup>87</sup> N.J.S.A. 18A:7F-5(d)(9); N.J.A.C. 6A:23A-12.13(a)(8).

<sup>88</sup> N.J.A.C. 6A:23A-12.13(a)(9).

<sup>89</sup> N.J.S.A. 18A:7F-5(d)(9) and 7F-39; N.J.A.C. 6A:23A-12.13(a)(10).

board must either anticipate such funds as a part of the designated general fund balance of the subsequent school year budget, or reserve and designate such funds in the second subsequent school year budget.<sup>90</sup>

- k. A district board of education must submit to the Commissioner amounts approved by the local voters or board of school estimate as part of the final overall budget certified for taxes.<sup>91</sup>
- l. Separate proposals that were rejected by the local voters may be implemented in the budget year only through a donation or contribution from an external source, other than the district board of education, and only if the implementation of the rejected purpose will not require any funding by the school district in the budget year and/or subsequent budget years.<sup>92</sup>

### **Case Law Review**

The 1997-98 budgetary year marked the first time that CEIFA's new standard of review was used as part of the budget reduction review process. 1997-98 reduction reviews were conducted under the traditional procedures of N.J.A.C. 6:24 as the new CEIFA code for Restoration of Budget Reductions had not yet been adopted. 1998-99 budget reduction reviews marked the first time both the new standards of review and new procedures were used. A review of 1997-98, 1998-99, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006 and 2006-2007, 2007-2008, 2008-2009 and 2009-2010 requests for restoration of budget reduction reviews follows:

The T&E efficiency standards used in the 1997-98 reduction reviews were those established by CEIFA, N.J.S.A. 18A:7F-4b, and were those set forth in the May 1996 Comprehensive Plan for Educational Improvement and Financing. The 1998-99 T&E Efficiency Standards were established through an adjustment for inflation by the CPI of the 1997-98 standards. The revised efficiency standards were distributed to the districts through a February 19, 1998 memo from the Division of Finance. For 1999-00 and 2000-2001, the T&E efficiency standards were contained in the Biennial Report on the Cost of Providing a Thorough and Efficient Education, issued March 15, 1998 pursuant to CEIFA, N.J.S.A. 18A:7F-4. For 2001-2002 and 2002-2003, the T&E efficiency standards were contained in the second Biennial Report on the Cost of Providing a Thorough and Efficient Education, issued March 15, 2000. The third Biennial Report on the Cost of Providing a Thorough and Efficient Education, originally scheduled to be issued March 15, 2002, was issued in October 2002. The Report suggested only inflationary changes in the CEIFA cost factors. All of the recommended changes reflected use of the CPI (2.11%) to increase the 2001-2002 cost factors except for the T&E amount. As for the T&E amount, for

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<sup>90</sup> N.J.A.C. 6A:23A-12.13(a)(11).

<sup>91</sup> N.J.A.C. 6A:23A-12.13(a)(12).

<sup>92</sup> N.J.A.C. 6A:23A-12.13(a)(13).

school districts' FY 2003 budgets, the basic per pupil T&E amount was established at \$8,313. The third Biennial Report may be found on the NJDOE web site at <http://www.state.nj.us/njded/genfo/birep.htm>. The fourth and fifth Biennial Reports on the Cost of Providing a Thorough and Efficient Education were scheduled to be issued on March 15, 2004 and March 15, 2006 but were never issued. In December 2007, the Department of Education published A Formula for Success: All Children All Communities, the basis for the School Funding Reform Act of 2008. The SFRA established the 2008-09 base per-pupil cost at \$9,649 for K-5 elementary students, \$10,082 for 6-8 middle school and 11,264 for high school. The base per pupil costs were inflated for 2009-10 by the CPI (3.34%) to \$9,971 for K-5 grade students, \$10,370 for 6-8<sup>th</sup> grade students, and \$11,666 for high school students for the 2009-2010 school year. The base per pupil amounts remained the same for 2010-11 as the CPI is defined as per N.J.S.A. 52:27D-442 and is 0%.

Examples of surplus reallocation include:

- In **Bd. of Ed., Absecon v. City Council of Absecon**, 1997 S.L.D. Nov. 17, the Commissioner rejected the Council's attempt to reallocate surplus because taking an additional \$179,000 from the surplus account, as proposed by Council, would have left the district with a surplus of 42¢, well below 3%.
- In **Bd. of Ed., Wildwood v. Board of Commissioners, Wildwood**, 1997 S.L.D. Dec. 19, the Commissioner, identifying \$240,390 as excess surplus available to fund restorations, reduced the Board's final audited surplus to 3%.
- In **Bd. of Ed., Wallington v. Mayor and Council of Wallington**, 1998 S.L.D. Feb. 26, the Commissioner approved a reduction to audited surplus of \$10,141 down to 3%.
- In **Egg Harbor Twp. Bd. of Ed.**, September 24, 1998, the Commissioner restored \$44,566 through the reallocation of excess surplus (greater than 3%).
- In **Mount Ephraim Borough Bd. of Ed.**, October 8, 1998, the Commissioner restored \$75,000 to surplus as the board of Commissioners had reduced surplus to \$18,210, less than 1% of the proposed general fund budget.
- In **Lodi Bd. of Ed.**, November 6, 1998, the Commissioner restored a \$450,000 reduction to surplus, as it would have left an unreserved fund balance deficit of \$31,210. The \$450,000 surplus restoration was less than 3% of the proposed budget.
- In **Manasquan Bd. of Ed.**, November 24, 1998, the Commissioner reduced the Board's surplus balance by \$40,624, as the Board's surplus balance of \$533,010 was \$136,808 greater than 3% of the proposed general fund budget.
- In **Newfield Bd. of Ed.**, June 12, 2000, the Commissioner restored \$20,000 in general fund balance. Governing body reductions would reduce surplus to 1.6% of general fund

budget.

- In **Palmyra Borough Bd. of Ed.**, August 7, 2000, the Commissioner restored a \$50,000 appropriation of surplus to fund budget cuts by the Borough Council.
- In **Sayreville Bd. of Ed.**, June 26, 2001, the Commissioner approved a \$400,000 tax levy reduction through the appropriation of surplus.
- In **Moorestown Township Bd. of Ed.**, July 19, 2001, the Commissioner reallocated \$20,000 of surplus, bringing surplus down to 3% of the general fund balance.
- In **Clayton Township Bd. of Ed.**, June 19, 2002, the Commissioner restored \$460,178 in budget reductions. District's surplus prior to reductions was below 0.5% of budget general fund appropriations.
- In **Monroe Twp. Bd. of Ed.**, June 19, 2002, the Commissioner reduced the general fund balance by \$55,000 to reduce surplus to 3% of budgeted general fund appropriations.
- In **Clifton Bd. of Ed.**, September 19, 2002, the Commissioner restored \$ 232,000 of surplus, as governing body reductions would leave the board with 0.4% of general fund budget in surplus. Because of the low level of surplus, and appropriation of surplus will require executive county superintendent approval.
- In **Deptford Township Bd. of Ed.**, December 17, 2002, the Commissioner reallocated \$278,960 in general fund appropriations into surplus because of the board's low level of surplus, less than one percent. Surplus below one percent cannot be condoned or supported by the Department of Education. Because of the low level of surplus, and appropriation of surplus will require executive county superintendent approval.
- In **Mullica Twp. Bd. of Ed.**, June 26, 2003, the Commissioner restored \$84,316 of contested budget reductions partly through a reallocation of \$37,000 in fund balance from additional revenues anticipated to be earned through interest on bond proceeds.
- In **Bound Brook Bd. of Ed.**, June 26, 2003, the Commissioner restored \$596,047 of \$1,421,015 contested budget reductions partly through a reallocation of \$432,600 in fund balance.
- In **Bogota Bd. of Ed.**, September 5, 2003, the Commissioner reallocated \$172,972 in general fund appropriations to restore surplus to a level necessary for fiscal stability (\$380,841, slightly less than 3%) and fund an SBA position. No appropriation of surplus could be made during the 2003-2004 school year without written executive county superintendent approval.
- In **Monroe Township Bd. of Ed.**, July 23, 2004, the Commissioner restored \$1,228,606

of \$3,153,636 in contested budget reductions partly through a reallocation of \$538,126 in fund balance that was available from current year unexpended balances.

- In **Monroe Township Bd. of Ed.**, September 6, 2005, the Commissioner restored \$1,013,877 of \$2,185,039 in contested budget reductions, all through reallocation from other general fund appropriations including surplus. Over \$1.57 million was estimated as excess surplus over 2%. Even after the board's appropriation of \$848,037, more than \$700,000 of excess surplus was still available. \$652,877 of estimated excess surplus was appropriated to fund the restored budget reductions. No restoration of tax levy needed.
- In **Woodlynne Board of Education**, June 30, 2006, the Commissioner sustained \$37,810 of the council's \$40,310 tax levy reductions as the Department's review determined that an excess of \$30,000 in fund balance over the maximum surplus amount would be available from current year unexpended balances to fund the restored items. The Commissioner restored \$2,500 of the council's reductions in the area of certain purchased services and supplies line items.

### **Budgets in Excess of the Maximum T & E Budget**

#### **Above the box**

A board of education which has proposed to the voters or the board of school estimate, a general fund budget *in excess* of the maximum T&E budget prescribed by N.J.S.A. 18A:7F-5 may apply for restoration of reductions made by the governing body(ies) following voter defeat, or by the board of school estimate, only on grounds that such reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. No application may be made on grounds that restorations are necessary for provision of a thorough and efficient education. N.J.S.A. 18A:7F-5(e)(1); N.J.A.C. 6A:23A-9.9(a).

### **1997-98 Budget Reduction Review Year**

In **Board of Ed., Little Ferry v. Mayor and Council, Little Ferry**, 1998 S.L.D. Feb. 2, the Council reduced the proposed budget tax levy by \$198,238. The Board's proposed budget tax levy of \$8,432,135 was \$496,465 in excess of the maximum T&E budget amount established by CEIFA. Accordingly, the review of reductions was limited to the grounds of stability.

The Commissioner reviewed the arguments of both parties, and restored \$136,783 of the reductions. The Commissioner was persuaded that the Board had spent well within the efficiency levels established by CEIFA for teachers' salaries, aides, and legal fees. The Commissioner gave deference to the Board's determination as to the number of aides needed and the decision to reassign a current staff member to the third grade rather than hire a new teacher at a lower salary as the Council had proposed. Council cut \$75,000 allocated for health benefits for seven of ten new positions proposed by the Board; positions the Council viewed as excessive

and unsubstantiated. The Commissioner restored the amount, holding that the Council's failure to reduce the positions elsewhere in the budget prevented the cutting of benefits for those positions. No reallocation of surplus was considered as the Board's annual audit showed a negligible level of undesignated unreserved surplus.

In **Board of Ed. of the Twp. of Old Bridge v. Township Council of the Twp. of Old Bridge**, 1998 S.L.D. Feb. 16, the Old Bridge Council reduced the proposed budget tax levy by \$1.7 million. The Board applied for restoration of \$1,097,000. The Board's proposed budget of \$52,861,998 exceeded the maximum T&E budget amount established by CEIFA by \$4,578,665, placing the burden of proof on the Board to demonstrate the reductions would have a negative impact on the stability of the district. The Commissioner restored \$797,000 of the reductions, \$146,911 by reallocations within the budget.

The Commissioner restored \$407,000 to the capital outlay account for payments to outside contractors for construction, renovation, and remodeling and \$315,000 to the capital improvements account for site improvements. The Council had proposed that the Board use lease purchase agreements to finance the capital projects. Lease purchase would allow the Board to defer costs for five years and reduce the impact of these costs on the tax rate. The Commissioner restored the disputed amounts finding that all of the expenditures were part of a long-term planning process, could not be delayed beyond the fiscal year without seriously jeopardizing the district's ability to provide T&E, and were necessary for the district's stability.

The Commissioner also restored \$50,000 to the student transportation services account for after-school extracurricular activities. The Commissioner found that the Board's manner of providing transportation for extracurricular activities (i.e. combining lesser-used runs and eliminating unnecessary buses) was low in comparison to the efficiency standards established by CEIFA. A \$70,000 cut would negatively impact the stability of the district's current level of extracurricular programs. The Commissioner upheld the Council's *increase* of \$300,000 to surplus.

### **1998-99 Budget Reduction Review Year**

The **Lodi Board of Education** saw its Borough Council reduce its proposed budget tax levy by \$1,200,700. The Board's proposed budget tax levy of \$20,697,428 reflected a per pupil spending amount of \$7,930, an amount which exceeded the maximum T&E budget. The Board applied for restoration of the full \$1,200,700 cut. Since the proposed and reduced budgets were in excess of the maximum T & E budget amount, the burden of proof was on the Board to demonstrate that the reductions would have a negative impact on the stability of the district. The Commissioner, in a November 6, 1998 decision, restored \$907,785 of the reductions, \$158,756 by reallocations within the budget.

The Commissioner restored the \$450,000 reduction to surplus, as it would have left an unreserved fund balance deficit of \$31,210. The Board's June 30, 1998 CAFR showed a general fund surplus of \$418,790. The \$450,000 surplus restoration was less than 3% of the proposed budget.

The Commissioner additionally restored \$114,900 in teacher salaries and \$280,000 in various tuition accounts. These cuts would have impacted on the Board's ability to fulfill its contractual obligations.

### **1999-2000 Budget Reduction Review Year**

No cases were decided where budgets were in excess of the maximum T & E amount.

### **2000-2001 Budget Reduction Review Year**

The **Middletown Township Board of Education** saw its governing body reduce its proposed general fund base budget tax levy of \$78,389,911 by \$1,425,000 and its debt service tax levy by \$200,000. The Board applied for full restoration of the \$1,625,000 cut.

