

EDU #10120-98
C # 416-99
SB # 6-00

GLOUCESTER COUNTY INSTITUTE OF :
TECHNOLOGY, GLOUCESTER COUNTY, :
:
PETITIONER-CROSS APPELLANT, :
:
V. :
:
BOARD OF EDUCATION OF THE LENAPE :
REGIONAL HIGH SCHOOL DISTRICT, :
BURLINGTON COUNTY, :
:
RESPONDENT-APPELLANT. :
_____ :

STATE BOARD OF EDUCATION

DECISION

Decided by the Commissioner of Education, December 16, 1999

For the Petitioner-Cross/Appellant, Zane & Lozuke (Raymond J. Zane, Esq.,
of Counsel)

For the Respondent-Appellant, Archer & Greiner (Louis L. Chodoff, Esq., of
Counsel)

This matter involves a claim by the Gloucester County Institute of Technology (hereinafter "GCIT") that the Board of Education of the Lenape Regional High School District (hereinafter "Board" or "Lenape Board") is obligated to pay tuition for its resident students attending GCIT's Southern New Jersey Academy for the Performing Arts for the 1997-98 school year and thereafter.

In an initial decision issued on October 28, 1999, an administrative law judge ("ALJ") rejected the Lenape Board's contention that GCIT's claim had been filed in an untimely manner, and he recommended granting GCIT's motion for summary decision.

In so doing, the ALJ relied on the decision of the Commissioner of Education in K.B., on behalf of minor child, H.B., and Gloucester County Institute of Technology v. Board of Education of the Rancocas Valley Regional High School District, decided by the Commissioner of Education, September 25 and December 29, 1997, rev'd by the State Board of Education, March 1, 2000.¹

On December 16, 1999, the Commissioner adopted with modification the ALJ's decision in this matter and granted summary decision to GCIT. Although the Commissioner concluded that GCIT's petition was time-barred under N.J.A.C. 6:24-1.2(c), he found that the case presented a compelling public interest sufficient to warrant relaxation of that rule. Turning to the merits of GCIT's claim, the Commissioner agreed with the ALJ that the Lenape Board was obligated to pay the tuition costs of its resident students attending GCIT's Academy for the Performing Arts. In so doing, he rejected the Board's argument that the GCIT program at issue was not an approved vocational program, citing his decision in K.B.

On March 1, 2000, we set aside the Commissioner's decision in K.B., rejecting the Commissioner's assertion that inclusion of the GCIT performing arts program in the Department of Education's Directory of Verified Occupational Education Programs conclusively established that such program was within the purview of the statutory provisions relating to vocational schools. We remanded the case to the Commissioner with the directive that he transmit it to the Office of Administrative Law for such

¹ In K.B., the Commissioner determined that the Rancocas Valley Regional High School District was responsible for the cost of transporting the petitioner's daughter, who resided within the district, to the GCIT Academy for the Performing Arts. The Commissioner noted that the district was also responsible for the petitioner's tuition costs. The Commissioner asserted that inclusion of the GCIT performing arts program in the Department of Education's Directory of Verified Occupational Programs conclusively established that such program was "clearly within the purview of the cited statutory provisions...."

proceedings as were necessary to determine whether the GCIT program at issue was vocational within the intendment of N.J.S.A. 18A:54-1 et seq. during the relevant period and for a resultant determination on the merits of the petitioner's claim for transportation.

Given our determination in K.B., we set aside the Commissioner's decision in this matter and remand the case to him for such proceedings as are necessary to determine the merits of GCIT's claim for tuition consistent with our decision in K.B.

Samuel J. Podietz recused himself.

June 7, 2000

Date of mailing _____