

EDU #6211-05S
C # 377-05L
C # 107-06S
SB # 50-05 and 17-06 (consolidated)

BOARD OF EDUCATION OF THE :
TOWNSHIP OF NEPTUNE, :
MONMOUTH COUNTY, :

PETITIONER-APPELLANT, :

V. :

NEW JERSEY STATE DEPARTMENT OF : STATE BOARD OF EDUCATION
EDUCATION, DIVISION OF FINANCE, :
AND NEW JERSEY STATE DEPARTMENT : DECISION ON MOTION
OF HUMAN SERVICES, DIVISION OF :
YOUTH AND FAMILY SERVICES, :

RESPONDENTS-RESPONDENTS, :

AND :

BOARD OF EDUCATION OF THE :
TOWNSHIP OF NEPTUNE, :
MONMOUTH COUNTY, :

PETITIONER-APPELLANT, :

V. :

NEW JERSEY STATE DEPARTMENT OF :
EDUCATION, DIVISION OF FINANCE, :

RESPONDENT-RESPONDENT. :

Decision on motion by the Acting Commissioner of Education,
October 18, 2005

Decided by the Acting Commissioner of Education, March 23, 2006

For the Petitioner-Appellant, Hundley and Parry, P.C. (James T. Hundley,
Esq., of Counsel)

For the Respondents-Respondents, Carolyn Labin and Marta Kozłowska,
Deputies Attorney General (Zulima V. Farber, Attorney General of
New Jersey)

The Neptune Board of Education filed a petition of appeal with the Commissioner of Education against the Department of Human Services, Division of Youth and Family Services (“DYFS”), and the Department of Education, Division of Finance, challenging a determination by the Department of Education that the district was responsible for the educational costs associated with the placement of Z.S., a district resident, in the KidsPeace program in Pennsylvania.

On September 27, 2005, the Administrative Law Judge (“ALJ”) issued an interlocutory order dismissing DYFS as a party. The Neptune Board sought interlocutory review from the Acting Commissioner, and on October 18, 2005, the Acting Commissioner adopted the ALJ’s order dismissing DYFS.

The Neptune Board filed a motion with the State Board for leave to appeal the Acting Commissioner’s interlocutory decision. While that motion was pending, the Acting Commissioner issued her decision on the merits of the matter on March 23, 2006, concluding that since Neptune was the district of residence for Z.S., it was responsible for the educational costs of his placement in the KidsPeace Program. She therefore granted summary decision to the Department of Education. On April 7, 2006, the Neptune Board filed an appeal to the State Board from the Acting Commissioner’s final decision.

On April 17, 2006, the Neptune Board filed a motion to consolidate its appeal of the Acting Commissioner’s final decision of March 23, 2006 with its motion for leave to

appeal the Acting Commissioner's interlocutory decision of October 18, 2005. After a review of the papers filed, we grant the motion. We note in so doing that interlocutory rulings are subject to review by the State Board upon appeal from a final decision of the Commissioner even if an application for interlocutory review had not been made or a request for interlocutory review had been denied. N.J.A.C. 1:1-14.10.

June 7, 2006

Date of mailing _____