In a June 30, 2000 decision, the Commissioner sustained \$525,000 of the governing body's reductions to the general fund tax levy and directed restoration of \$900,000. He also determined that \$407,500 was available for reallocation but was offset by \$680,905 in anticipated budget shortfalls for a net shortfall of \$273,405. He further determined that the \$200,000 in debt service levy was not within the authority of the governing body and restored debt service levy to the original amount of \$2,634,938.

### **2001-2002 Budget Reduction Review Year**

The **Pine Hill Board of Education's** proposed budget tax levy was \$7,191,981, reflecting a proposed per pupil spending amount of \$9,757, an amount above the maximum T&E amount of \$8,309. The Borough Council of the Borough of Pine Hill reduced the tax levy by \$800,000 to \$6,391,981 reducing the per pupil spending amount to \$9,673, an amount above the maximum T&E amount of \$8,309.

In a July 6, 2001 decision, the Commissioner restored the \$800,000 of tax levy reduction. While the Commissioner agreed with \$481,215 of the council's recommendation to reduce the tax levy and found an additional \$236,000 of revenue through reallocations, due to the Pine Hill Board of Education's demonstrated shortfall in salary accounts, all of the additional revenue needed to be reallocated to the under-budgeted salary account lines. While the board contended that its salary account lines were under budgeted beyond the restorations to the original proposed levy amount, the Commissioner did not have the statutory authority to increase the tax levy beyond the original amount proposed to the voters.

The **Moorestown Township Board of Education's** proposed budget tax levy was \$33,984,671, reflecting a proposed per pupil spending amount of \$8,849, an amount above the maximum T&E amount of \$8,309. The Township Council of Moorestown reduced the tax levy by \$901,025 to \$33,083,646 reducing the per pupil spending amount to \$8,510, an amount above the maximum T&E amount of \$8,309.

In a July 19, 2001 decision, the Commissioner sustained \$705,063 of the township's reductions and restored \$195,962. Additional revenues of \$110,000, additional fund balance of \$20,000 and the reallocation of an additional \$100,000 in General Fund expenses were identified. These additional resources were part of the \$705,063 in sustained reductions.

The **Kearny Board of Education's** proposed budget tax levy was \$31,517,374, reflecting a proposed per pupil spending amount of \$8,829, an amount above the maximum T&E amount of \$8,309. The Town Council of Kearny reduced the tax levy by \$1,794,005 to \$30,723,369 reducing the per pupil spending amount to \$8,606.57, an amount above the maximum T&E amount of \$8,309.

In an August 2, 2001 decision, the Commissioner sustained \$1,662,452 of the tax levy reduction and restored \$131,553. The directed \$31,648,927 tax levy included \$794,000 for the separate question restored by the governing body.

### **2002-2003 Budget Reduction Review Year**

The **Winfield Board of Education's** proposed budget tax levy was \$1,053,632, reflecting a per pupil spending amount of \$12,240, an amount above the maximum T&E amount of \$8,548. The Township Committee reduced the tax levy by \$150,000 to \$903,632, reducing the per pupil spending amount to \$11,545, an amount still above the maximum T&E budget amount of \$8,548. The decrease was to be accomplished by appropriating fund balance of \$9,024 and reducing appropriations by \$140,976 from the general fund.

In a July 19, 2001 decision, the Commissioner sustained the entire \$150,000 of tax levy reduction, primarily in the areas of supervisor salary and benefits and a reallocation of funds, \$9,024 of which was from surplus.

### **2003-2004 Budget Reduction Review Year**

The **Bogota Board of Education's** proposed general fund base budget tax levy was \$9,181,169, reflecting a per pupil spending amount of \$10,627, an amount above the maximum T&E amount of \$8,728. The taxpayers defeated the proposed base budget and a \$71,000 separate question. The Township Committee reduced the base budget tax levy by \$560,000 and restored \$71,000 for the separate question. The board voted not to accept the council's base budget reductions. The council adopted a new resolution, revising the base budget reduction to \$386,000 for a certified tax levy of \$8,866,169 including the \$71,000 separate question. The \$386,000 reduction in base budget tax levy reduced the per pupil spending amount to \$11,545, an amount still above the maximum T&E budget amount of \$8,728. The decrease was to be accomplished by reducing appropriations.

In a September 5, 2003 decision, the Commissioner sustained \$145,111 of tax levy reduction, primarily in the areas of salary and benefits, energy, transportation services and construction

services. \$240,889 was restored and other monies reallocated, primarily to address the district's anticipated deficit, to restore the surplus level to a level necessary for fiscal stability and to fund an SBA position from 10/30 through 6/04. No appropriation of surplus could be made during the 2003-2004 school year without prior written approval of the executive county superintendent. September 5, 2003.

### **2004-2005 Budget Reduction Review Year**

The **Washington Township Board of Education's** proposed general fund base budget tax levy was \$20,259,579 reflecting a per pupil spending amount of \$9,998 an amount above the maximum T&E amount of \$8,959. The taxpayers defeated the proposed base budget. The Township Council reduced the base budget tax levy by \$530,854. The board voted not to accept the Council's base budget reductions. The \$530,854 reduction in base budget tax levy reduced the per pupil spending amount to \$9,804, an amount still above the maximum T&E budget amount of \$8,959. The decrease was to be accomplished by reducing various appropriations and increasing certain revenues.

In a March 16, 2005 decision, the Commissioner sustained the entire \$530,854 tax levy reduction, primarily in the areas of eight new full-time positions and two part-time positions, general supplies and textbooks, professional development, health benefits and construction services. No restoration of tax levy was warranted as the amounts would not negatively impact on the stability of the district, given the need for long term planning and budgeting.

### **2005-2006 Budget Reduction Review Year**

No cases were decided where budgets were in excess of the maximum T & E amount.

### **2006-2007 Budget Reduction Review Year**

The **Willingboro Township Board of Education's** proposed general fund base budget tax levy was \$29,056,624, reflecting a per pupil spending amount of \$9,959, an amount above the maximum T&E amount of \$9,568. The taxpayers defeated the proposed base budget. The Township Council reduced the base budget tax levy by \$6,024,854. The board voted not to accept the Council's base budget reductions. The \$6,024,854 reduction in base budget tax levy reduced the per pupil spending amount to \$8,851, an amount within the T&E range of \$8,656 to \$9,568. The decrease was to be accomplished by reducing various appropriations. The board of education voted on May 22, 2006 not to accept the council's base budget reductions and filed an application for full restoration of the council's reduction in the tax levy.

In a July 31, 2006 decision, the Commissioner sustained \$853,872 of the tax levy reduction, partly through a reallocation of \$153,188 in general fund expenses and partly in reductions in the areas of adult education, co-curricular/extracurricular activities and athletics, various supplies, equipment and services, tuition for special education, vocational education, general administrative expenses, including salaries, maintenance expenses and transportation.

### **2007-2008 Budget Reduction Review Year**

The **Willingboro Township Board of Education's** proposed general fund base budget tax levy was \$29,330,862, reflecting a per pupil spending amount of \$11,026, an amount that was above the maximum T&E amount of \$9,948. After the voters rejected the proposed base budget, the township council reduced the proposed budget by \$2,571,985. The board voted not to accept the council's reductions and applied to the Commissioner for restoration of those reductions.

In an August 30, 2007 decision, the Commissioner determined to sustain \$1,460,150 of the reduction and restore \$1,111,835. The Commissioner also identified an additional \$679,142 in general fund expenses that were reallocated as part of the sustained reduction. For example, the Commissioner determined that the upper elementary school enrollment and history of disciplinary problems warranted the restoration of one assistant principal. The Commissioner also determined that the council's reductions in resource room salaries exceeded the budgeted increase and therefore restored those reductions.

In the **Lenape Regional School District**, the constituent municipalities failed to certify the same tax levy by May 21, 2007. However, the municipalities were able to certify the tax levy based on verbal agreements reached before May 21. The Lenape Regional Board of Education and the Burlington Executive county superintendent accepted the final amount as sufficient to provide T&E to district students. The Commissioner therefore certified a general fund tax levy of \$89,093,311 for the 2007-08 school year.

### **Budgets in Excess of the District Adequacy Budget**

With the enactment of the School Funding Reform Act of 2008, the concepts of maximum or minimum T&E budget were no longer applicable. The relevant concept became that of adequacy budget, calculated pursuant to N.J.S.A. 18A:7F-51.

### **2008-09 Budget Reduction Review Year**

No decisions were filed where state budgets were in excess of the district's adequacy budget.

### **2009-10 Budget Reduction Review Year**

The **Lawnside Board of Education's** proposed general fund base budget tax levy was \$4,437,977, an amount above the district's adequacy budget. The taxpayers defeated the proposed base budget by six votes, with 97 "yes" votes and 103 "no" votes. The Borough of Lawnside Council reduced the general fund tax levy by \$410,000. The decrease in the general fund tax levy was to be accomplished by reductions in various appropriation accounts, an increase in budgeted fund balance and an increase in one appropriation account. The base budget after the municipal reduction was still above the board's adequacy budget. The board voted not to accept the Council's base budget reductions and filed an application for full restoration of the tax levy reductions.

In a November 4, 2009 decision, the Commissioner determined to restore \$390,000 of the \$410,000 tax levy reductions. In doing so, the Commissioner identified several inefficiency concerns including spending over adequacy, taxing significantly over its local fair share, class sizes smaller than the efficiency standards and the fact that the district did not follow the Executive County Superintendent's recommendation to enter into a shared agreement for its superintendent and instead hired a full time interim superintendent for 2009-10. The department took this into account in making its determination. Accordingly, Lawnside is being treated as a high priority district and will be placed in the first group of districts for regionalization studies.

### **Budgets At or Below the District's Maximum T&E Budget and Above the Minimum T & E Budget**

#### **In the box**

A proposed general fund budget *at or below* the maximum T&E budget prescribed by N.J.S.A. 18A:7F-5, which has been reduced by the governing body(ies) or board of school estimate, is eligible for restoration of reductions made by the governing body(ies) following voter defeat, or by the board of school estimate, on the grounds that such reductions are necessary for provision of a thorough and efficient education or will negatively impact on the stability of the district given the need for long term planning and budgeting. N.J.S.A. 18A:7F-5(e)(2); N.J.A.C. 6A:23-8.10(f)(1) and (2).

#### **1997-98 Budget Reduction Review Year**

In **Board of Ed., Wildwood v. Board of Commissioners, Wildwood**, 1997 S.L.D. Dec. 19, the Board of Commissioners of the City of Wildwood reduced the Board's proposed \$6.2 million budget tax levy by \$537,038, covering 29 line items. The proposed budget was within the T&E range allowing for restoration of reductions on the basis of necessity for T&E in accordance with the efficiency standards or on the grounds that the reduction would negatively impact upon the stability of the district. The Commissioner restored \$210,637.

Generally, cuts where proposed spending was above the efficiency standards were sustained. Cuts where proposed spending was within the efficiency standards were restored. The Commissioner let stand the city's certified tax levy of \$5.6 million because there was sufficient surplus available. Final audited surplus was \$509,306, of which the Commissioner identified \$240,390 as excess surplus available to fund restoration. The Board surplus was reduced to 3% of the proposed general fund budget; \$268,916.

The Commissioner allowed the Board to exclude from consideration \$500,000 in supplemental state appropriation aid received because the Board demonstrated the need for roof repairs in the district. The Commissioner directed that any money not used for this stated purpose would be reserved as surplus to be appropriated in the 1998-99 budget for purposes of tax relief.

## 1998-99 Budget Reduction Review Year

The Commissioner issued four decisions where the budget being considered was within the T&E box; equal to or below the maximum T&E budget but above the minimum T&E budget.

The **Bayonne Board of Education's** proposed budget tax levy was reduced \$5,785,583 by its Board of School Estimate. The Board's proposed budget tax levy of \$43,014,427 reflected a per pupil spending amount of \$6,905 which was within the T&E budget range. Restoration of reductions were available either on the basis of necessity for T&E in accordance with the efficiency standards or on the grounds that the reductions would negatively impact the stability of the district. The Commissioner, in an August 14, 1998 decision, restored \$1,682,690, of which \$150,000 was restored through reallocation between line items.

The Commissioner restored \$1,041,267 of the \$4,147,645 cut from the general fund salary line items on the basis of need to fulfill existing contractual obligations and in consideration of the relationship of contractual obligations to statewide trends in bargaining practices. \$177,444 was restored to amounts budgeted for private school special education tuition. \$286,300 was restored to the Operations and Maintenance accounts primarily due to the increasing age of the Board's facilities, which average 65 years. No surplus was reallocated as the district's June 30, 1998 surplus balance was \$1.4 million, approximately 2.2% of the general fund base budget.

The State Board affirmed the Commissioner, 1999 S.L.D. February 3.

The **North Brunswick Township Board of Education's** proposed budget tax levy was reduced \$570,000 by its Township Council. The Board's proposed budget tax levy of \$31,905,269 reflected a per pupil spending amount of \$7,014, which was within the T&E budget range. Restorations of reductions were available either on the basis of necessity for T&E in accordance with the efficiency standards or on the grounds that the reductions would negatively impact the stability of the district. The Commissioner, in a September 9, 1998 decision, restored \$230,300 of the cuts.

The Commissioner restored \$108,500 in various salary line items as he concurred with the Board's stated need for new positions in guidance, media services, secretarial and clerical and operations and maintenance. The Commissioner also restored \$41,000 to Capital Outlay-Equipment and \$80,800 to Construction Services as being necessary for the health and safety of the pupils. No reallocation of surplus occurred as the general fund surplus of \$1,166,828 as of June 30, 1998 was less than 3% of the proposed 1998-99 general fund budget.

