



New Jersey School Boards Association

HEADQUARTERS
413 West State Street
P.O. Box 909
Trenton, NJ 08605-0909
Telephone: 609.695.7600
Toll-Free: 888.88NJSBA
Fax: 609.695.0413

NORTH
195 Fairfield Avenue
Suite 4B
West Caldwell, NJ 07006
Telephone: 973.403.3434
Toll-Free: 877.294.6416
Fax: 973.403.0664

CENTRAL
225 Gordons Corner Plaza
Suite 1H
Manalapan, NJ 07726
Telephone: 732.446.5090
Toll-Free: 877.294.6418
Fax: 732.446.1125

SOUTH
1200 Laurel Oak Road
Suite 101
Voorhees, NJ 08043
Telephone: 856.346.2500
Toll-Free: 877.294.6417
Fax: 856.346.4218

MEMORANDUM

To: SCHOOL BUSINESS ADMINISTRATORS AND BOARD ATTORNEYS

From: EDWINA M. LEE, EXECUTIVE DIRECTOR

Date: MARCH 2006

**Re: BUDGET REVIEW AND RESTORATION OF REDUCTIONS MEMORANDUM
2006-2007**

The following document is the 2006-2007 "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.

Note: On January 14, 2004, Governor James E. McGreevey signed into law P.L. 2003, c. 275, which permanently extended the deadline for the Governor's annual budget message to the Legislature to the 4th Tuesday in February, this year February 28, 2006. Chapter 275 also authorized the Commissioner of Education to make any adjustments to the school budget calendar and to the date for the notification on non-tenured personnel that are necessary to conform with the State aid notification date including the deadline for submission of Abbott and non-Abbott districts' proposed budgets to Commissioner of Education. Several of the dates on the 2006 School Budget and Election Calendar, found on the Department of Education Website at <http://www.nj.gov/njded/finance/fp/dwb/calendar.pdf>, have been affected by this

legislation, most notably the preliminary budget submission date and budget hearing and advertisement dates. On February 28, 2006, Governor Jon S. Corzine signed into law P.L. 2006, c.2, which extended the deadline for the Governor's FY 2006-07 budget message to March 23, 2006. The Governor's budget message was delivered on Tuesday March 21, 2006.

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 Department and their local board attorney.

2006-07 BUDGET REVIEW AND RESTORATION OF REDUCTIONS

OVERVIEW

N.J.S.A. 18A:6-9; 18A:22-14, 22-17, and 22-37 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. Board of Ed., Absecon v. City Council of Absecon, 1997 S.L.D. November 17. 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. 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). That standard changed on December 20, 1996, when the Legislature enacted the Comprehensive Educational Improvement and Financing Act of 1996 (CEIFA).

CEIFA established a prescribed level of expenditure per pupil range deemed sufficient to provide a thorough and efficient (T&E) education. The basic per pupil T & E amount for education pupils at the elementary level (K-5) was established at \$6,720 for the 1997-98 school year and was adjusted by the Consumer Price Index (CPI) to \$6,899 for the 1998-99 school year. N.J.S.A. 18A:7F-12. The first Biennial Report on the Cost of Providing a Thorough and Efficient Education, issued March 15, 1998, established the 1999-2000 per pupil T & E amount at \$7,083, which was adjusted by the CPI to \$7,199 for the 2000-01 school year. The second Biennial Report on the Cost of Providing a Thorough and Efficient Education, issued March 15, 2000, reexamined the per pupil T & E amount, the T & E flexible amount and the T & E range along with other CEIFA items. The 2001-02 per pupil T & E amount was established at \$7,913 and was adjusted by the CPI (2.88%) for 2002-2003 to \$8,141. 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 and currently may be found on the NJDOE web site at <http://www.nj.gov/njded/genfo/birep.htm>. The 2002 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 school districts' FY 2003 budgets, the basic per pupil T&E amount was established at \$8,313. The fourth and fifth Biennial Reports on the Cost of Providing a Thorough and Efficient Education were scheduled to be released on March 15, 2004 and March 15, 2006, respectively. As of the time of publication of this document, March 2006, the fourth and fifth Biennial Reports had yet to be issued and the basic per pupil T&E amount, the T&E flexible amount and any changes in the grade level weights for 2005-2006 and 2006-2007 had not been established.

For 2004-2005, the basic per pupil T&E amount was established at \$8,532, an increase by the CPI (2.64%) from 2003-2004. The T&E flexible amount (\$427), a 5% range above and below the T&E per pupil amount, was established to reflect the regional cost differences across New Jersey. The 2004-05 T&E range was as follows:

Category	Weight	Bottom (-5%)	T&E	Top (+5%)
Kindergarten	0.5	\$4,053	\$4,266	\$4,479
Elementary	1.0	\$8,105	\$8,532	\$8,959
Middle	1.04	\$8,429	\$8,873	\$9,317
High	1.11	\$8,997	\$9,471	\$9,945

Note: Differing per pupil T&E amounts at each grade level reflect the different costs of educating pupils at each grade level.

