

EDU # 7891-03
C # 399-04
SB # 47-04
App. Div. #A-3572-04T2

BOARD OF EDUCATION OF THE :
BERGEN COUNTY VOCATIONAL :
AND TECHNICAL SCHOOL DISTRICT, :
BERGEN COUNTY, :

PETITIONER-RESPONDENT, :

V. :

BOARD OF EDUCATION OF THE :
RAMAPO-INDIAN HILLS REGIONAL :
SCHOOL DISTRICT, BERGEN :
COUNTY, :

RESPONDENT-APPELLANT. :

STATE BOARD OF EDUCATION

DECISION

Decided by the Commissioner of Education, October 13, 2004

Decided by the State Board of Education, February 2, 2005

Remanded by the Appellate Division, March 6, 2006

For the Petitioner-Respondent, Nowell, Amoroso, Klein, Bierman, P.A.
(William C. Soukas, Esq., of Counsel)

For the Respondent-Appellant, Schwartz, Simon, Edelstein, Celso &
Kessler, L.L.P. (Allan P. Dzwilewski, Esq., of Counsel)

In a decision issued on February 2, 2005, the State Board of Education affirmed the determination of the Commissioner of Education that the Board of Education of the Ramapo-Indian Hills Regional School District (hereinafter "Ramapo Board") was obligated to reimburse the Board of Education of the Bergen County Vocational and

Technical School District (hereinafter “Vocational Board”) for tuition and transportation costs for its resident students who attended the Vocational Board’s Academies program. The Ramapo Board argued that it was not obligated to pay such costs because it offered “University Programs” that had the same Classification of Instruction Program codes as those programs offered by the Vocational Board and which were identical to the programs offered by the Vocational Board. The Ramapo Board claimed that it qualified as a “vocational school” within the meaning of N.J.S.A. 18A:54-20.1(a) so as to exempt it from an obligation to send students to Bergen County Vo-Tech.

In a decision affirmed by the State Board, the Commissioner agreed with the Administrative Law Judge that the Ramapo Board had not demonstrated that it had received any approvals from the Commissioner to establish a vocational school and that the provision of vocational programs in a comprehensive high school did not amount to the establishment of a vocational school. The Commissioner stressed that the statutes required the approval of the Commissioner subject to the advice and consent of the State Board in order for a school district to establish and maintain a vocational school and that the current State Plan for Vocational Education, together with the history of state funding laws and the State Board’s regulations, effectively precluded a district board from operating a “vocational school” regardless of prior approval as a Local Area Vocational School.

On March 6, 2006, the Appellate Division, citing the dearth of authority on the subject of what constitutes a school for purposes of N.J.S.A. 18A:54-5 and insufficient information in the record with regard to the manner in which the Ramapo Board operated its University Programs, remanded this matter “for further proceedings to

permit the parties to address the questions which we have outlined, together with any other topics they deem relevant to the issue of the fundamental nature and identity of the University programs.” Appellate Division’s Decision, slip op. at 10.

In view of the Court’s decision, we remand this matter to the Commissioner to fulfill the terms of that decision. We do not retain jurisdiction.

April 5, 2006

Date of mailing _____