The **Manasquan Board of Education's** proposed budget tax levy was reduced to \$167,000 by its Borough Council: \$142,000 in reductions in line item appropriations and \$25,000 in reallocation of fund balance. The Board's proposed budget tax levy of \$6,884,716 reflected a per pupil spending amount of \$7,005, which was within the T&E budget range. Restorations of reductions were available either on the basis of necessity for T&E in accordance with the efficiency standards or on the grounds that the reductions would negatively impact the stability

of the district. The Commissioner, in a November 24, 1998 decision restored \$40,625 of the cuts through the reallocation of surplus; no tax levy adjustment was necessary.

The Commissioner restored \$20,000 in staff training line items as the proposed budget line items were within the 2% of salaries recommended by the efficiency T&E standards for training. Also restored was a \$15,000 cut to Operations and Maintenance of Plant Salaries, as the Board's increase in positions was reasonable and within the T&E efficiency standards. Surplus of \$40,625 was reallocated to fund the restorations as the Board's surplus balance of \$533,010 was \$136,808 greater than 3% of the proposed general fund budget.

The **Seaside Heights Borough Board of Education's** proposed budget tax levy was reduced \$218,000 by its Town Council to \$1,707,332, reflecting a per pupil spending amount of \$6,477, below the T&E range. On May 27, 1998, the Board voted not to appeal Council's reductions.

In a December 22, 1998 decision, the Commissioner reviewed the matter. At first, it appeared that the Council's cuts would be subject to automatic review. Actual district enrollment as of 10/15/98 of 295 students revealed that the Board had overestimated projected enrollment by 26 students. Based on the actual enrollment figure, the district's per pupil spending amount was \$7,016, within the T&E range, and not subject to automatic review. Since the Board voted not to appeal the reductions, no further action was necessary.

#### **1999-2000 Budget Reduction Review Year**

No cases were decided where reduced budgets were below the maximum T&E budget and above the minimum T&E budget.

#### **2000-2001 Budget Reduction Review Year**

No cases were decided where reduced budgets were below the maximum T&E budget and above the minimum T&E Budget.

#### **2001-2002 Budget Reduction Review Year**

No cases were decided where reduced budgets were below the maximum T&E budget and above the minimum T&E Budget.

#### **2002-2003 Budget Reduction Review Year**

The **Kingsway Regional Board of Education's** proposed budget tax levy was \$8,993,182, reflecting a proposed per pupil spending amount of \$9,069, an amount above the maximum T&E per pupil amount of \$8,548. Each of the four governing bodies in the region (the Township Committee of East Greenwich, the Township Committee of South Harrison, the Township Council of Swedesboro and the Township Committee of Woolwich) reduced the tax levy by \$1,022,196 to \$7,970,986 for the general fund, reducing the per pupil spending amount to

\$8,429, an amount within the T&E range of \$7,734 to \$8,548. The decrease was to be accomplished by eliminating \$700,000 of land purchase funds and reducing appropriations by \$322,196 from various line items. The board applied for restoration of the \$700,000 of reduced land purchase funds.

In an August 5, 2002 decision, the Commissioner sustained the \$700,000 in tax levy reduction as the reduction would not have an adverse effect on the district's stability, given the need for long-term planning and budgeting.

The **Delanco Township Board of Education's** proposed budget tax levy was \$3,114,941, reflecting a proposed per pupil spending amount of \$8,345, an amount below the maximum T&E per pupil amount of \$8,548 and within the T&E range of \$7,734 to \$8,548. The Township Council reduced the tax levy by \$70,125 to \$3,044,816, reducing the per pupil spending amount to \$8,218, an amount within the T&E range. The Council also restored one of two defeated separate proposals in the amount of \$18,411. The board applied for restoration of the full \$70,125 of reductions on stability grounds.

In an August 5, 2002 decision, the Commissioner sustained \$28,652 of the tax levy reductions and restored \$41,473. The restorations were primarily in the areas of administrative salaries and benefits. A reallocation of \$18,311 in general fund expenses was identified as part of the \$28,652 in sustained tax levy reductions.

The **Clifton Board of Education's** proposed budget tax levy was \$76,987,266, reflecting a proposed per pupil spending amount of \$7,937, an amount below the maximum T&E per pupil amount of \$8,548 and within the T&E range of \$7,734 to \$8,548. The Municipal Council of the City of Clifton reduced the base budget tax levy by \$2,000,000 to \$74,987,266, reducing the per pupil spending amount to \$8,218, an amount within the T&E range. The reductions were to be accomplished by a reduction in appropriations of \$1,668,000 and an increase in revenue of \$332,000. The board applied for restoration of \$1,558,632 of the \$2,000,000 in reductions on T&E and stability grounds.

In a September 19, 2002 decision, the Commissioner sustained \$1,485,368 of the \$2,000,000 reductions and restored \$514,632, \$232,000 in budgeted fund balance and \$282,632 in salaries and supplies. The board had ended the fiscal year with a dangerously low surplus level of less than one percent.

The **Deptford Township Board of Education's** proposed budget tax levy was \$21,846,447, reflecting a proposed per pupil spending amount of \$8,260, an amount below the maximum T&E per pupil amount of \$8,548 and within the T&E range of \$7,734 to \$8,548. The Municipal Council of the Township of Deptford reduced the base budget tax levy by \$1,160,028, reducing the per pupil spending amount to \$7,972, an amount within the T&E range. The reductions were to be accomplished by a reduction in numerous appropriation lines. The board applied for restoration of the full \$1,160,028 in reductions on T&E and stability grounds.

In a December 17, 2002 decision, the Commissioner sustained the entire \$1,160,028 tax levy reduction, \$418,458 of which was to be accomplished through reallocation of other budgeted general fund appropriations. The Commissioner also reallocated \$150,960 in current expense to restore surplus balance, which had fallen to a dangerously low level of \$45,136, less than one percent of the budgeted fund balance.

### **2003-2004 Budget Reduction Review Year**

No cases were decided where reduced budgets were below the maximum T&E budget and above the minimum T&E Budget.

### **2004-2005 Budget Reduction Review Year**

No cases were decided where reduced budgets were below the maximum T&E budget and above the minimum T&E Budget.

### **2005-2006 Budget Reduction Review Year**

The **Monroe Township Board of Education's** proposed budget tax levy was \$33,611,565, reflecting a proposed per pupil spending amount of \$8,984, an amount below the maximum T&E per pupil amount of \$9,195 and within the T&E range of \$8,319 to \$9,195. The taxpayers defeated the base budget. The Municipal Council of the Township of Monroe reduced the base budget tax levy by \$2,185,039, reducing the per pupil spending amount to \$8,614, an amount within the T&E range of \$8,319 to \$9,195. The reductions were to be accomplished by a reduction in numerous appropriation lines. The board voted not to accept the Council's base budget reductions. The board applied for restoration of the full \$2,185,039 in reductions on T&E and stability grounds. The board contended that the reductions needed to be reinstated to maintain existing programs and services and stability in the district, provide T&E and open the 110,000 square foot middle school addition including a second media center, second cafeteria and 46 new classrooms.

The Commissioner sustained the entire \$2,185,039 of tax levy reductions. The Commissioner restored \$1,013,877 of \$2,185,039 contested budget reductions, all through reallocation from other general fund appropriations including surplus. Restorations included three full time teachers, home instruction, two special education teachers, three new special education aides, a librarian, and associated health benefits. Over \$1.57 million was estimated as excess surplus over 2%. Even after the board's appropriation of \$848,037, more than \$700,000 of excess surplus was still available. \$652,877 of estimated excess surplus was appropriated to fund the restored budget reductions. No restoration of tax levy was needed. September 6, 2005.

At the time of publication of this memorandum, the decision letter for the Willingboro application for restoration of reductions was still pending.

### **2006-2007 Budget Reduction Review Year**

No cases were decided where reduced budgets were below the maximum T&E budget and above the minimum T&E Budget.

### **2007-2008 Budget Reduction Review Year**

No cases were decided where reduced budgets were below the maximum T&E budget and above the minimum T&E Budget.

### **Budgets Below the District Adequacy Budget**

With the enactment of the School Funding Reform Act of 2008, the concepts of maximum or minimum T&E budget were no longer applicable. The relevant concept became that of adequacy budget, calculated pursuant to N.J.S.A. 18A:7F-51.

### **2008-09 Budget Reduction Review Year**

No cases were decided where reduced budgets were below the district's Adequacy Budget.

### **2009-10 Budget Reduction Review Year**

The **Woodlynne Board of Education's** proposed general fund base budget tax levy was \$2,289,975, which included a \$441,712 approved waiver for the tax levy cap for increase in tuition costs. The proposed base budget was below the district's adequacy budget. The taxpayers defeated the proposed base budget. The Borough of Woodlynne reduced the general fund tax levy by \$503,305. The decrease in the general fund tax levy was to be accomplished by reductions in appropriation for prior year tuition adjustment. The board voted not to accept the council's base budget reduction and filed an application for full restoration of the tax levy reduction.

In a November 4, 2009 decision, the Commissioner determined to sustain the entire \$503,305 tax levy reduction. The Commissioner restored the Council's \$503,305 line item reduction to the tuition account through a reallocation of budgeted general fund balance and reductions in various appropriation accounts.

### **Budgets Below the Minimum T&E Budget or Reduced Below the Minimum T&E Budget- Automatic Review**

#### ***Below the Box.***

A board of education which has proposed to the voters or the board of school estimate, a general fund budget *below* the minimum T&E budget prescribed by N.J.S.A. 18A:7F-5 or a board of education which has had its general fund budget reduced to a level below the minimum T&E

budget prescribed by N.J.S.A. 18A:7F-5 shall submit any reductions made by the governing body(ies) following voter defeat, or by the board of school estimate, for review by the Commissioner to determine whether such reductions will adversely affect the ability of the district to provide a thorough and efficient education or the stability of the district given the need for long-term planning and budgeting. The burden of proof is on the governing body to prove that reduction would not negatively impact the district's stability or its ability to provide a T&E education. N.J.S.A. 18A:7F-5 (e) (2); N.J.A.C. 6A: 23-8.10 (e).

### **1997-98 Budget Reduction Review Year**

In **Board of Education of the City of Absecon v. City Council of the City of Absecon**, 1997 S.L.D. November 17, the City Council cut \$179,068.58 from the Board's proposed budget tax levy. Under CEIFA, the City Council was prohibited from reducing line-item appropriations because the proposed \$5.2 million budget tax levy was below the minimum T&E budget. The Council could, however, increase allocations from surplus or amounts of miscellaneous revenue. In an effort to respect the wishes of the voters who overwhelmingly rejected the proposed budget, the Council increased allocations from surplus and identified specific line items it believed could be reduced. The Commissioner determined that the Council went too far when it appropriated \$179,068.58 from surplus, leaving the Board with a surplus of 42¢; essentially no undesignated, unreserved surplus. The Commissioner also rejected the City Council's attempt to identify line items where reductions could be made so as to avoid depleting surplus. The Commissioner stated that such an attempt was a "backdoor" means of effectuating reductions expressly prohibited by CEIFA . . ." Id. at 6. The Council failed to meet its burden or proving that the cuts would not negatively impact the district's stability or its ability to provide T&E. The Commissioner ordered the cuts restored.

In **Board of Ed., Wallington v. Mayor and Council of Wallington**, 1998 S.L.D. Feb. 26, the Council cut \$507,872 over 34 line items from the Board's proposed budget tax levy. The Board's \$8,232,189 proposed budget tax levy was below the minimum T&E amount before the Council's reduction, resulting in an automatic review. The burden was upon the Council to demonstrate the reductions would not adversely affect the district's ability to provide T&E or negatively impact the district's stability. The Commissioner restored \$406,201.

The Council failed to meet its burden on numerous accounts, including accounts for teacher salary and teacher's aide, textbook replacement, general supplies, tuition, advanced placement tests, new administrative positions, facility maintenance needs and phone expenditures. Key to the restoration of reductions was the fact that in most, if not all of the line items, the Board was within the standards of efficiency established by CEIFA. Audited surplus was reduced by \$10,141 down to the "generally acceptable" level of 3%.

The Board also received \$50,000 in additional state aid through special state budget appropriations. The Board wanted to use it to fund an after-school/summer/Saturday language immersion program to assist non-English speaking students. The Commissioner agreed and ruled that the additional state aid should not be reallocated to offset reductions.

The State Board affirmed the Commissioner. 1998 S.L.D. July 1.

### **1998-99 Budget Reduction Review Year**

The **Egg Harbor Township Board of Education's** proposed budget tax levy was reduced \$400,000 by its Township Committee; \$300,000 in tax cuts and \$100,000 in appropriation of surplus. The Board's proposed budget tax levy of \$19,722,024 reflected a per pupil spending amount of \$6,605 which was within the T&E range. The Council reduced the tax levy to \$19,322,024 or a per pupil spending amount of \$6,550, below the minimum T&E budget, making the budget subject to automatic review. On May 26, 1998, the Board voted to accept the Council's \$400,000 cut. The Commissioner, in a September 24, 1998 decision restored \$44,566 of the cuts; \$10,566 for a library aide and \$34,000 for teacher professional development. With \$367,117 in audited excess surplus, the \$44,566 was restored through the reallocation of surplus, resulting in no additional tax levy.

The **Sayreville Board of Education's** proposed budget tax levy was reduced \$300,000 by its Borough Council through an increase in the appropriation of fund balance. The Board's proposed budget tax levy of \$29,787,587 reflected a per pupil spending amount of \$6,475, an amount below the minimum T&E budget. Although the district's proposed regular education budget was below the minimum T&E budget, the reduction was not subject to automatic review. The original budget had been approved by the executive county superintendent of schools as sufficient for T&E and no cuts were made to any proposed spending plans.