Each district has a maximum and minimum T&E budget based on the number of pupils at each grade level. The district's per pupil count is multiplied by the appropriate per pupil T&E amount for that grade level. The sum of those amounts establishes the maximum and minimum T&E budget for that district.

Pursuant to CEIFA, budget appeals have been eliminated as contested cases and are no longer deemed to be controversies before the Commissioner. Per N.J.S.A. 18A:7F-5(e)(3), 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. Budget appeals have been replaced with an administratively developed procedure; an Application for Restoration of Reductions. The process to apply for restoration of reductions will differ based upon whether a district's proposed budget is above, within, or below the T&E budget range or "box." Rules adopted by the State Board of Education provide for an expedited budget review process, in lieu of appeals, for requests to restore municipal governing body or board of school estimate reductions. N.J.A.C. 6A:23-8.10.

In reviewing an Application for Restoration of Reductions, or a budget subject to automatic review, the Commissioner uses two standards of review depending on whether the budget is above, below or within the T&E box. These standards are:

"T&E grounds" -- reduction(s) would adversely affect the district board of education's ability to implement programs and services at the level contained in the efficiency standards established pursuant to N.J.S.A. 18A:7F-4b in order to ensure that its students achieve the Core Curriculum Content Standards. The efficiency standards are those contained in the Report on the Cost of Providing a Thorough and Efficient Education. N.J.A.C. 6A:23-8.10(f)(2)(i).

"Stability grounds" – as used in the Comprehensive Educational Improvement and Financing Act of 1996, N.J.S.A. 18A:7F-1 et seq. means reduction(s) which would require long term planning or budgeting and cannot be accomplished within the budget year; would adversely affect the board of education's ability to operate a school system; and which are not a program, service or other expenditure contained within the efficiency

standards established pursuant to N.J.S.A. 18A:7F-4b or are expenditures for items which are in excess of those contained in the efficiency standards established pursuant to N.J.S.A. 18A:7F-4b. N.J.A.C. 6A:23-8.10(f)(1)(i).

In October 2002 the Department of Education released the third Biennial Report on the Cost of Providing a Thorough and Efficient Education to the Legislature recommending per pupil spending amounts and efficiency standards. That report may be found on the NJDOE web site at <http://www.nj.gov/njded/genfo/birep.htm>. The fourth and fifth Biennial Reports on the Cost of Providing a Thorough and Efficient Education were scheduled to be released on March 15, 2004 and March 15, 2006, respectively. As of the time of publication of this document, March 2006, the fourth and fifth Biennial Reports had yet to be issued and the basic per pupil T&E amount, the T&E flexible amount and any changes in the grade level weights for 2005-2006 and 2006-2007 had not been established.

The grounds for restoration of reductions for budgets above, within, or below the box are as follows:

Proposed base budgets in excess of the maximum T & E budget - 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 (“stability grounds”). In such cases a district shall 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:23-8.10(f)(1). In determining the impact of reductions on the stability of a district, the Commissioner may 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 will impact on the ability of the district to fulfill its contractual obligations, and the other factors listed at N.J.A.C. 6A:23-8.10(g)(5). N.J.A.C. 6A:23-8.10(g)(3).

Proposed base budgets at or below the maximum T&E budget - Any reductions may be restored on grounds that the reductions will 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”) or will adversely affect the stability of the district given the need for long term planning and budgeting. (“stability grounds”). In considering the application, the Commissioner may 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 will impact on the ability of the district to fulfill its contractual obligations, and the other factors listed at N.J.A.C. 6A:23-8.10(g)(5). N.J.A.C. 6A:23-8.10(g)(3).

Proposed base budgets below the minimum T&E budget or reduced to below the minimum – the Commissioner automatically reviews these budgets. The burden of proof shifts to the governing body or bodies or board of school estimate which has made the reductions to affirmatively

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. In reviewing the budget and the governing body or board of school estimate's position, the Commissioner may consider enrollment increases or decreases within the district, the history of voter approval or rejection of district budgets, the impact on the local tax levy, whether the reductions will impact on the ability of the district to fulfill its contractual obligations and the other factors listed at N.J.A.C. 6A:23-8.10(g)(5). N.J.A.C. 6A:23-8.10(g)(3).

2006-07 BUDGET REVIEW

A. TIMETABLE FOR GOVERNING BODY AND BOARD OF SCHOOL ESTIMATE ACTION

TYPE II DISTRICTS

In a Type II district, if a school budget has been defeated by the voters it is the obligation of the board of education to deliver the proposed school budget to the governing body of the municipality and to the county superintendent within two days after the certification of budget election results. The board of county canvassers certifies budget election results on the Monday after the annual school election at 12 o'clock noon. N.J.S.A. 19:19-1. 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. N.J.S.A. 18A:22-37; 18A:13-19. For 2006-07 budgets, this date is Wednesday, April 26, 2006, as this year's school election date is Tuesday, April 18, 2006 and the results will be certified by the board of county canvassers on Monday April 24, 2006. Further, N.J.S.A. 18A:13-19, applicable to regional districts, specifically states that the board shall "certify" to the governing body(ies) the item or items rejected.

