

660-97

K.B., on behalf of minor child,
H.B., :

PETITIONER, :

AND :

GLOUCESTER COUNTY INSTITUTE
OF TECHNOLOGY, :

INTERVENOR, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION
RANCOCAS VALLEY REGIONAL
HIGH SCHOOL DISTRICT, :
BURLINGTON COUNTY, :

RESPONDENT. :

SYNOPSIS

Petitioning parent contested the refusal of her district of residence Board (Rancocas Valley) to provide transportation for her child, H.B., to attend an Academy of Performing Arts in another district. Rancocas Valley alleged it provided a comparable program.

ALJ found that the Rancocas Valley’s program consisted of a first year performing arts course followed by subsequent years of independent study. ALJ found that there is no approved vocational program of performing arts or dance at Rancocas Valley and that Rancocas Valley does not have a dance program. Thus, the ALJ found that Rancocas Valley does not offer a program in dance and the performing arts comparable to that offered by the Gloucester County Institute of Technology (GCIT), Academy of the Performing Arts. ALJ concluded petitioner and intervenor were entitled to relief requested, respondent Rancocas Valley was to provide transportation to H.B. for attendance at GCIT.

Commissioner adopted findings and determination in initial decision as his own and directed respondent Rancocas Valley to provide transportation to H.B. for attendance at GCIT. Commissioner reminded respondent that notwithstanding that petitioner only sought transportation costs, respondent was likewise responsible for payment of H.B.’s tuition and, to the extent permitted by law, any imposed nonresident fee.

December 12, 1997

OAL DKT. NO. EDU 6974-97
AGENCY DKT. NO. 314-9/97

K.B., on behalf of minor child,	:	
H.B.,	:	
	:	
PETITIONER,	:	
	:	
AND	:	
	:	
GLOUCESTER COUNTY INSTITUTE	:	
OF TECHNOLOGY,	:	
	:	
INTERVENOR,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
RANOCAS VALLEY REGIONAL	:	
HIGH SCHOOL DISTRICT,	:	
BURLINGTON COUNTY,	:	
	:	
RESPONDENT.	:	
	:	

The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. The Board filed exceptions which, essentially, recast and reiterated its arguments presented before the Administrative Law Judge (ALJ).

Upon his careful and independent review of the record, the Commissioner concurs with the findings and conclusion of the ALJ that the respondent District does not offer a program in dance and performing arts comparable to that offered by the Gloucester County Institute of

Technology (GCIT), Academy of the Performing Arts, and, therefore, petitioner is entitled to provision of transportation to H.B. by the District for the child's attendance at this school.*

Accordingly, the initial decision of the OAL is adopted as the final decision in this matter for the reasons clearly articulated therein. Rancocas Valley Regional High School District is hereby directed to provide transportation to H.B. for attendance at the Southern New Jersey Academy of the Performing Arts at GCIT.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

December 29, 1997

NOTE: RELATED DECISION ON EMERGENT RELIEF (#509-97) FOLLOWS BELOW.

* Respondent is reminded that, notwithstanding the fact that the within Petition of Appeal only seeks transportation for H.B.'s attendance at GCIT, Academy of the Performing Arts, pursuant to *N.J.S.A. 18A:54-20.1c*, the District is likewise responsible for payment of H.B.'s tuition and, to the extent permitted by law, any imposed nonresident fee.

OAL DKT. NO. EDU 6974-97
AGENCY DKT. NO. 314-9/97

K.B., on behalf of minor child, H.B., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF : DECISION ON MOTION
THE RANCOCAS VALLEY :
REGIONAL HIGH SCHOOL :
DISTRICT, BURLINGTON :
COUNTY, :
RESPONDENT. :
_____ :

The record of this emergent matter, including the audiotape of proceedings before the Administrative Law Judge (ALJ), and the Order on Motion for Emergent Relief of the Office of Administrative Law have been reviewed.

Upon careful and independent review, the Commissioner affirms the ALJ's denial of emergent relief herein, pursuant to *Crowe v. DeGioia, supra*, in that, because the Gloucester County Vocational Technical School will continue to provide transportation to H.B., pending the disposition of this matter on its merits, he agrees that the relief requested by petitioner is not necessary to prevent irreparable harm.

It is noted that this matter is scheduled for plenary hearing on October 22, 1997, to resolve the issue of whether the drama program offered by the Rancocas Valley Regional High School District is a comparable program to that available at Gloucester County Institute of Technology Academy of the Performing Arts. Although the record additionally indicates that the

Board raises a question as to whether the Performing Arts Program offered by the Gloucester County Institute falls within the scope of vocational education as contemplated by *N.J.S.A. 18A:54-1*, the Commissioner takes judicial notice of the program's inclusion in the Department of Education's Directory of Verified Occupational Education Programs (DOE Publication PTM No. 1123.00, Revised 1995), reflecting its status as a DOE approved trade and industrial program.* As such, it is clearly within the purview of the cited statutory provisions and, therefore, there is no necessity for resolution of this question at the plenary hearing. Additionally, in reviewing the Directory, the Commissioner notes that the program at issue herein is the only approved vocational program in Dance and Performing Arts in southern New Jersey (Atlantic, Burlington, Camden, Cape May, Cumberland, and Gloucester Counties).

Accordingly, the recommended Order of the ALJ denying petitioner's Motion for Emergent Relief is adopted for the reasons expressed therein, and this matter shall proceed to its scheduled October 22, 1997 plenary hearing on the sole issue of whether the respondent school district offers a program in Dance and Performing Arts comparable to the type offered by the Gloucester County Institute.

IT IS SO ORDERED.

ACTING COMMISSIONER OF EDUCATION

September 25, 1997

* CIP (Classification of Instructional Programs) No. 500301.