

NEPTUNE TOWNSHIP EDUCATION :
ASSOCIATION, :
 PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF NEPTUNE, :
 RESPONDENT. :

:

SYNOPSIS

Petitioning Education Association alleged that the Board's use of a teacher through closed circuit TV, who did not hold New Jersey certification, was unlawful, as was subcontracting with a private vendor, Limited Star Distance Learning Consortium (STARNET), to provide distance learning credit courses in Latin at the Neptune Township Senior High School.

The ALJ found that the Latin instruction provided through the Board's distance learning program could not lawfully be delivered by a person not in possession of appropriate New Jersey certification. (*Guttenberg*) The ALJ ordered the Board to cease provision of Latin instruction via STARNET, effective July 1, 2000. The ALJ declined to order that the Board use its own employees to provide Latin instruction and did not order the Board to cease and terminate all subcontracting arrangements with STARNET if they are otherwise lawful.

The Commissioner affirmed the ALJ's conclusion holding that the State Board of Education decision in *Guttenberg* controls in this matter, thus precluding the Board from providing Latin instruction by an uncertified teacher through the distance learning program in dispute. The Commissioner found it unnecessary to reach further issues under the facts of this matter.

May 22, 2000

OAL DKT. NO. EDU 392-99
AGENCY DKT. NO. 537-11/98

NEPTUNE TOWNSHIP EDUCATION :
ASSOCIATION, :
 PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF NEPTUNE, :
 RESPONDENT. :
_____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon such review, the Commissioner concurs with the ALJ that the petition of appeal should not be dismissed as untimely. The Commissioner further concurs that the holding of the State Board of Education in *Guttenberg, supra*, controls in this matter, so that the Latin instruction provided through respondent’s distance learning program could not lawfully be delivered by a person not in possession of appropriate New Jersey certification.

Accordingly, the Commissioner affirms the order of the OAL directing respondent to cease its current means of providing Latin instruction through STARNET. Like the ALJ, the Commissioner does not find it necessary under the facts presented in this matter to reach further issues.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: May 22, 2000
Date of Mailing: May 22, 2000

¹ This decision, as the Commissioner’s final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.