In addition to the proposed school budget, the board shall also submit, pursuant to N.J.A.C. 6A:23-8.10(a)(1):

1. 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, and proposed budgeted amount for the ensuing school year as proposed to the voters;
2. A copy of the annual report (Quality Assessment Annual Report) submitted to the Commissioner pursuant to N.J.S.A. 18A:7A-11 and N.J.A.C. 6:8-3.1.
3. A copy of the district's most recent annual audit;
4. An explanation of any action(s) to reallocate, direct additional expenditures, and so forth, taken by the Commissioner or the county superintendent on behalf of the Commissioner pursuant to N.J.S.A. 18A:7F-5 through 7, or a statement to the affect that no such actions were taken;
5. The numbers of professional and nonprofessional staff during the current school year and projected staff for the ensuing school year, together with reasons for any increase or decrease;
6. 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;
7. Salary schedules for all employees;
8. The number of schools and classrooms in each;

9. Tuition received or paid during the previous school year, anticipated for the current school year and projected for the ensuing school year;
10. 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;
11. Any information required for submission to the county superintendent pursuant to N.J.A.C. 6A:23-8.1 and not specifically enumerated above;
12. The Comparative Spending Guide;
13. The School Report Card; and
14. Any other documentary materials or records the Commissioner deems appropriate for a specific board of education.

The Department of Education, through its Budget Guidelines Fiscal Year 2006-2007 publication, page 223, recommends that the following materials also be included.

1. Rationale for any new positions.
2. Rationale for any new programs.
3. Rationale for any new and replacement equipment.
4. Rationale for any major line item increases or decreases.

The Budget Guidelines Fiscal Year 2006-2007 publication can be found at <http://www.nj.gov/njded/finance/fp/dwb/guidelines>

For **all budgets, whether above, below or within the box**, N.J.A.C. 6A:23-8.10(a)(2) requires that the governing body(ies), or a formally approved committee thereof, shall, as soon as immediately practicable, consult with the district board of education, or a formally approved committee thereof, for purposes of determining the amount of general fund tax levy sufficient to ensure provision of a T&E education or to maintain the stability of a district's programs. The governing body(ies) has until Friday, May 19, 2006, to consult with the board, review the budget and make its own determination as to what budget amount should be appropriated for each item appearing in the budget. This amount is certified to the county board of taxation. N.J.S.A. 18A:22-37. N.J.A.C. 6A:23-8.10(a)(3)(i). This certified amount shall not be less than the minimum tax levy necessary to meet the required local share established pursuant to N.J.S.A. 18A:7F-5. If the amount so certified for the base budget is less than the budget proposed to the voters by the board of education, the governing body(ies) shall present to the board of education and the county superintendent, a statement of the specific line-item reductions made by the governing body(ies). Accompanying the statement shall be a certification attesting that the governing body(ies) has reviewed the budget proposed by the board of education and that it deems the revised budget sufficient to provide a thorough and efficient system of education. N.J.A.C. 6A:23-8.10(a)(3)(i).

If the budget resulting from such review is **below the minimum T & E budget** prescribed by N.J.S.A. 18A:7F-5, the governing body(ies) shall concurrently present to the board of education,

and to the 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-4a and b, or will not adversely affect the stability of the district given the need for long term planning and budgeting. N.J.A.C. 6A:23-8.10(a)(3)(ii).

N.J.S.A. 18A:22-37 provides that within 15 days after the governing body of the municipality, or of each of the municipalities included in the district, certifies to the county board of taxation the tax levy required, the board of education shall notify the governing body(ies) if it intends to appeal to the Commissioner the amount which the body(ies) appropriated for each item in the budget. The last possible notification date is Saturday, June 3, 2006, provided the governing body certified the tax levy on the last possible day, May 19. With the enactment of CEIFA, and the establishment of the administrative expedited review process by the State Board, the DOE has taken the position that this notice requirement is no longer applicable as budget “appeals” *per se* no longer exist. Reductions are restored through an application process which has a filing deadline of 10 business days after certification of the tax levy. Notwithstanding the DOE's position, NJSBA recommends that a notice of intent to appeal 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 possible date to file the Application for Restoration of Reductions is Monday June 5, 2006, if the tax levy were certified on the last possible day, May 19. N.J.A.C. 6A:23-8.10(f)(3). Business days are considered as Monday through Friday. Monday May 29 is Memorial Day, a public holiday, and would not be considered a business day.

If the governing body(ies) fail(s) to certify the tax levy, or in the event that the governing bodies of the municipalities comprising a school district certify different amounts, then the Commissioner shall submit to the governing body(ies) and certify to the county board of taxation the amount he feels is necessary for the general fund expenses of schools, or appropriations to the capital reserve account. The amounts certified shall be included in the taxes to be assessed, levied and collected in the municipality(ies) for those purposes. For any district submitting a budget in excess of the maximum T&E budget, the Commissioner shall certify the general fund tax levy pursuant to N.J.S.A. 18A:7F-5(e)(1). N.J.S.A. 18A:13-20; 18A:22-38.