In an October 7, 1998 decision, the Commissioner determined to sustain the Council's cuts. In so doing, the Commissioner criticized the Board's practice of generating surplus from within the approved budget to fund projects eliminated from the initial planning stage budget and directed the Board to discontinue the practice. The budget presented to the voters should contain an accurate projection of surplus and the Board's true plan for spending in the upcoming year.

The **Mount Ephraim Borough Board of Education's** proposed budget tax levy was reduced \$75,000 by its Borough Board of Commissioners through an appropriation of fund balance. The Board's proposed budget tax levy of \$2,690,766 reflected a per pupil spending amount of \$6,082, an amount below the minimum T&E budget, making the budget subject to automatic review.

In an October 8, 1998 decision, the Commissioner restored the \$75,000 increase in taxes. The governing body's action reduced the Board's proposed surplus balance from \$93,220, roughly 2% of the districts proposed general fund budget, to \$18,220, less than 1% of the proposed general fund budget. Such an amount was deemed insufficient for unforeseen emergencies.

The **Belleville Township Board of Education's** proposed budget tax levy was reduced \$12,185 by its Township Council. The Board's proposed budget tax levy of \$24,623,165 was below the minimum T&E budget, making the reduction subject to automatic review. While cutting the

proposed base budget tax levy, the Council increased the net tax levy by \$131,865 through a restoration of \$144,000 of the \$564,144 proposed separate proposals that were defeated by the voters. The Board accepted the Council's cut, June 1, 1998.

In a December 11, 1998 decision, the Commissioner agreed with the Board and sustained the \$12,185 cut, finding that the reduction would not adversely affect the district's ability to provide a thorough and efficient education or negatively impact the district's stability. The final certified tax levy reflected a \$300,000 increase in additional supplemental school tax reduction aid for 1998-99 awarded subsequent to the Council's action.

On December 29, 1998, the Commissioner issued eight decisions regarding budget reductions subject to automatic review in which the board of education chose not to appeal the cuts. In each case, the Commissioner agreed with the board's decision not to appeal as the reductions would not adversely affect the district's ability to provide T&E or negatively impact the district's stability. The decisions follow.

The **Berlin Borough Board of Education's** proposed budget tax levy was reduced \$90,000 by its Borough Council to \$3,277,637, reflecting a per pupil spending amount of \$6,460, an amount below the minimum T&E budget, making the reduction subject to automatic review. The reduction was accomplished through \$20,000 in reduced appropriations and \$70,000 in appropriation of fund balance. The Board accepted the Council's cut, May 26, 1998.

The **Deerfield Township Board of Education's** proposed budget tax levy was reduced \$37,000 by its Township Committee to \$834,188, reflecting a per pupil spending amount of \$6,133, an amount below the minimum T&E budget, making the reductions subject to automatic review. At its May 19, 1998, meeting the Board voted to appeal the governing body's cuts but decided to rescind this action on June 16, 1998 and accept the reductions.

The **Glassboro Board of Education's** proposed budget tax levy was reduced \$122,500 by its Township Council to \$9,390,392, reflecting a per pupil spending amount of \$6,459, below the minimum T&E budget, making the reductions subject to automatic review. On May 27, 1998, the Board voted to accept the Council's cuts.

The **Hopewell Township Board of Education's** proposed budget tax levy was reduced \$14,000 by its Township Committee to \$1,383,049, reflecting a per pupil spending amount of \$6,453, an amount below the minimum T&E budget, making the reductions subject to automatic review. On May 26, 1998, the Board voted to appeal \$9,000 of the governing body's cuts, but decided to rescind this action on June 8, 1998 and accept the reductions.

The **Monroe Township Board of Education's** proposed budget tax levy was reduced \$414,000 by its Township Council to \$13,660,034, reflecting a per pupil spending amount of \$6,010, below the minimum T&E budget, making the reductions subject to automatic review. On May 12, 1998, the Board voted not to appeal the Council's cuts.

The **North Bergen Township Board of Education's** proposed budget tax levy was reduced \$975,000 by its Board of Commissioners to \$28,600,673, reflecting a per pupil spending amount of \$6,076, an amount below the minimum T&E budget, making the reductions subject to automatic review. The reductions included \$625,000 in reduction in appropriations, \$100,000 in increase in budget revenues, and a \$250,000 increase in appropriation of fund balance. On May 20, 1998, the Board voted not to appeal the governing body's reductions.

The **Stafford Township Board of Education's** proposed budget tax levy was reduced \$75,000 by its Township Council to \$9,629,946, reflecting a per pupil spending amount of \$6,051, an amount below the minimum T&E budget, making the reductions subject to automatic review. The reductions were accomplished through a \$40,000 reduction in appropriations and a \$35,000 increase in appropriation of fund balance. On May 21, 1998, the Board voted not to appeal Council's reduction.

The **Upper Freehold Regional Board of Education's** proposed budget tax levy was reduced \$60,000 by the Township Committee of Upper Freehold and the Allentown Borough Council to \$5,580,791, reflecting a per pupil spending amount of \$6,470, an amount below the minimum T&E budget, making the reductions subject to automatic review. On May 13, 1998, the Board voted not to appeal the governing bodies' reductions.

#### **1999-2000 Budget Reduction Review Year**

The 1999-2000 budget reduction review year saw the Commissioner issue four decisions regarding budget reductions subject to automatic review in which the board of education chose not to appeal the cuts. In each decision, the Commissioner agreed with the board's decision not to appeal as the reductions would not adversely affect the district's ability to provide T&E or negatively impact the district's stability. The decisions follow:

The **Hunterdon County Polytech Board of Education's** proposed budget tax levy was reduced \$120,000 by its Board of School Estimate to \$1,228,715, reflecting a per pupil spending amount of \$6,597, an amount below the minimum T&E budget, making the reduction subject to automatic review. The reduction was accomplished by reducing teacher's salaries by \$53,401 and reallocating \$66,599 from surplus, June 21, 1999.

The **Bayonne Board of Education's** proposed budget tax levy was \$38,988,130, reflecting a per pupil spending amount of \$6,706, an amount below the minimum T&E amount, making the reduction subject to automatic review. The tax levy was reduced by its Board of School Estimate by \$1,670,000 to \$37,318,130. The Board accepted the Board of School Estimate's reduction April 7, 1999. The Commissioner agreed, August 4, 1999.

The **Hardwick Township Board of Education's** proposed budget tax levy was \$869,225, reflecting a per pupil spending amount of \$7,033, within the T&E range. The tax levy was reduced by \$2,108 by the Township Committee and the erroneous district enrollment projections were adjusted reflecting a per pupil spending amount of \$6,642, an amount below the minimum

T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the cuts, May 3, 1999. The Commissioner agreed, June 21, 1999.

The **Weymouth Township Board of Education's** proposed budget tax levy was reduced \$42,500 by its Township Committee to \$1,054,717, reflecting a per pupil spending amount of \$6,373, an amount below the minimum T&E amount, making the reduction subject to automatic review. The reduction was accomplished by reducing teachers' salaries by \$36,000 and eliminating \$6,500 from the food service account. The Board voted not to appeal the cuts. June 24, 1999. The Commissioner agreed, July 2, 1999.

### **2000-2001 Budget Reduction Review Year**

The 2000-2001 budget reduction review year saw the Commissioner issue seven decisions regarding budget reductions subject to automatic review; five in which the board of education chose not to appeal the cuts and two where a restoration of reductions was sought. In each decision where the board chose not to appeal, the Commissioner agreed, finding that the reductions would not adversely affect the district's ability to provide T&E or negatively impact the district's stability given the need for long-term planning and budgeting. In each instance where the board of education sought a restoration of reductions, the Commissioner agreed and fully restored the cuts. The decisions follow:

The **Absecon Board of Education's** proposed budget tax levy was \$5,963,649, reflecting a per pupil spending amount of \$6,553, an amount below the minimum T&E amount. The Absecon City Council reduced the tax levy by \$104,000 to \$5,859,649, reducing the per pupil spending amount to \$6,451, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the reductions, May 23, 2000. The Commissioner agreed, August 7, 2000.

The **Commercial Township Board of Education's** proposed budget tax levy was \$930,675, reflecting a per pupil spending amount of \$6,765, an amount below the minimum T&E amount. The Commercial Township Committee reduced the tax levy by \$28,750 to \$901,925, reflecting a per pupil spending amount of \$6,760, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the committee's reductions, May 15, 2000. The Commissioner agreed, August 2, 2000.

The **Newfield Board of Education's** proposed budget tax levy was \$882,777 reflecting a per pupil spending amount of \$6,981, an amount within the T&E range. The Newfield Borough Council reduced the tax levy by \$120,000 to \$762,777, reflecting a per pupil amount of \$6,588, an amount below the minimum T&E amount, making the reduction subject to automatic review. On May 28, 2000, the Board voted to seek automatic review for restoration of the reductions. The Commissioner concurred with the Board's request and restored the full \$120,000 of reductions, June 12, 2000.

The **North Bergen Township Board of Education's** proposed budget tax levy was

\$30,442,865, reflecting a per pupil spending amount of \$6,657, an amount below the minimum T&E amount. The North Bergen Township Board of Commissioners reduced the tax levy by \$1,665,335 to \$28,777,530, reflecting a per pupil spending amount of \$6,596 an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the reductions, May 24, 2000. The Commissioner agreed, August 7, 2000.

The **Palmyra Borough Board of Education's** proposed budget tax levy was \$4,725,802, reflecting a per pupil spending amount of \$6,780, an amount below the minimum T&E amount. The Palmyra Borough Council reduced the tax levy by \$18,698 to \$4,707,104, reflecting a per pupil spending amount of \$6,753, an amount below the minimum T&E amount, making the reduction subject to automatic review. The reduction was affected through a \$50,000 appropriation of surplus. The Commissioner concurred with the executive county superintendent's recommendation and restored the full \$50,000 reduction, June 14, 2000.

The **Pittsgrove Township Board of Education's** proposed budget tax levy was \$4,240,969, reflecting a per pupil spending amount of \$6,644, an amount below the minimum T&E amount. The Pittsgrove Township Committee reduced the tax levy by \$54,000 to \$4,186,969, reflecting a per pupil spending amount of \$6,616, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the reductions, May 11, 2000. The Commissioner agreed, August 7, 2000.

The **Seaside Heights Borough Board of Education's** proposed budget tax levy was \$1,651,155, reflecting a per pupil spending amount of \$6,552, an amount below the minimum T&E amount. The Seaside Heights Borough Council reduced the tax levy by \$3,200 to \$1,647,955 reflecting a per pupil spending amount of \$6,540, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the reductions, May 22, 2000. The Commissioner agreed, August 7, 2000.

### **2001-2002 Budget Restoration Review Year**

The 2001-2002 budget reduction review year saw the Commissioner issue seven decisions regarding budget reductions subject to automatic review; all in which the boards of education chose not to appeal the cuts. In six of the decisions, the proposed budget was below the minimum T&E budget of \$7,517. In one instance while the original budget was within the T&E box, the municipality's reductions brought the budget below the minimum T&E budget, making it subject to automatic review. In each decision the board chose not to appeal the cuts and the Commissioner agreed, finding that the reductions would not adversely affect the district's ability to provide T&E or negatively impact the district's stability given the need for long-term planning and budgeting.

The **Deptford Township Board of Education's** proposed budget tax levy was \$17,117,094, reflecting a proposed per pupil spending amount of \$7,217, an amount below the minimum T&E amount of \$7,517. The Deptford Township Committee reduced the tax levy by \$280,000 to \$16,837,094, reducing the per pupil spending amount to \$7,146, an amount below the minimum

T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the Committee's reduction to the tax levy, May 15, 2001. The Commissioner agreed, June 26, 2001.

The **Egg Harbor Township Board of Education's** proposed budget tax levy was \$17,117,094, reflecting a proposed per pupil spending amount of \$7,103, an amount below the minimum T&E amount of \$7,517. The Egg Harbor Township Committee reduced the tax levy by \$150,000 to \$24,244,765, reducing the per pupil spending amount to \$7,080, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the Committee's reduction to the tax levy, May 22, 2001. The Commissioner agreed, June 26, 2001.

The **Glassboro Board of Education's** proposed budget tax levy was \$10,065,671, reflecting a proposed per pupil spending amount of \$7,536, an amount above the minimum T&E amount of \$7,517. The Glassboro Borough Council reduced the tax levy by \$50,000 to \$10,015,671, reducing the per pupil spending amount to \$7,516, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the Borough Council's reduction to the tax levy, May 16, 2001. The Commissioner agreed, June 26, 2001.

The **Monroe Township Board of Education's** proposed budget tax levy was \$18,009,424, reflecting a proposed per pupil spending amount of \$7,124, an amount below the minimum T&E amount of \$7,517. The Monroe Township Committee reduced the tax levy by \$452,500 to \$17,556,924, reducing the per pupil spending amount to \$7,124, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the Committee's reduction to the tax levy, May 17, 2001. The Commissioner agreed, June 26, 2001.

The **North Bergen Township Board of Education's** proposed budget tax levy was \$30,366,914, reflecting a proposed per pupil spending amount of \$7,166, an amount below the minimum T&E amount of \$7,517. The North Bergen Township Board of Commissioners reduced the tax levy by \$1,200,000 to \$29,166,914, reducing the per pupil spending amount to \$7,002, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the Board of Commissioner's reduction to the tax levy, May 30, 2001. The Commissioner agreed, June 26, 2001.

