

SB #25-97

IN THE MATTER OF THE REFINANCING :
OF THE 1994 LEASE PURCHASE :
AGREEMENT BY THE BOARD OF : STATE BOARD OF EDUCATION
EDUCATION OF FAIRVIEW, BERGEN : DECISION
COUNTY. :

Decided by the Commissioner of Education, February 14, 1997

For the Appellant, Oury & Mizdol (Dennis J. Oury, Esq., of Counsel)

On February 14, 1997, the Commissioner of Education issued a letter decision in which he denied the request by the Board of Education of the Borough of Fairview (hereinafter "Board") to refinance a lease purchase agreement pursuant to N.J.A.C. 6:22A-1.3.

On March 4, 1997, the Board filed a notice of appeal with the State Board.

Pursuant to N.J.A.C. 6:2-1.11(a), the Board's brief in support of its appeal was due on March 24, 1997, 20 days after the appeal was filed. The Board, however, failed to file a brief by that date. By letter dated March 31, 1997, the counsel for the State Board notified the Board that no appeal brief had been filed and that this matter was therefore being referred to the Legal Committee of the State Board for consideration of its failure to perfect the appeal. The Board has still failed to file a brief in support of its appeal, 2½ months after the deadline for such filing and more than two months after it

was given written notice of such failure. Nor did the Board respond to that notice or provide any explanation for its failure to file a brief until yesterday when its counsel indicated in a letter to the State Board that this matter had “slipped between the cracks.” He explained that “a few weeks ago I was on trial in South Dakota for over one week and frankly this matter was not attended to by my staff in my absence since I am the individual responsible for the Board of Education work.”

We conclude that the belated explanation offered by the counsel for the Fairview Board does not, under the circumstances, excuse or justify his failure to file an appeal brief for more than two months or to request an extension. See Paszamant v. Board of Education of the Borough of Highland Park, decided by the State Board, April 1, 1992, aff'd, Docket #A-4812-91-3 (App. Div. 1993). Consequently, we find no basis for relaxing the rules, and dismiss the appeal in this matter for failure to perfect. N.J.A.C. 6:2-1.12(a).

June 4, 1997

Date of mailing _____