TYPE I DISTRICTS

In a Type I district, there is no budget election. After a public hearing, held for the 2006-2007 budget year between Monday, March 27, 2006 and Thursday, March 30, 2006, N.J.S.A. 18A:22-10, (changed pursuant to P.L. 2003 c. 275, N.J.S.A. 18A:7F-5c), the board of school estimate, on or before Saturday, April 8, 2006, 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. N.J.S.A. 18A:22-10, 22-14. The budget statement certification must also be provided to the county superintendent on April 8.

Within 15 days of receiving the certificate, the board of education shall notify the board of school estimate and governing body of the district if it intends to appeal the board of school

estimate's determination to the Commissioner. N.J.S.A. 18A:22-14. Sunday, April 23, 2006 is the last possible notification date, provided that the board of school estimate certified the appropriation on the last possible day, April 8. The Department of Education has generally moved Sunday deadlines to the following Monday, this year April 24, 2006. 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 days after certification of the tax levy. Notwithstanding the SDOE'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 Friday, April 21, 2006, if the budget is certified on the last possible day, April 8. N.J.A.C. 6A:23-8.10(f)(3). Business days are considered as Monday through Friday.

At the time of the board of education's submission of its proposed budget to the board of school estimate, it shall also provide to the board of school estimate, the governing body(ies) and the county superintendent, the supporting documents (1-15) enumerated on pages 5-6 herein for Type II and regional districts. The Department of Education, at page 223 of its Budget Guidelines Fiscal Year 2006-2007 publication, found at <http://www.nj.gov/njded/finance/fp/dwb/guidelines>, 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. 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.

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 shall present to the board of education, the governing body(ies) and the 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. N.J.A.C. 6A:23-8.10(b)(1)(i).

The governing body of each municipality comprising the district shall appropriate the amount certified by the board of school estimate. 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) shall present to the board of estimate, the board of education and the county superintendent, 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. N.J.A.C. 6A: 23-8.10(b)(2)(i).

If the budget resulting from board of school estimate review or subsequent governing body certification is *below* the minimum T & E budget pursuant to N.J.S.A. 18A:7F-5(e)(2), the board of school estimate and/or governing body(ies), as the case may be, shall concurrently present a specific written demonstration as to why such reductions will not 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. N.J.A.C. 6A:23-8.10(b)(2)(ii). 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. N.J.A.C. 6A:23-8.10(c)(3).

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 county superintendent shall 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. N.J.A.C. 6A:23-8.10(c). Should such agreement be reached, any resultant adjustment in tax levy shall be certified forthwith to the county board of taxation. N.J.A.C. 6A:23-8.10(c)(1). 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. N.J.A.C. 6A:23-8.10(c)(2).

If the appropriation in a Type I district exceeds 1.5 % of the assessed 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. N.J.S.A. 18A:22-17. Friday, April 28, 2006 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 Friday, April 21, 2006, 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. N.J.A.C. 6A:23-8.10(f)(3). Business days are considered as Monday through Friday.

Type II Districts with a Board of School Estimate

In those few Type II districts 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 normally prepares and delivers the budget to each member of the board of school estimate on or before March 22. For the 2006-2007 budget year, that date has been changed to Monday March 27, 2006, pursuant to P.L. 2003 c. 275, N.J.S.A. 18A:7F-5c. The board of education must also submit all of the documents (1-15) listed on page 5-6 herein for Type II districts, to the board of school estimate, governing body, and county superintendent. N.J.A.C. 6A: 23-8.10(b)(1). The Department of Education, at page 223 of its Budget Guidelines Fiscal Year 2006-2007 publication, found at <http://www.nj.gov/njded/finance/fp/dwb/guidelines>, 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.

At or after its public hearing, which must take place between Monday, March 27, 2006 and Thursday, March 30, 2006, N.J.S.A. 18A:22-10, (changed pursuant to P.L. 2003 c. 275, N.J.S.A. 18A:7F-5c) the board of school estimate, by Saturday April 8, 2006, must prepare a certificate, signed by a majority of the full board of school estimate, setting forth the amount of money to be appropriated. N.J.S.A. 18A:22-26. 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 county superintendent by Saturday, April 15, 2006. N.J.S.A. 18A:22-26. 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 Friday, April 21, 2006, ten business days after the certification of the tax levy, if the district certified the tax levy on the last possible day, April 8. N.J.A.C. 6A:23-8.10(f)(3). Business days are considered Monday through Friday.

Issues for All Districts

Commissioner filing. When the voters, municipal governing body(ies), or the board of school estimate authorize the general fund tax levy, the district shall submit the resulting budget to the Commissioner within 15 days of the action of the voters or municipal governing body or board of school estimate, whichever is later. N.J.S.A. 18A:7F-5(e)(4).