The **Sayreville Borough Board of Education's** proposed budget tax levy was \$34,688,127, reflecting a proposed per pupil spending amount of \$7,386, an amount below the minimum T&E amount of \$7,517. The Sayreville Borough Council reduced the tax levy by \$400,000 to \$34,288,127. This change did not reduce the per pupil spending amount of \$7,386. The reduction was to be accomplished by appropriating surplus. The Board voted not to appeal the Borough Council's reduction to the tax levy, May 15, 2001. The Commissioner agreed, June 26, 2001.

The **South Amboy Board of Education's** proposed budget tax levy was \$5,432,591, reflecting a proposed per pupil spending amount of \$6,561, an amount below the minimum T&E amount of

\$7,517. The South Amboy City Council reduced the tax levy by \$131,850 to \$5,300,741, reducing the per pupil spending amount to \$6,505, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to appeal the City Council's reduction to the tax levy, May 21, 2001. The Commissioner agreed, June 26, 2001.

### **2002-2003 Budget Reduction Review Year**

The 2002-2003 budget reduction review year saw the Commissioner issue twenty two (22) decisions regarding budget reductions subject to automatic review; eighteen (18) in which the boards of education chose not to seek restoration of the cuts. In nineteen (19) of the decisions the proposed budget was below the minimum T&E budget of \$7,734. In three (3) instances, while the original budget was within the T&E range of \$7,734 to \$8548, the municipality's reductions brought the budget below the minimum T&E budget, making it subject to automatic review. In all but one of the decisions in which the board chose not to seek restoration of the cuts, the Commissioner agreed, finding that the reductions would not adversely affect the district's ability to provide T&E or negatively impact the district's stability given the need for long-term planning and budgeting. In one instance when the board chose not to seek restoration of the cuts, the Commissioner restored \$125,000.

The **Berkeley Township Board of Education's** proposed budget tax levy was \$14,369,479, reflecting a proposed per pupil spending amount of \$7,599, an amount below the minimum T&E amount of \$7,734. The Berkeley Township Committee reduced the tax levy by \$125,000 to \$14,224,479, reducing the per pupil spending amount to \$7,555, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Berkeley Township Committee's reduction to the tax levy, May 15, 2002. The Commissioner agreed, June 19, 2002.

The **Bound Brook Board of Education's** proposed budget tax levy was \$8,378,019, reflecting a proposed per pupil spending amount of \$7,692, an amount below the minimum T&E amount of \$7,734. The Bound Brook Committee reduced the tax levy by \$360,000 to \$8,018,019, reducing the per pupil spending amount to \$7,653, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Bound Brook Committee's reduction to the tax levy, May 16, 2002. The Commissioner agreed, June 19, 2002.

The **Brick Township Board of Education's** proposed budget tax levy was \$60,075,445, reflecting a proposed per pupil spending amount of \$7,291, an amount below the minimum T&E amount of \$7,734. The Brick Township Committee reduced the tax levy by \$227,000 to \$59,848,445, reducing the per pupil spending amount to \$7,243, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Brick Township Committee's reduction to the tax levy, May 16, 2002. The Commissioner agreed, June 19, 2002.

The **Egg Harbor Township Board of Education's** proposed budget tax levy was \$29,047,336,

reflecting a proposed per pupil spending amount of \$7,500, an amount below the minimum T&E amount of \$7,734. The Egg Harbor Township Committee reduced the tax levy by \$224,280 to \$28,803,056, reducing the per pupil spending amount to \$7,474, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Egg harbor Township Committee's reduction to the tax levy, May 21, 2002. The Commissioner agreed, June 19, 2002.

The **Gloucester Township Board of Education's** proposed budget tax levy was \$29,103,068, reflecting a proposed per pupil spending amount of \$7,705, an amount below the minimum T&E amount of \$7,734. The Gloucester Township Committee reduced the tax levy by \$572,500 to \$28,530,568, reducing the per pupil spending amount to \$7,664, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Gloucester Township Committee's reduction to the tax levy, May 6, 2002. The Commissioner agreed, June 19, 2002.

The **Greenwich Township Board of Education's** proposed budget tax levy was \$6,603,463, reflecting a proposed per pupil spending amount of \$8,546, an amount within the T&E range of \$7,734 to \$8,548. The Greenwich Township Committee reduced the tax levy by \$1,165,000 to \$5,438,463, reducing the per pupil spending amount to \$7,536, an amount below the minimum T&E amount of \$7,734, making the reduction subject to automatic review. The Board voted not to seek restoration of the Greenwich Township Committee's reduction to the tax levy, May 29, 2002. The Commissioner agreed, June 19, 2002.

The **Lacey Township Board of Education's** proposed budget tax levy was \$24,683,677, reflecting a proposed per pupil spending amount of \$7,359, an amount below the minimum T&E amount of \$7,734. The Lacey Township Committee reduced the tax levy by \$322,040 to \$24,361,637, reducing the per pupil spending amount to \$7,324, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Lacey Township Committee's reduction to the tax levy, May 20, 2002. The Commissioner agreed, June 19, 2002.

The **Little Egg Harbor Township Board of Education's** proposed budget tax levy was \$7,117,353, reflecting a proposed per pupil spending amount of \$7,052, an amount below the minimum T&E amount of \$7,734. The Little Egg Harbor Township Committee reduced the tax levy by \$54,301 to \$7,063,052, reducing the per pupil spending amount to \$7,017, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Little Egg Harbor Township Committee's reduction to the tax levy, May 20, 2002. The Commissioner agreed, June 19, 2002.

The **Mantua Township Board of Education's** proposed budget tax levy was \$6,462,735, reflecting a proposed per pupil spending amount of \$7,788, an amount within the T&E range of \$7,734 to \$8,548. The Mantua Township Committee reduced the tax levy by \$116,488 to \$6,346,247, reducing the per pupil spending amount to \$7,701, an amount below the minimum T&E amount of \$7,734, making the reduction subject to automatic review. The Board voted not

to seek restoration of the Mantua Township Committee's reduction to the tax levy, May 15, 2002. The Commissioner agreed, June 19, 2002.

The **Mullica Township Board of Education's** proposed budget tax levy was \$2,208,703, reflecting a proposed per pupil spending amount of \$6,939, an amount below the minimum T&E amount of \$7,734. The Mullica Township Committee reduced the tax levy by \$40,000 to \$2,168,703, reducing the per pupil spending amount to \$6,889, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Mullica Township Committee's reduction to the tax levy, April 29, 2002 and confirmed it in its May 29, 2002 letter to the Department of Education. The Commissioner agreed, June 19, 2002.

The **North Bergen Board of Education's** proposed budget tax levy was \$31,166,914, reflecting a proposed per pupil spending amount of \$7,536, an amount below the minimum T&E amount of \$7,734. The North Bergen Committee reduced the tax levy by \$750,000 to \$30,416,914, reducing the per pupil spending amount to \$7,388, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the North Bergen Committee's reduction to the tax levy, May 15, 2002. The Commissioner agreed, June 19, 2002.

The **Somers Point Board of Education's** proposed budget tax levy was \$6,099,479, reflecting a proposed per pupil spending amount of \$7,416, an amount below the minimum T&E amount of \$7,734. The Somers Point Committee reduced the tax levy by \$100,000 to \$5,999,479, reducing the per pupil spending amount to \$7,362, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Somers Point Committee's reduction to the tax levy, May 16, 2002. The Commissioner agreed, June 19, 2002.

The **South Amboy Board of Education's** proposed budget tax levy was \$5,666,319, reflecting a proposed per pupil spending amount of \$7,064, an amount below the minimum T&E amount of \$7,734. The South Amboy Committee reduced the tax levy by \$365,578 to \$5,300,741, reducing the per pupil spending amount to \$6,865, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the South Amboy Committee's reduction to the tax levy, May 16, 2002. The Commissioner agreed, June 19, 2002.

The **Union Beach Borough Board of Education's** proposed budget tax levy was \$5,476,906, reflecting a proposed per pupil spending amount of \$7,681, an amount below the minimum T&E amount of \$7,734. The Union Beach Borough Committee reduced the tax levy by \$243,000 to \$5,233,906, reducing the per pupil spending amount to \$7,636, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Union Beach Borough Committee's reduction to the tax levy, May 16, 2002. The Commissioner agreed, June 19, 2002.

The **Upper Township Board of Education's** proposed budget tax levy was \$11,554,347, reflecting a proposed per pupil spending amount of \$7,593, an amount below the minimum T&E amount of \$7,734. The Upper Township Committee reduced the tax levy by \$126,165 to \$11,428,182, reducing the per pupil spending amount to \$7,563, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Upper Township Committee's reduction to the tax levy, May 13, 2002. The Commissioner agreed, June 19, 2002.

The **Winslow Township Board of Education's** proposed budget tax levy was \$24,532,299, reflecting a proposed per pupil spending amount of \$7,553, an amount below the minimum T&E amount of \$7,734. The Winslow Township Committee reduced the tax levy by \$630,969 to \$23,901,330, reducing the per pupil spending amount to \$7,458, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Winslow Township Committee's reduction to the tax levy, May 20, 2002. The Commissioner agreed, June 19, 2002.

The **Woodlynne Borough Board of Education's** proposed budget tax levy was \$991,684, reflecting a proposed per pupil spending amount of \$7,256, an amount below the minimum T&E amount of \$7,734. The Woodlynne Borough Committee reduced the tax levy by \$25,000 to \$966,684, reducing the per pupil spending amount to \$7,217, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted not to seek restoration of the Winslow Township Committee's reduction to the tax levy, April 30, 2002. The Commissioner agreed, June 19, 2002.

The **Clayton Borough Board of Education's** proposed budget tax levy was \$3,827,776, reflecting a proposed per pupil spending amount of \$7,152, an amount below the minimum T&E amount of \$7,734. The Clayton Borough Council reduced the tax levy by \$460,178 to \$3,367,598, reducing the per pupil spending amount to \$6,786, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted to seek full restoration of the Clayton Borough Council's reduction to the tax levy, May 20, 2002. The Commissioner agreed with the board's request and restored the entire \$460,178 reduction, finding that the Council did not meet its burden of proof, June 19, 2002.

The **Monroe Township Board of Education's** proposed budget tax levy was \$21,386,265, reflecting a proposed per pupil spending amount of \$7,556, an amount below the minimum T&E amount of \$7,734. The Monroe Township Council reduced the tax levy by \$700,470 to \$20,685,795, reducing the per pupil spending amount to an amount below the minimum T&E amount, making the reduction subject to automatic review. The Monroe Township Council also restored an additional \$259,764 for a separate proposal. The Board voted to seek full restoration of the Monroe Township Council's reduction to the tax levy, May 21, 2002. The Commissioner agreed with the executive county superintendent's recommendation and partially restored \$339,970 of the reductions, June 19, 2002.

The **Pittsgrove Township Board of Education's** proposed budget tax levy was \$6,711,763,

reflecting a proposed per pupil spending amount of \$8,172, an amount within the T&E range of \$7,734 to \$8,548. The Pittsgrove Township Council reduced the tax levy by \$906,968 to \$5,804,795, reducing the per pupil spending amount to \$7,669, an amount below the minimum T&E amount of \$7,734, making the reduction subject to automatic review. The Board voted to seek partial restoration of the Pittsgrove Township Council's reduction to the tax levy, May 23, 2002. The Commissioner concurred with the executive county superintendent's recommendation and sustained \$599,047 and partially restored \$307,911 of the Pittsgrove Township Council's reductions to the tax levy, June 19, 2002.

The **Chesilhurst Borough Board of Education's** proposed budget tax levy was \$976,581, reflecting a proposed per pupil spending amount of \$7,741, an amount within the T&E range of \$7,734 to \$8,548. The Chesilhurst Borough Committee reduced the tax levy by \$250,000 to \$726,581, reducing the per pupil spending amount to \$7,045, an amount below the minimum T&E amount of \$7,734, making the reduction subject to automatic review. The Board voted not to seek restoration of the Chesilhurst Borough Committee's reduction to the tax levy, May 14, 2002. Notwithstanding the Board's decision not to seek restoration of any of the reductions, the Commissioner concurred with the executive county superintendent's recommendation that an additional \$125,000 was necessary to ensure the provision of T&E. The additional \$125,000 could be funded through reallocations of underestimated revenue and over budget appropriations. No additional tax levy was necessary, June 19, 2002.

The **Hammonton Board of Education's** proposed budget tax levy was \$9,861,506, reflecting a proposed per pupil spending amount of \$6,352, an amount below the minimum T&E amount of \$7,734. The Hammonton Council reduced the tax levy by \$880,000 to \$8,981,506, reducing the per pupil spending amount to \$5,978, an amount below the minimum T&E amount, making the reduction subject to automatic review. The Board voted to seek full restoration of the Hammonton Council's reduction to the tax levy, May 9, 2002. The Commissioner sustained \$143,000 and restored \$737,000 of the reductions, finding that the Council did not meet its burden of proof with respect to several of its recommended reductions, June 19, 2002.

### **2003-2004 Budget Reduction Review Year**

The 2003-2004 budget reduction review year saw the Commissioner issue thirteen (13) decisions regarding budget reductions subject to automatic review; eight (8) in which the boards of education chose not to seek restoration of the cuts. In eleven (11) of the decisions the proposed budget was below the minimum T&E budget of \$7,897. In two (2) instances, while the original budget was within the T&E range of \$7,897 to \$8,728, the municipality's reductions brought the budget below the minimum T&E budget, making it subject to automatic review. In the eight (8) decisions in which the board chose not to seek restoration of the cuts, the executive county superintendent determined the budget sufficient for a thorough and efficient education pursuant to N.J.A.C. 6A:23-8.1. Reductions to a general fund budget below the minimum T&E budget or reduced to a level below the minimum T&E budget that are uncontested by a board of education and determined sufficient for a thorough and efficient education by the executive county superintendent pursuant to N.J.A.C. 6A:23-8.1 are not subject to automatic review by the

Commissioner. The Cliffside Park, Clayton, Freehold Borough, Prospect Park, Eastampton, North Bergen, Haledon, and Upper Pittsgrove boards of education budgets were not subject to automatic review.

