



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

In the matter of

SMITHVILLE R-II  
SCHOOL DISTRICT

Applicant.

Docket No. 91-4-I

Impact Aid Case

REMAND ORDER

On February 6, 1992, Administrative Law Judge Daniel R. Shell issued his Initial Decision in this cause. In his decision, Judge Shell found that the only issue in dispute was the validity of a regulation of the Department of Education.<sup>1</sup>

Subsequent to the issuance of Judge Shell's decision in this cause, the Secretary has certified the Initial Decision in Lemont Township High School District #210, Docket No. 89-48-I, as the Final Decision of the Department. In Lemont, the Administrative Law Judge held that he did not have the authority to overturn an established regulation of the Department.

Because of the inconsistency between the Final Decision of the Department in Lemont and the holdings of Judge Shell in the Initial Decision in this cause, the Secretary finds that the Initial Decision should be vacated, and this cause remanded to Judge Shell for further action as appropriate.

So ordered this 11th day of May, 1992.

*Lamar Alexander*  
Lamar Alexander

Washington, DC

<sup>1</sup> Initial Decision, page 7.