Non-Abbott/special needs districts. Any district which is not an Abbott district but which was classified as a special needs district under the Quality Education Act of 1990, may appeal any budget reduction(s) made by the municipal governing body or board of school estimate to the Commissioner. N.J.S.A. 18A:7F-5(f).

Separate Proposals. Any district may submit at the annual school election, or to the board of school estimate, as appropriate, a separate proposal(s) for additional general fund tax levies which may be in excess of its adjusted spending growth limitation. N.J.S.A. 18A:7F-5d (9). This statute was recently amended by P.L. 2004 c. 73, commonly known as S-1701. The S-1701

amendments provide that 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 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. See also N.J.A.C. 6A:23A-2.5.

Pursuant to N.J.A.C. 6A:23-8.5 the district board of education shall not include in any such proposal:

- Programs or services necessary for the district to provide the opportunity for all students to achieve the core curriculum content standards. N.J.S.A. 18A:7F-4a.
- Expenditures for items contained in the efficiency standards when the base budget line items for those amounts are less than those contained in the efficiency standards. N.J.S.A. 18A:7F-4b.
- Expenditures for items to be used as part of the local share or to reduce the cost of a school facilities project receiving State debt service aid pursuant to N.J.A.C. 6A:26-3.7(d).

Such proposal should include an interpretative statement(s) which specifically identifies the program purpose(s) for which the proposed funds will be used. Each question must contain sufficient funds to carry out the specific purposes contained therein. No funds may be included in the base budget for purposes which cannot be implemented without the approval of a separate question. Any proposal(s) rejected by the voters must be submitted to the municipal governing body(ies) which will determine the amount that should be expended despite voter rejection. For districts with a board of school estimate, one proposal for additional spending may be submitted to the board. The decision by the governing body or board of school estimate is final with no review by the Commissioner. A board of education may not modify its base budget or appropriate surplus to implement second question programs if monies are not restored except where monies are received from a donation or contribution from an external source, other than the board of education, and if such implementation will not require funding in subsequent budget years. N.J.S.A. 18A:7F-5(d)(9). N.J.A.C. 6A:23-8.5(d)(e)(f).

Amounts approved by the voters or board of school estimate or restored by the governing body or board of school estimate for defeated separate proposals must be exclusively used for the purpose or purposes contained in the question. If multiple purposes are approved, the board of education may transfer amounts among purposes so long as all purposes originally approved can be completed. A board of education shall maintain a separate accounting of expenditures for each question. If the amounts restored are not sufficient for implementation of the question's purpose, they may not be used for any other purpose and will be rolled over into surplus for the

following budget year. Any amounts that remain unexpended or unencumbered at the end of a school year shall either be anticipated as part of the designated fund balance of the subsequent school year budget or reserved and designated in the second subsequent school year budget. N.J.A.C. 6A:23-8.5(g)(h)(i)(j).

Procedures for Application for Restoration of Reductions or Automatic Review

Discretionary Review - Budgets above a Board's Minimum T&E Budget

N.J.A.C. 6A:23-8.10(f)(3) provides that within 10 business days after the certification of general fund tax levy by the governing body(ies), or the board of school estimate, a board of education eligible for restoration of budget reductions pursuant to N.J.A.C. 6A:23-8.10(f)(1) or (2) (budgets above or within the box) may submit to the Commissioner an application for such restoration. The last possible date for Type I districts and Type II districts with a board of school estimate is Friday, April 21, 2006 if the tax levy is certified on the last possible day, Saturday, April 8. The last possible date to submit the Application for Restoration of Reductions for Type II districts is Monday, June 5, 2006, provided that the governing body certified the tax levy on the last possible day, Friday, May 19. Business days are considered Monday through Friday. Monday May 29, Memorial Day, is a public holiday and would not be considered a business day.

The application shall be submitted in a form deemed appropriate by the district; no standard application exists. The application shall address each line-item reduction made by the governing body(ies) or the board of estimate, and shall 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:23-8.10(a)(1), as to why each reduction 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, whichever criteria is applicable. N.J.A.C. 6A:23-8.10(f)(3)(i)(ii).

Applications for restoration shall be submitted to the appropriate county superintendent, and a copy of the complete application shall be provided concurrently to the governing body(ies), or the board of school estimate. N.J.A.C. 6A:23-8.10(f)(4).

Within 10 business days of receipt of the district board of education's application, the governing body(ies), or the board of school estimate, may submit to the county superintendent any comments it may wish to make on the board's application. A copy of such comments shall be provided concurrently to the board of education. N.J.A.C. 6A:23-8.10(f)(5).

For the purposes of determining the grounds on which a board of education can submit an application for restoration of reductions, the calculation of the T&E budget does not include a sending district's required tuition payment or number of students sent. N.J.A.C. 6A:23-8.10(f)(6).