The **Hammonton Board of Education's** proposed general fund budget tax levy was \$11,385,990, reflecting a proposed per pupil spending amount of \$7,162, an amount below the minimum T&E budget amount of \$7,897. The Hammonton town council reduced the tax levy by \$780,500, to \$10,605,490, reducing the per pupil spending amount to \$6,815, an amount below the minimum T&E amount, making the reduction subject to automatic review. The board voted to seek automatic review for restoration of \$686,000 of the \$780,500 in budget reductions, May 15, 2003. The Commissioner sustained \$553,500 of the reductions, primarily in the area of salaries and benefits. The Commissioner restored \$227,000 of the reductions including two full time employees, grades 1-5, reallocation of a full time employee for kindergarten and restoration of a full time Italian teacher and a .5 math teacher at the high school level. The governing body failed to demonstrate by clear and convincing evidence that the cuts would not adversely affect the district's ability to provide T&E and/or adversely affect the stability of the district's overall operations. Any transfers between budget lines addressed in the decision needed to receive prior written approval from the executive county superintendent upon written request and demonstration of need. June 26, 2003.

The **Woodbine Board of Education's** proposed general fund budget tax levy was \$855,084, reflecting a proposed per pupil spending amount of \$7,826, an amount below the minimum T&E budget amount of \$7,897. The Borough of Woodbine council reduced the tax levy by \$120,101, to \$734,983, reducing the per pupil spending amount to \$7,496, an amount below the minimum T&E amount, making the reduction subject to automatic review. The board voted to seek automatic review for full restoration of the \$120,101 in budget reductions, May 22, 2003. The Commissioner sustained \$46,890 of the reductions and restored \$73,221 of the reductions in the areas of health and safety, employee benefits, sending tuition and library staff. The governing body failed to demonstrate by clear and convincing evidence that those cuts would not adversely affect the district's ability to provide T&E and/or adversely affect the stability of the district's overall operations. Any transfers between budget lines addressed in the decision must receive prior written approval from the executive county superintendent upon written request and demonstration of need. June 26, 2003.

The **Corbin City Board of Education's** proposed general fund budget tax levy was \$425,501, reflecting a proposed per pupil spending amount of \$8,280, an amount above the minimum T&E budget amount of \$7,897. The Corbin City Board of School Estimate reduced the tax levy by \$69,000, to \$356,501, reducing the per pupil spending amount to \$7,684, an amount below the minimum T&E amount, making the reduction subject to automatic review. The board voted to seek automatic review for full restoration of the \$69,000 in budget reductions, April 14, 2003. The Commissioner restored the full \$69,000 in budget reductions. The governing body failed to demonstrate by clear and convincing evidence that those cuts would not adversely affect the district's ability to provide T&E and/or adversely affect the stability of the district's overall operations. June 26, 2003.

The **Mullica Township Board of Education's** proposed general fund budget tax levy was \$2,475,446, reflecting a proposed per pupil spending amount of \$7,362, an amount below the minimum T&E budget amount of \$7,897. The Mullica Township council reduced the tax levy by \$220,236 on May 13, 2003, later, on June 2, 2003 amending its reduction to \$84,316, reducing the tax levy to \$2,255,210, reducing the per pupil spending amount to \$7,253, an amount below the minimum T&E amount, making the reduction subject to automatic review. The board voted to seek automatic review for full restoration of the \$84,316 in budget reductions, May 19, 2003. The Commissioner sustained \$37,000 of the reductions and restored \$47,316 of the reductions in the areas of salary accounts, maintenance and operations and purchased services. The governing body failed to demonstrate by clear and convincing evidence that those cuts would not adversely affect the district's ability to provide T&E and/or adversely affect the stability of the district's overall operations. \$37,000 of tax levy reductions could be reallocated from fund balance from additional revenues anticipated to be earned from interest on bond proceeds. June 26, 2003.

The **Bound Brook Board of Education's** proposed general fund budget tax levy was \$11,530,989, reflecting a proposed per pupil spending amount of \$8,549, an amount above the minimum T&E budget amount of \$7,897. The borough of Bound Brook town council reduced the tax levy by \$1,566,001, to \$9,964,988, reducing the per pupil spending amount to \$7,593, an amount below the minimum T&E amount, making the reduction subject to automatic review. The board voted to seek automatic review for restoration of \$1,421,015 of the \$1,566,001 in budget reductions, May 19, 2003. The Commissioner sustained \$1,241,878 of the council's tax levy reductions and restored \$324,123. However, the Commissioner also determined that the governing body failed to demonstrate by clear and convincing evidence that \$824,968 of the cuts would not adversely affect the district's ability to provide T&E and/or adversely affect the stability of the district's overall operations. \$500,845 was restored to the budget through reallocations, including \$432,600 in fund balance. June 26, 2003.

### **2004-2005 Budget Reduction Review Year**

The 2004-2005 budget reduction review year saw the Commissioner issue eight (8) decisions regarding budget reductions subject to automatic review; seven (7) in which the boards of education chose not to seek restoration of the cuts. In seven (7) of the decisions, the proposed budget was below the minimum T&E budget of \$8,105. In one (1) instance, while the original budget was within the T&E range of \$8,105 to \$8,959, the municipality's reductions brought the budget below the minimum T&E budget of \$8,105, making it subject to automatic review. In the seven (7) decisions in which the board chose not to seek restoration of the cuts, the executive county superintendent determined the budget sufficient for a thorough and efficient education pursuant to N.J.A.C. 6A:23-8.1. Reductions to a general fund budget below the minimum T&E budget or reduced to a level below the minimum T&E budget that are uncontested by a board of education and determined sufficient for a thorough and efficient education by the executive county superintendent pursuant to N.J.A.C. 6A:23-8.1 are not subject to automatic review by the Commissioner. The Absecon, Clayton, Guttenberg, Hammonton, North Bergen, Northfield, and

Woodlynne boards of education budgets were not subject to automatic review.

The **Monroe Township Board of Education's** proposed general fund budget tax levy was \$28,829,652, reflecting a proposed per pupil spending amount of \$8,442, an amount above the minimum T&E budget amount of \$8,105. The Township of Monroe council reduced the tax levy by \$3,153,636 to \$24,676,016, reducing the per pupil spending amount to \$7,975, an amount below the minimum T&E amount of \$8,105, making the reduction subject to automatic review. The board voted to seek automatic review for full restoration of the budget reductions, June 1, 2004. The Commissioner sustained \$1,925,030 of the council's tax levy reductions and restored \$1,228,606. The Commissioner determined that the governing body failed to demonstrate by clear and convincing evidence that \$1,924,932 of the cuts would not adversely affect the district's ability to provide T&E and/or adversely affect the stability of the district's overall operations. \$696,326 was restored to the budget through reallocations, including \$538,126 in fund balance that was available from current year unexpended balances. July 23, 2004.

### **2005-2006 Budget Reduction Review Year**

The 2005-2006 budget reduction review year saw the Commissioner issue five (5) decisions regarding budget reductions subject to automatic review; four (4) in which the boards of education chose not to seek restoration of the cuts. In four (4) of the decisions, the proposed budget was below the minimum T&E budget of \$8,319. In one (1) instance, while the original budget was within the T&E range of \$8,319 to \$9,195, the municipality's reductions brought the budget below the minimum T&E budget of \$8,319, making it subject to automatic review. In the four (4) decisions in which the board chose not to seek restoration of the cuts, the executive county superintendent determined the budget to be sufficient for a thorough and efficient education pursuant to N.J.A.C. 6A:23-8.1. Pursuant to N.J.A.C. 6A:23-8.10 (e)1i, reductions to a general fund budget below the minimum T&E budget or reduced to a level below the minimum T&E budget that are uncontested by a board of education and determined sufficient for a thorough and efficient education by the executive county superintendent pursuant to N.J.A.C. 6A:23-8.1 are not subject to automatic review by the Commissioner. The Commercial, Guttenberg, Lawrence, and Weymouth boards of education budgets were not subject to automatic review.

The **Bellmawr Borough Board of Education's** proposed general fund budget tax levy was \$6,148,350, reflecting a proposed per pupil spending amount of \$8,052, an amount below the minimum T&E budget amount of \$8,319. The Borough of Bellmawr Council reduced the tax levy by \$42,641 to \$6,105,709, reducing the per pupil spending amount to \$8,011, an amount below the minimum T&E amount of \$8,319, making the reduction subject to automatic review. The board voted to seek automatic review for full restoration of the budget reductions. The Commissioner sustained the full \$42,641 of the council's tax levy reductions. While the Commissioner did not support the Council's reduction to tuition to CSSD and Regional Day Schools, he also determined that the undesignated \$220,000 deposit into capital reserve from anticipated excess surplus could be reduced by the \$42,641 without impacting the district's

ability to provide a thorough and efficient education. June 17, 2005.

### **2006-2007 Budget Reduction Review Year**

The 2006-2007 budget reduction review year saw the Commissioner issue nine (9) decisions regarding budget reductions subject to automatic review; eight (8) in which the boards of education chose not to seek restoration of the cuts. In eight (8) of the decisions, the proposed budget was below the minimum T&E budget of \$8,656. In one (1) instance, while the original budget was within the T&E range of \$8,656 to \$9,568, the municipality's reductions brought the budget below the minimum T&E budget of \$8,656, making it subject to automatic review. In the eight (8) decisions in which the board chose not to seek restoration of the cuts, the executive county superintendent determined the budget to be sufficient for a thorough and efficient education pursuant to N.J.A.C. 6A:23-8.1. Pursuant to N.J.A.C. 6A:23-8.10 (e)1i, reductions to a general fund budget below the minimum T&E budget or reduced to a level below the minimum T&E budget that are uncontested by a board of education and determined sufficient for a thorough and efficient education by the executive county superintendent pursuant to N.J.A.C. 6A:23-8.1 are not subject to automatic review by the Commissioner. The Hammonton, Commercial, Guttenberg, South River, Clementon, Lawrence, Clearview, and North Bergen boards of education budgets were not subject to automatic review.

The Woodlynne Board of Education's proposed general fund budget tax levy was \$1,725,628, reflecting a proposed per pupil spending amount of \$8,052, an amount below the minimum T&E budget amount of \$8,656. The Township of Woodlynne Council reduced the tax levy by \$40,310 to \$1,685,318, reducing the per pupil spending amount to \$7,990, an amount below the minimum T&E amount of \$8,656, making the reduction subject to automatic review. The board voted to seek automatic review for full restoration of the budget reductions. In a June 30, 2007 decision the Commissioner sustained \$37,810 of the council's tax levy reductions as the Department's review determined that an excess of \$30,000 in fund balance over the maximum surplus amount would be available from current year unexpended balances to fund the restored items. The Commissioner restored \$2,500 of the council's reductions in the area of certain purchased services and supplies line items.

### **2007-2008 Budget Reduction Review Year**

Two districts that were subject to automatic review, Victory Gardens and Monroe did not contest the reductions made by their municipalities. Pursuant to N.J.A.C. 6A:23-8.10(e)(1)(i), only contested reviews require a Commissioner decision.

No cases were decided where budgets were reduced below the minimum T&E budget.

With the enactment of the School Funding Reform Act of 2008, the concepts of maximum or minimum T&E budget were no longer applicable. The relevant concept became that of adequacy budget, calculated pursuant to N.J.S.A. 18A:7F-51.

**Consultation with the governing body.** The statutes, regulations, and case law regarding Type II districts (regional and non-regional) specifically require the governing body(ies) to consult with the board of education prior to certifying the amount of appropriations to the county board of taxation. N.J.S.A. 18A:22-37; 18A:13-19; N.J.A.C. 6A: 23-9.7(a)(3). If either the board of education or municipal governing body, or both, will have a majority present at the meeting, then the meeting must be publicly announced and advertised according to the Open Public Meetings Act by the body(ies) with the majority present. N.J.A.C. 6A: 23-9.7(a)(4). See also Jackson Township Board of Ed. v. Jackson Township, Township Committee, 1983 S.L.D. (January 13). The period during which the governing body(ies) considers the budget is very critical.

. . . The governing body's task is a difficult one. It is required to consider an extremely complex matter and to reach a decision that will have important and far-reaching affects, in a very short period of time. If the governing body is to discharge such a duty properly, it must have the advantage of as much information as can be useful to it in arriving at a sound determination. The board of education should, therefore, take the initiative to supply detailed data and helpful information for the governing body's use and should be prepared to consult and assist in any helpful way. The governing body, in turn, should take as much time as possible to digest the information supplied and to consult with the board with respect to the problems and educational needs to be met. It is in such a spirit of mutual understanding and cooperation, with the educational welfare of the children of the community as the paramount consideration, that the legislative plan must proceed, if it is to be successful. Monmouth Regional H.S. Board of Ed. v. Shrewsbury Township Committee, 1967 S.L.D. 155, 157.

The board and the governing body should find the executive county superintendent helpful in these matters. As the chief school officer in the county and the Commissioner's representative, the executive county superintendent functions well as a neutral third party in bringing the board and governing body together in settlement of the issues between them, much as a mediator would. For Type I school districts, if the governing body or board of school estimate certifies a tax levy amount that is less than the amount proposed by the board as a result of reductions, N.J.A.C. 6A:23A-9.7(d) requires the executive county superintendent to schedule a conference between the board and governing body or board of school estimate to assist them in reaching an agreement on the tax levy amount sufficient to ensure T&E, consistent with the requirement of N.J.S.A. 18A:7F-5 through 63.