Automatic Review – Budgets Below or Reduced Below a Board’s Minimum T&E Budget

Proposed budgets which are below a board’s minimum T&E budget or budgets which are reduced by the governing body or board of school estimate *below* the minimum T&E budget, established by N.J.S.A. 18A:7F-5, are subject to automatic review by the Commissioner. The Commissioner will 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. N.J.A.C. 6A:23-8.10(e)(1). Reductions that are uncontested by the board of education and are determined by the county superintendent, pursuant to N.J.A.C. 6A:23-8.1, as sufficient for a thorough and efficient education, are not subject to automatic review. N.J.A.C. 6A: 23-8.10(e)(1)(i). A general fund budget, subject only to an increase in budgeted fund balance or other revenues is subject to automatic review if contested by the board of education or if the tax levy certification reduces the estimated unbudgeted fund balance as of June 30 of the budget year below three percent or \$75,000, whichever is greater. N.J.A.C. 6A:23-8.10(e)(1)(ii). This administrative code provision was not amended with the July 2004 State Board amendments to N.J.A.C. 6A:23, the December 2004 Commissioner regulations at N.J.A.C. 6A:23A or the State Board October 2005 readoption of N.J.A.C. 6A:23A, designed to implement the then recently enacted S-1701, formally P.L. 2004 c. 73. A strict reading of this regulation would require that every budget below a board’s minimum T&E budget or reduced below the minimum T&E budget would be subject to automatic review as all budgets under S-1701 have unbudgeted fund balance below three percent. It is unlikely that this provision will be interpreted in such a strict manner.

A board of education may submit to the county superintendent any comments it may wish to make in response to the governing body's or bodies', or the board of school estimate's demonstration that the specific reductions made will not 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. These comments must be submitted within ten business days of delivery of the reduced budget to the district board of education and county superintendent. A copy of such comments shall be provided concurrently to the governing body(ies), or the board of school estimate. N.J.A.C. 6A:23-8.10(e)(2).

Grounds for Restoration/Burden of Proof

Below Minimum T&E Budget

Should a proposed budget be below a board of education's minimum T&E budget or, if after reductions are made by the governing body or board of school estimate a budget is reduced below the board of education’s minimum T&E budget, the Commissioner shall automatically review any reductions, except in limited circumstances. See N.J.A.C. 6A:23-8.10(e)(1)(i) and (ii). The governing body or board of school estimate shall affirmatively demonstrate to the Commissioner that the reductions will not adversely affect the board of education's ability to provide a thorough and efficient education or the stability of the district, given the need for long term planning and budgeting. N.J.A.C. 6A:23-8.10(g)(4). The burden of proof is on the governing body or board of school estimate.

At or Below Maximum T&E Budget and At or Above Minimum T&E Budget

A board of education, which proposed a budget at or below its maximum T&E budget and at or above the minimum T&E budget, upon application to the Commissioner for restoration of reductions, shall document its need for restoration of each item reduced. The board must demonstrate that the reduction will either adversely affect the board of education's ability to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-4(a) and (b) ("T&E grounds") or the reductions will adversely affect the stability of a board of education's overall operations given the need for long term planning and budgeting. ("Stability grounds"). N.J.A.C. 6A:23-8.10(f)(2). The burden of proof is on the board of education.

Above Maximum T&E Budget

A board of education, which proposed a budget in excess of its maximum T&E budget, upon application to the Commissioner for restoration of reductions, shall document by clear and convincing evidence its need for restoration of each item reduced. The board must demonstrate that the 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 board of education is not permitted to argue that any of the reductions will adversely affect the board of education's ability to meet the thoroughness and efficiency standards. N.J.A.C. 6A:23-8.10(f)(1).

Neither CEIFA nor its implementing regulations speak directly to the situation where a district's proposed budget exceeds the maximum T&E budget and governing body(ies) or board of school estimate reductions bring the budget *below* the maximum T&E budget amount. The statute and regulations expressly address the circumstance where the budget is reduced below the minimum T&E amount and apply the below minimum T&E standard. CEIFA and its regulations facially allow appeals of proposed budgets in excess of the maximum T&E amount only under the "stability grounds" standard even if the budget were reduced all the way to the minimum T&E budget level. Boards which find themselves in this situation should consider the argument that reductions which bring a district's budget below the maximum T&E budget amount may be appealed on "T&E grounds" as well, at least with regard to those monies below the maximum T&E budget amount.

Commissioner review and determination. Upon receipt of an application, supporting documentation and the governing body or board of school estimate comments or upon expiration of the time for their submission, the Commissioner shall review the materials submitted and issue an order directing such restorations or reallocations as he deems warranted pursuant to the appropriate standard as set forth in N.J.S.A. 18A:7F-5 consistent with the overall intent of CEIFA. For purposes of assessing budgets for certification of tax levy, assessing applications, or conducting automatic reviews in the case of districts having budgets below the minimum T&E budget, the Commissioner may engage the assistance of such department of education staff as he or she deems appropriate. N.J.A.C. 6A:23-8.10(g)(1).