**Governing body's reasons; timing.** The restoration of reductions regulations, (N.J.A.C. 6A:23A-9.7) while requiring that specific line item reductions be made by the governing body(ies), do not explicitly require the governing body to submit a statement of reasons for reducing items in the budget, unless the budget cuts cause the budget to fall below the district adequacy budget.

If the sum of the equalization aid and general fund tax levy is below the district's adequacy

budget, the governing body or bodies must submit to the Executive County Superintendent a specific written explanation and document by clear and convincing evidence for each line item reduced that it either will not adversely affect the ability of the district board of education to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-46, or will not adversely affect the stability of a district board of education's overall operations given the need for long term planning and budgeting as required by N.J.S.A. 18A:7F-5c(2).

However, the new regulations do **not** invalidate existing case law, which appears to impose this requirement. According to the directive of the New Jersey Supreme Court in Board of Ed. of Deptford v. Mayor and Council of Deptford, 116 N.J. 305, 310, 316 (1989), when there is any line-item reduction in the budget, the local governing body must include in its determination a detailed statement setting forth the underlying determinations and supporting reasons for its reductions. The Supreme Court has expressly eliminated its previous precondition of "significant aggregate reductions" as a prerequisite to the statement of reasons. Board of Ed., East Brunswick v. Twp. Council, East Brunswick, 48 N.J. 94 (1966). The supporting reasons for the municipality's budget cuts must be made simultaneous with its certification of the reduced budget to the County Board of Taxation. Deptford at 314. Any delay in submission of detailed reasons diminishes the presumption of their validity and places a heavier burden upon the municipality on review. Deptford at 320-321.

Previously deemed by the Commissioner to be substantively arbitrary, the failure to provide the statement of reasons no longer results in the Commissioner's automatic restoration of the budget in the form originally proposed by the Board. Rather, that failure makes it more difficult for the municipality on review. Just how much more difficult it will be for a governing body that has not submitted timely, detailed reasons, to justify its reductions, remains to be seen in light of the State Board decision in Edgewater Board of Ed. v. Mayor and Council of Edgewater, St. Bd., 94 N.J.A.R.2d (EDU) 493, and the CEIFA regulations. Edgewater places a substantial burden on school districts to establish the necessity for funds, and may have an affect on how the Deptford standard is applied. However, the post-Edgewater/CEIFA decisions have failed to address this issue.

**Governing body's reasons; content.** The statement of reasons should show which items of the budget are to be reduced, in what amount, and for what reasons. The necessity of providing sufficient information in the statement of reasons has been addressed by the Commissioner:

The Commissioner has reviewed and considered the findings, conclusions, and recommendations of the hearing examiner as set forth above. In concurring therein, the Commissioner would underscore the necessity of a clear, precise, and specific statement of the municipal governing body's "underlying determinations and supporting reasons" for its proposed reductions in a school budget. Board of Ed. of East Brunswick v. Township Council of East Brunswick, 48 N.J. 94 (1966). Absent such a statement, the hearing examiner – and thereafter the Commissioner – are deprived of the opportunity to evaluate the differing appraisals of need with respect to disputed budget items...Without the full Budget performance of both parties [the Board and governing body], he [the

Commissioner] cannot carry out his own function as efficiently as he would desire. Board of Ed. of the City of Passaic v. Municipal Council of the City of Passaic, 1970 S.L.D. 47, 56.

The same standards are applicable to board of school estimate and governing body actions in Type I districts. Elizabeth Board of Ed. v. Elizabeth City Council, 55 N.J. 501 (1970).

## **B. THE DECISION TO APPLY FOR REVIEW**

Once the local governing body (ies) or board of school estimate makes its determination, the board of education must decide whether to accept that decision or apply for review of any reductions to the Commissioner of Education. Remember that the criterion which the Commissioner must apply is not educational desirability, but necessity! Board of Ed. of the Borough of Manville v. Mayor and Council of the Borough of Manville and Somerset County Board of Taxation, 1970 S.L.D. 285; Edgewater, *supra*.

The Commissioner is aware that the budget originally proposed by the Board contains appropriations designed to improve the educational program of the schools or to correct accumulated deficiencies in supplies and equipment. However, the Commissioner is strictly constrained in an appeal of this nature to provide only what which he finds necessary to the maintenance and operation of a thorough and efficient school system. Board of Ed. of the Black Horse Pike Regional School District v. Mayors and Councils of the Boroughs of Bellmawr and Runnemede, and the Township of Gloucester, 1970 S.L.D. 227.

While the Supreme Court in East Brunswick, *supra*, at 105-106, directed that in making reductions, the governing body must make independent determinations properly related to educational considerations rather than voter reactions, at the same time, the Supreme Court in Deptford, *supra*, noted that the Commissioner must be sensitive to the taxpayer when he reviews budgets on appeal. The court stated,

...the Commissioner cannot ignore completely the municipality's political concerns and indeed may not override them without some necessity strictly related to the constitutional mandate to provide for a thorough and efficient school system. Deptford, *supra* at 314.

The burden of proof of necessity to restore budget funds cut by council must be borne by the board of education for budgets that are above or within the T&E range established by CEIFA. The State Board of Education decision in Edgewater Board of Ed. v. Mayor and Council of Edgewater, St. Bd., 94 N.J.A.R.2d (EDU) 493, again reviewed the standard to be applied by the Commissioner in the context of a review of budget reductions. The ruling, which has had a major impact on budget appeals, sets forth the standards that a district must meet to obtain the restoration of municipal budget cuts. The State Board stressed,

“...it is the Board's burden to demonstrate that the particular items for which the moneys

are sought are specifically related to the provision of a thorough and efficient education and that the level of funding it seeks is the minimal level required to support each of those items.” (Page 495, emphasis supplied).

Although budget appeals have been eliminated by CEIFA, and continue to be eliminated under SFRA, this analysis remains valid. Boards should present thorough documentation of the need for amounts cut by a municipality. Where a board gives only very general statements of need for funds, without sufficient specificity and detail, the Commissioner is unlikely to restore the funds (e.g. a statement that funds were needed for board member training in order to improve board member knowledge, was not enough where the board did not identify specific programs available; and a statement that funds for legal expenses was needed in view of past experience that legal expenses could accumulate, was not enough where there was no reference to specific legal issues pending or anticipated. Salem City Board of Ed., 1995 S.L.D. (January 3)).

**Apply for budget review if:**

The reductions will negatively impact the district’s stability or impair the district’s ability to provide a T&E system of education. This is a shift in the criteria used in past years. Historically, boards have appealed budgets where the board has determined that the action of the council was arbitrary and capricious, either procedurally or substantively. However, CEIFA and now SFRA shifts the emphasis away from the governing body’s motive to the impact of reductions on the district’s educational program. Thus, asserting that the governing body’s cuts are arbitrary and capricious is not enough. The board must show, for example, that the governing body’s arbitrary and capricious rationale negatively impacts on the stability of the district, and/or T&E, as applicable.

The years of CEIFA and SFRA restoration of reductions experience evidence a greater likelihood of success if the board spending level on a given line item is within the CEIFA and now SFRA efficiency standards.

**Do not apply for restoration of budget reductions if:**

1. The reduction made by the Council is merely a “token” cut to satisfy the voters. Appealing a \$5,000 cut in a \$1,000,000 budget is a waste of everybody’s time.

**OR**

2. The board has unreserved general fund balance (surplus) from the preceding year in excess of the reductions made and is greater than 3%. In these circumstances, the Commissioner has historically affirmed the action of the governing body and suggested to the board that part of the unreserved balance be applied to fund any line-item restorations. See, reallocations of surplus p. 15 and Case Law Reviews p. 17, particularly Board of Ed., Absecon v. City Council of Absecon, 1997 S.L.D. Nov. 17. Note that as part of the year-end review, the Commissioner will take official notice of the district’s annual year-end financial report to identify whether the Board underestimated the amount of anticipated undesignated surplus. Where the audit has yet to be completed, the

Commissioner will issue a decision subject to receipt of the final audit.

As far as how much surplus will be viewed as available to fund restorations, the Commissioner has consistently held that a 3% surplus for unforeseen contingencies is reasonable and necessary, Perth Amboy Board of Ed. v. Council of Perth Amboy, 1987 S.L.D. 2262. Under the new regulations, N.J.A.C. 6A:23A-8.10 (g) (6), the Commissioner has found any amount over 3% to be available surplus where the district seeks restoration of reductions made by the governing body. Board of Ed., Old Bridge v. Township Council of Old Bridge, 1998 S.L.D. Feb. 6. See also reallocations of surplus p.15.

With the passage of S-1701, P.L. 2004 c. 73 and the resultant reduction of surplus to 3% for the 2005-2006 school year and 2% for 2006-2007 and thereafter, how much surplus will be deemed available to fund restorations is anyone's guess. The restoration of reduction decisions from 2005-2006 and forward will hopefully provide guidance in this area. Given the fact that excess surplus levels are now at a level equal to what has traditionally been viewed as reasonable to keep for unforeseen contingencies, it would appear that the amount of surplus available to fund restorations would be limited.

**OR**

3. There are large surpluses in the line item accounts or unusual margins for contingencies.
4. After careful and honest deliberations, the board agrees that the reductions are reasonable.

**C. SOME SUGGESTIONS**

N.J.S.A. 18A:22-37 imposes an obligation on the board and the municipality to have a "meaningful" consultation about the budget. To achieve this, do the following things:

1. Keep a complete detailed record of these consultations, including an itemized list of all documents and information submitted; and
2. Do not let the board get itself into a position that allows the municipality to claim that the board was uncooperative.

The key element in any successful application to restore reductions is diligent preparation. Absent a failure by the governing body to submit a timely statement of reasons, the burden of proof is on the board of education to establish that the budget cuts will negatively impact the stability in the district, or that they preclude the provision of a thorough and efficient educational program.

Once the decision to apply for restoration of reductions has been made, immediately begin the

preparation of your application. Your preparations should include the following:

1. Call a meeting of the superintendent, business administrator, and department chairpersons;
2. Submit the specific budget cuts to the appropriate persons and have them draft a statement explaining why the amounts in the budget were necessary and why the cuts would interfere with a thorough and efficient education or adversely affect the stability of the district. Where appropriate, the statement should be supported by all statutory and regulatory requirements which mandate the budgetary items; and
3. Keep the material in loose-leaf form and include all of the arguments and supporting data relative to each specific reduction.

The written submissions required by the New Jersey Administrative Code are extremely important. They should be detailed, objective, and adequately documented. This objective is best accomplished through close cooperation at an early stage in the proceedings among the board attorney, board secretary, business manager, business administrator, superintendent, board president, and anyone else closely connected with budget preparations. These same persons should be prepared to testify, if necessary, at the hearing.

The legal criteria on which the Commissioner must base his decision are set forth in the Case Law Determinations of 1997-98, 1998-99, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009 and 2009-10. A review of these cases should be helpful in determining whether to file an application for restoration of reductions and/or how to craft a successful argument.

Some illustrations of the kinds of documentation that could be used in support of particular line items are described below:

1. If the textbook account has been drastically reduced, the board might furnish a list of the publication dates and inventory of the books they were planning to replace. Science books, for example, published in 1975 are certainly not sufficient today and replacements are necessary for a "thorough and efficient system of schools."
2. An inventory of instructional materials in the classrooms could serve to point out the need for funds for such materials.
3. State Attendance Registers showing excessively large class sizes may indicate the need for additional classroom teachers.
4. Listings of special educational problems such as remedial reading, hard of hearing, etc. would demonstrate the need for funds to satisfy state and federal mandates.

5. Results of achievement tests showing great deficiencies in the district when compared with state or national norms would show lack of an adequate educational program.
6. Actual photographs of unsafe conditions in the schools would demonstrate need for repairs.
7. State Department of Education or legislative mandates should be cited to show what the board must accomplish. Fire-detection devices and non-public school transportation would be good examples.
8. A copy of agreements negotiated by the board of education and any of its employee groups that require financing for implementation would demonstrate the need for additional funding.
9. Traffic reports, accident reports, evidence establishing dangerous walking conditions, affidavits from law enforcement, official resolutions designating a route as "hazardous," and affidavits from specific pupils who are walkers along such routes, would show the need for non-mandated busing.

Documentation is especially crucial where a budgeted line item is significantly larger than were expenditures for that item in previous years. The Commissioner will scrutinize deviations from past expenditure patterns. See, e.g., Fairview Board. of Ed., v. Mayor and Council and In the Matter of the Cap Waiver Appeal, 1995 S.L.D. October 5. (pgs. 11, 12); Morris Hills Reg. Board. of Ed., v. Mayors and Councils, 1995 S.L.D. October 24 (pgs. 26-27).

#### **D. SPENDING GROWTH LIMITATION ADJUSTMENTS/TAX LEVY CAP WAIVERS**

Under CEIFA, "spending growth limitation" was the actual rate of growth permitted in the school district, county vocational or county special services' net budget as measured between the net budget of the pre-budget year and budget year. N.J.S.A. 18A:7F-3. S-1701, formally P.L. 2004 c. 73 revised the calculations for spending growth limitation adjustments to the greater of 2.5% or the CPI. The spending growth limitation for the 2006-2007 school year was 4.04%. Commissioner spending growth limitation adjustments and the ability to bank unused cap are no longer applicable for the period 2008-09 through 2011-12 and districts are required to follow the new waiver process beginning in 2008-09. There were eight possible spending growth limitation adjustments -- five statutory, three Commissioner, and one temporary. N.J.S.A. 18A:7F-5d. The five statutory adjustments were:

- Changes in enrollment;
- Certain capital outlay expenditures;
- Non-remote pupil transportation costs;
- Special education costs per pupil in excess of \$40,000;

- Costs of opening a new facility in the budget year.