In addition to application materials and responsive comments, and those materials submitted to the county superintendent in accordance with N.J.A.C. 6:19-5.2 (a)(1), the Commissioner, in assessing applications for restoration or conducting automatic budget reviews, shall not be precluded from considering such additional information as may be available to him through established reporting requirements and Department of Education data collection processes, e.g., the Fall Report. Additionally, should the Commissioner or a designee determine during the course of review that further information or explanation is required from a board of education, or a governing body or board of school estimate, such information may be requested at any time during the review process. N.J.A.C. 6A:23-8.10(g)(2).

In the case of applications submitted pursuant to N.J.A.C. 6A:23-8.10(f)(1) or (2) (***proposed budgets at or above the minimum T & E amount***), and in determining the impact of reductions on the stability of a district, the Commissioner may consider enrollment increases or decreases within the district, the history of voter or board of estimate approval or rejection of district budgets, the impact on the local tax levy, and whether reductions made will impact on the ability of the district to fulfill its contractual obligations, and the factors listed in N.J.A.C. 6A:23-8.10(g)(5).

In the case of reductions requiring review pursuant to N.J.A.C. 6A:23-8.10(e) (***budgets either proposed or reduced below the minimum T & E amount***), the Commissioner shall 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, and whether reductions made will impact on the ability of the district to fulfill its contractual obligations, and the factors listed in N.J.A.C. 6A:23-8.10(g)(5).

For all budgets under review, in determining the impact of reductions on the stability of the district, the Commissioner will consider, in addition to the items listed above, the impact on class sizes relative to instructional space; the impact on class sizes relative to teaching staff reductions under existing teacher contracts; the link between the proposed reduction and classroom instruction or health and safety; the nature of the reduction as to whether it is a continuation expenditure or a new or increased expenditure; 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; the district's original budget to actual spending and undesignated general fund balance usage and projections trend histories; nonrecurring costs; costs removed from the prebudget year net budget by statutory change, such as the transfer of lease purchase payments to the debt service fund; the degree to which a district exceeds the maximum T&E budget; and any facts or data which would provide evidence of the reduction's impact. N.J.A.C. 6A:23-8.10(g)(5).

In the case of districts classified as special needs districts under the Quality Education Act of 1990, the Commissioner shall additionally consider educationally meritorious programs or services established through State resources provided as a result of the Act in accordance with the provisions of N.J.S.A. 18A:7F-5(g).

Where applicable, the Commissioner shall ensure appropriate use of State aids (i.e. early childhood program aid, demonstrably affective program aid, and distance learning network aid) pursuant to N.J.S.A. 18A:7F-16, 18 and 22.

In directing adjustments to budgets which are the subject of application for restoration or required review, the Commissioner shall not be precluded from reallocating or sustaining reductions to surplus where such reallocation or reductions do not decrease surplus below 3% of the proposed general fund budget or \$75,000, whichever is greater, notwithstanding that budgeted amounts are within the level permitted by N.J.S.A. 18A:7F-7. N.J.A.C. 6A:23-8.10(g)(6). This provision was not amended with the July 2004 State Board amendments to N.J.A.C. 6A:23, the December 2004 Commissioner regulations at N.J.A.C. 6A:23A or the State Board October 2005 readoption of N.J.A.C. 6A:23A, designed to implement the then recently enacted S-1701, formally P.L. 2004 c. 73. A strict reading of this regulation would prohibit the Commissioner from reallocating or sustaining reductions to unbudgeted fund balance or surplus, as all budgets under S-1701 have unbudgeted fund balance below three percent. It is unlikely that this provision will be interpreted in such a strict manner.

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 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 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 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 which 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.

Any reallocations shall be made consistent with N.J.S.A. 18A:7F-6(e) (courtesy busing).
N.J.A.C. 6A:23-8.10(g)(7).

Orders of the Commissioner are final decisions appealable to the State Board of Education pursuant to N.J.A.C. 6:4. N.J.A.C. 6A:23-8.10(g)(8).

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 and 2005-2006 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 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. As of the time of publication of this document, March 2006, the fourth and fifth Biennial Reports had yet to be issued and the basic per pupil T&E amount, the T&E flexible amount and any changes in the grade level weights for 2005-2006 and 2006-2007 had not been established.

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:23-8.10(f)(1).

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 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.

Budgets At or Below the 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.

**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 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 which 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 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 same 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 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 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 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 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 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 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 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 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 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 which 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 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 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.

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: 23-8.10(a)(2); 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 which 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 county superintendent helpful in these matters. As the chief school officer in the county and the Commissioner's representative, the 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. In fact, 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:23-8.10(c) requires the 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.