S-1701, formally P.L. 2004, c.73, effective for 2005-2006 and thereafter, revised the non-remote transportation SGLA pursuant to N.J.S.A. 18A:7F-5(d) from the full cost of non-remote transportation costs to the incremental increase, 2.5% or the CPI whichever is greater, from the prior year's costs. For the 2006-2007 school year that increase was 4.04%; during the 2007-2008 school year, the CPI was 3.34%.

The cost of opening a new facility in the budget year was a result of P.L. 2001, c.43, amending N.J.S.A. 18A:7F-5(d).

P.L. 2003, c. 92, signed into law on June 18, 2003 and supplementing N.J.S.A. 18A:7F-5, created a temporary SGLA for the budgeted costs of certain insurance and domestic security preparedness. The law is applicable for three budgetary years (2004-2005, 2005-2006, 2006-2007). Any costs incurred by a school district for liability insurance, workers compensation, health and other employee group insurance, property insurance, as well as staff training, consultants and supplies associated with preparation against potential homeland security threats and incidents are eligible as an adjustment to a school district's spending growth limitation. Costs in 2006-2007 in excess of 4.04% over 2005-2006 costs are eligible for SGLA consideration. The adjustment was applicable to regular and vocational school districts.

The State Board adopted regulations to implement the temporary SGLA. Temporarily codified at N.J.A.C. 6A:23-8.8(f), the requirements included submission of the SGLA to the Commissioner for approval, full utilization of all eligible statutory adjustments and banked cap prior to submission, and a prohibition on the deposit of any excess unreserved general fund balance into a capital reserve account or maintenance reserve account. All accounts subject to the adjustment would be restricted and funds could only be transferred to any other account during the year upon request to the executive county superintendent and with Assistant Commissioner of Finance approval, based upon school district demonstrated need.

Districts traditionally had the authority to apply to the Commissioner for spending growth limitation adjustments under three criteria:

- Use of early childhood program aid;
- Use of demonstrable affective program aid;
- Increase in tuition charged to a sending district by a receiving district.

S-1701, formally P.L. 2004, c.73, eliminated the Commissioner spending growth limitation adjustments for Early Childhood Program Aid and Demonstrably Effective Program Aid. The Commissioner spending growth limitation adjustment for increase in sending-receiving tuition is still available.

A district may use any of the spending growth limitation adjustments that apply to its proposed budget. These adjustments are added to the maximum permitted net budget before the

adjustment that is calculated for all regular and vocational districts; the pre-budget year net budget inflated by the CPI or 2.5%, whichever is greater.

The CEIFA code contained specific procedures for adjustment to spending growth limitation for capital outlay expenditures, N.J.A.C. 6A:23-8.8(a); pupil transportation costs, N.J.A.C. 6A:23-8.8(b); special education costs in excess of \$40,000, N.J.A.C. 6A:23-8.8(c); tuition increases charged to a sending district by a receiving district, N.J.A.C. 6A:23-8.8(d); opening a new school facility, N.J.A.C. 6A:23-8.8(e); and liability insurance, workers compensation insurance, employee group insurance, domestic security preparedness, and responses to incidents and threats to domestic security, N.J.A.C. 6A:23-8.8(f).

*P.L. 2007, c. 62, The Tax Levy Cap Law (A1)*, effective January 18, 2008, changed the way that school district budgets are limited or capped A-1, established a basic four percent limitation on tax levy growth, with certain adjustments and waivers. It has affected a school district's general fund tax levy for the 2007-2008 through the 2011-2012 school years. During that four year period, a school district may not adopt a budget with an increase in its adjusted tax levy that exceeds the following tax levy growth limitation: the sum of the pre-budget year adjusted tax levy and the adjustment for increases in enrollment multiplied by four percent, plus adjustments for reductions in total unrestricted State aid from the pre-budget year, an increase in health care costs, and beginning in 2008-2009, amounts approved by Commissioner of Education waiver.<sup>93</sup>

During that four-year period, state aid, appropriation of surplus and locally generated revenue will not be limited or capped for school districts. CEIFA's SGLAs will not be applicable.

Similar to CEIFA's SGLAs, A-1 provides for certain familiar adjustments for the 2007-2008 school year and a more expansive list of waivers for the 2008-2009 through 2011-2012 school years. For the 2007-2008 school year, a school district was able to apply to the Commissioner for an adjustment in allowable tax levy growth for:

- Special education costs over \$40,000 per pupil;
- Increases in sending-receiving and county vocational education tuition;
- Capital outlay.

These adjustments are all for increases that are in excess of the pre-budget year costs indexed by four percent.<sup>94</sup>

Beginning in the 2008-2009 school year, a school district may seek approval from the Commissioner for a waiver to increase its adjusted tax levy by more than the allowable amount to address extraordinary costs<sup>95</sup> that may include, but are not limited to:

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<sup>93</sup> N.J.S.A. 18A:7F-38(a), (b), and (c).

<sup>94</sup> N.J.S.A. 18A:7F-38(e).

<sup>95</sup> N.J.A.C. 6A:23A-12.1(b).

- A district's failure to meet the core curriculum content standards through the New Jersey Quality Single Accountability Continuum (NJQSAC). Until full implementation of NJQSAC, such determination shall be based on a school district's status under No Child Left Behind (NCLB);
- Energy cost increases over the pre-budget year in excess of four percent;
- Capital outlay increases, less any withdrawals from capital reserve, over the pre-budget year in excess of four percent;
- Appropriation of non-recurring general fund revenue in the pre-budget year original budget, including the appropriation of surplus;
- Increases in non-health insurance costs over the pre-budget year in excess of four percent;
- Increases in hazardous route transportation costs over the pre-budget year in excess of four percent;
- Increases in special education costs that exceed \$40,000 per pupil over the pre-budget year in excess of four percent;
- Increases in sending-receiving and county vocational and technical tuition costs over the pre-budget year in excess of four percent;
- Incremental increases in costs associated with opening a new facility;<sup>96</sup>
- In considering a waiver request, the Commissioner will have the power to make budgetary reallocations up to the total amount of the waiver request. No line item accounts shall be reduced or reallocated that will impact a district's ability to meet the core curriculum content standards and provide a thorough and efficient education.<sup>97</sup>

A waiver request must be submitted to the executive county superintendent along with the preliminary budget and supporting documentation by Thursday, February 25, 2010. This includes the completed waiver request report generated from the software and any additional documentation unique to the request that will provide clear and convincing evidence that the district qualifies for the waiver(s) sought and that the amount of the expenditure is reasonable. This also includes completion of a trend analysis documenting historical budgeting and spending practices (APPENDIX G of the Budget Guidelines), and completion of a comparative analysis of district's spending to the adequacy model. Districts must also submit a copy of the most recent board secretary's report and support of encumbered funds and available balances through the end of the fiscal year. Waiver requests submitted for the first time with the initial budget submission of non-waiver districts or passed at the public hearing will not be considered.

The Commissioner waiver approval will specify whether the adjusted tax levy increase is to be limited to the budget year or will be added to the adjusted tax levy as a permanent increase.<sup>98</sup> Any decision of the Commissioner as to the entitlement of any school district to a waiver increase in its tax levy shall be final and not subject to appeal; see N.J.A.C. 6A:23A-12.12(e).<sup>99</sup>

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<sup>96</sup> Ibid.

<sup>97</sup> Id.

<sup>98</sup> N.J.S.A. 18A:7F-39(a)(2)(4).

<sup>99</sup> N.J.S.A. 18A:7F-39(a)(2)(5).

A-1 gives the Commissioner the authority to grant additional waivers, applicable to some or all school districts, as determined by the Commissioner, and only effective for the school budget year in which the waiver is granted, upon a finding of extraordinary circumstances that result in an unanticipated increase in expenditures for a service essential to the health, safety and welfare of the school children of the State.<sup>100</sup>

## **E. SPENDING GROWTH LIMITATION ADJUSTMENTS/TAX LEVY WAIVERS**

According to representatives of the Division of Finance, Department of Education, no spending growth limitation adjustment appeals occurred during CEIFA's eleven budgetary years. See [Budget Guidelines Fiscal Year 2010-11](#).<sup>101</sup>

Beginning in 2008-09, school districts may apply to the Commissioner for a waiver to increase its adjusted tax levy by more than the calculated allowable amount for "extraordinary costs." Extraordinary costs are defined as those costs beyond customary and usual in the operation of a public school, beyond the control of the district, necessary to achieve T&E as determined by the Commissioner, and the expenditure was not included in the original budget of the pre-budget year or increased by more than 4% of the amount included in the original budget of the pre-budget year. While appeals are not recognized, the procedures below must be followed:

1. **Public Hearing** Districts applying for the Commissioner tax levy cap waivers should schedule a public hearing as late as possible to permit adequate time for the waiver review process and to allow the district adequate time to make any budget revisions that may be necessary after a decision is received concerning an application. Districts must revise a budget in a manner consistent with any decision by the Commissioner on the tax levy cap waiver requested and any potential reallocation.
2. **Responsibilities of boards of education**
  - a. Adopt a resolution seeking approval for a commissioner tax levy waiver. The resolution must refer to one or more of the specific justifications;
  - b. Must submit an original budget statement, supporting documentation, automatic and cap waiver materials, tax levy cap report produced by the budget program, and any additional supporting documentation as required under the cap waiver review process, with a copy of the Board resolution to the executive county superintendent/;
  - c. Must be prepared to discuss the general fund free balance status with the executive county superintendent and the supporting information required to be submitted. Must fully document any balances reserved for specific purposes; board resolutions are required for reserved balances;

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<sup>100</sup> N.J.S.A. 18A:7F-39(d).

<sup>101</sup> <http://www.state.nj.us/education/finance/fp/dwb/guidelines/guidelines.pdf>

- d. Must be prepared to discuss the entire general fund budget to show that all increases are reasonable;
- e. Must be prepared to discuss any proposed separate proposals to show all proposals are not required for T&E and do not include any existing programs and services unless such approval is granted pursuant to N.J.A.C. 6A:23A-12.13(a)(4) – Must also submit written documentation and certify that efforts were made to enter into shared service arrangements with other district or government units and if a district has not entered into those potential arrangements, that such arrangement would result in additional expenditures from the district.
- f. Must notify the executive county superintendent whenever the responsibility and associated cost of a school district activity is transferred to another school district or governmental entity without an additional cost.
- g. Submit a budget in which the advertised per pupil administrative cost does not exceed the lower of the pre-budget year advertised per pupil cost, adjusted as of 2/1, in the proposed budget plus any commissioner approved increases or the regional limit;
- h. Will advertise the School District Budget Statement only after it has been approved by the executive county superintendent;
- i. Include in the advertised budget a Statement of Purpose if requesting withdrawal or deposit of capital reserve for excess costs or other capital projects;
- j. Cannot transfer amounts from line items that generated Commissioner approved tax levy cap adjustments without Commissioner approval for hardship; and
- k. Cannot reduce capital outlay appropriations specifically approved for the purposes of a commissioner adjustment for capital outlay expenditures.

3. **Responsibilities of the executive county superintendent**

- a. Review the entire proposed budget;
- b. Review the district's Tax Levy Cap Worksheet for accuracy to determine that the tax levy does not exceed the maximum permitted tax levy after adjustment.;
- c. Review the district's automatic and commissioner requested adjustment worksheets for agreement to the tax levy cap worksheet and all of the appropriate attachments for accuracy and completeness;
- d. Review and verify the district's general fund free balance status, including the

supplemental information required. Make adjustments to the district's estimate of surplus balances and appropriation of fund balance in the proposed budget based on this review, if applicable;

- e. Review and issue approvals/denials of district's Commissioner tax levy cap waiver requests after reviewing the budget for potential reallocation up to the requested amount. Determine whether an approval waiver should be a permanent increase to the district's tax levy base or only an increase for the budget year;
- f. Make specific written recommendations to the Commissioner, through the Regional County Superintendent, directing budget reallocations and programmatic adjustments deemed necessary to ensure implementation of T&E;
- g. Pursuant to the pending A-1 legislation, make specific written recommendations to the Commissioner, directing specific budget increases over the tax levy cap to address low achievement or causes of a district's failure to meet the core curriculum standards; and
- h. Discuss with district personnel the decision concerning the district's requested tax levy cap waiver and assist the district in making revisions to the proposed budget when part or all of a waiver is denied.

## **F. OTHER CONSIDERATIONS**

### **Audit Reports**

Prompt and final resolution of budget disputes aids districts in the budget planning process. School districts may be able to avoid delays in obtaining application decisions by submitting verification of the annual audited surplus figures to the Commissioner earlier than the latest date permitted by statute (November 1 - see N.J.S.A. 18A:23-1 et seq.). This is in light of DOE's April 17, 1995 memorandum, which states that all budget appeals, now applications, will be subject to verification of the annual audited surplus figures - and that those decisions issued prior to the filing of the annual audit (on the basis of information from the June 30 report) will be contingent on verification of those figures through the annual audit.

To wait until November 1 for an audit, and then to wait further while the Commissioner reviews the audit may delay the issuance of budget review decisions and precludes the finality of those decisions that are issued. Boards are aware by May of the likelihood of the need to file for restoration of reductions, and are encouraged to contact their auditor for early scheduling. Upon receipt of the audit report, the board should approve it quickly or, at a minimum, have the auditor certify the surplus aspect as soon as possible. This information could be shared with the Commissioner and would aid in expediting the decision-making process.