Governing body's reasons; timing. The CEIFA regulations, (N.J.A.C. 6A:23-8.10) 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 minimum T&E amount. 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 which 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 which 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, 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 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 first nine years of CEIFA restoration of reductions experience evidences a greater likelihood of success if the board spending level on a given line item is within the CEIFA 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 and 2005-2006. 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 which 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 LIMITATIONS ADJUSTMENTS

Under CEIFA, "spending growth limitation" is 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 prebudget 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 is 4.04%. There are eight possible spending growth limitation adjustments -- five statutory, three Commissioner and one temporary. N.J.S.A. 18A:7F-5d. See Budget Guidelines Fiscal Year 2006-2007, page 165-205. <http://www.nj.gov/njded/finance/fp/dwb/guidelines/> The five statutory adjustments are:

- 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 is 4.04 %.

The cost of opening a new facility in the budget year is a recent addition to the law as 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 is applicable to regular and vocational school districts.

The State Board adopted regulations to implement the temporary SGLA. Codified at N.J.A.C. 6A:23-8.8(f), the requirements include 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 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 prebudget year net budget inflated by the CPI or 2.5%, whichever is greater.

The CEIFA code contains 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).

E. SPENDING GROWTH LIMITATION ADJUSTMENT APPEALS

A district may appeal a Commissioner spending growth limitation adjustment. Procedures are established through Department of Education guidelines and are not contained in the code.

Appeals are made to the State Board of Education. According to representatives of the Division of Finance, Department of Education, no spending growth limitation adjustment appeals have occurred in CEIFA's nine budgetary years. See Budget Guidelines Fiscal Year 2006-2007, page 205. <http://www.nj.gov/njded/finance/fp/dwb/guidelines/> If an appeal were to be filed, the procedures below must be followed:

1. **Public Hearing** A public hearing should be scheduled as late as possible to permit adequate time for the spending growth limitation adjustment review process and to allow the district adequate time to make any budget revisions which may be necessary after a decision is received concerning an application. Districts must revise a budget in a manner consistent with any decision on a spending growth limitation adjustment application.
2. **Responsibilities of boards of education**
 - a. Adopt a resolution seeking approval for a spending growth limitation adjustment. The resolution must refer to one or more of the specific justifications
 - b. Adopt a resolution seeking approval for use of banked cap and include the requisite information.
 - c. Submit an original of the budget statement, supporting documentation, spending growth limitation adjustment materials, report of maximum permitted net budget after spending growth limitation adjustments, and spending growth limitation adjustment summary report produced by the budget program with a copy of the board resolution to the county superintendent.
 - d. Be prepared to discuss the general fund free balance status with the 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.
 - e. Be prepared to discuss the entire general fund budget to show that all increases are reasonable.
 - f. 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-2.5.
 - g. Submit a budget in which the advertised per pupil administrative cost does not exceed the lower of the prebudget year advertised per pupil cost inflated by 2.5% or the CPI whichever is greater or the regional limit.
 - h. Advertise the School District Budget Statement only after it has been approved by the 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. File an appeal of the Commissioner's decision on the spending growth limitation adjustment within seven days of receipt of the decision.
- k. Cannot transfer amounts from line items that generated the insurance and domestic security preparedness spending growth limitation adjustment without Commissioner approval.
- l. Capital outlay appropriations specifically approved for the purposes of a spending growth limitation adjustment for capital outlay expenditures cannot be reduced.

3. **Responsibilities of the county superintendent**

- a. Inform the applicable Regional Office of the names of the districts applying for spending growth limitation adjustments as soon as the applications are received.
- b. Review the district's Net Budget Cap Worksheet for accuracy to determine that the base budget does not exceed the maximum permitted after spending growth limitation adjustment.
- c. Review the entire proposed budget.
- d. Review the district's spending growth limitation adjustment worksheets and spending growth limitation adjustment summary and all of the appropriate attachments for accuracy and completeness.
- e. 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.
- f. Make specific written recommendations to the Commissioner concerning the district's spending growth limitation adjustment application. When making recommendations for reductions, ensure that any such reductions do not bring the proposed budget below the spending growth limitation adjustment using the minimum tax levy amount shown in the report of maximum permitted net budget after spending growth limitation adjustments.
- g. Discuss with district personnel the Commissioner's decision concerning the district's spending growth limitation adjustment application and assist the district in making revisions to the proposed budget when part or all of a spending growth limitation

adjustment is denied.

4. **Responsibilities of the Commissioner**

- a. Review the county superintendent's written recommendations concerning the district's spending growth limitation adjustment application, all of the supporting information and make the final decision regarding any spending growth limitation adjustment amounts approved or disapproved.
- b. Notify the district and the county superintendent of the decision.
- c. Certify the record of the spending growth limitation adjustment determination to the State Board within three days of a notice of appeal.

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.

Courtesy (non-mandated) busing

Boards have not lost the ability to include courtesy (non-mandated) busing in their budgets. In fact, the CEIFA, specifically provides that the Commissioner shall not eliminate, reduce or reallocate funds contained in the budget for pupil transportation services. In addition, the decision to provide pupil transportation services shall be made by the board of education. The Commissioner shall not require the board to eliminate these funds from the base budget or submit a separate proposal to the voters or board of school estimate. N.J.S.A. 18A:7F-6(e).

legal\mike\Budget Restoration2006-2007.mfk.cjs