

S.V. AND B.V., :

PETITIONERS, :

V. :

BOARD OF EDUCATION OF THE : COMMISSIONER OF EDUCATION
BOROUGH OF LINCOLN PARK, :
MORRIS COUNTY, : DECISION

RESPONDENT. :

AND :

R.P. AND J.P., :

PETITIONERS, :

V. :

BOARD OF EDUCATION OF THE :
BOROUGH OF LINCOLN PARK, :
MORRIS COUNTY, :

RESPONDENT. :

SYNOPSIS

In consolidated matter, petitioning parents contended that the Board’s determination not to pay for transportation costs of their children to the county vocational school was, in effect, imposing the total cost for such transportation on them.

ALJ found that since petitioners’ children attended both a private school and a vocational school on a shared-time basis during the school day, they were eligible for both types of transportation benefits. They should be treated no differently from a remote student enrolled in the regular public high school and the vocational school, who admittedly would be transported to both. ALJ ordered the Board to compensate petitioners for the transportation costs to the vocational school during the 1998-99 school year (*N.J.S.A* 18A:54-20.1(a)) and to pay petitioners \$704 each in lieu of transportation between home and the private school during the 1999-2000 school year (*N.J.S.A.* 18A:39-1).

Commissioner adopted findings and determination in initial decision as his own and directed the Board compensate petitioners pursuant to *N.J.S.A* 18A:54-20.1(a) and 18A:39-1.

November 29, 1999

OAL DKT. NOS. EDU 1078-99 AND EDU 1079-99 (CONSOLIDATED)
AGENCY DKT. NOS. 476-10/98 AND 460-10/98

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon careful and independent review of the record in this matter, the Commissioner concurs with the ALJ that petitioners are entitled to the relief they seek. In so

concluding, the Commissioner finds the express language of *N.J.S.A.* 18A:54-20.1 and *N.J.S.A.* 18A:39-1 to be determinative.¹

Accordingly, the Commissioner affirms the Initial Decision for the reasons expressed therein and directs that, pursuant to *N.J.S.A.* 18A:54-20.1(a), the Board reimburse J.V.'s parents the amount of \$1,011 for transportation costs from the Netherlands Reformed Christian High School (NRCHS) to the Morris County Vocational and Technical School (MCVTS) for the 1998-99 school year, and for 1999-2000 school year, until the date of this decision, at a prorated amount of \$5.62 per day (\$1,011 divided by 180 days). As of the date of this decision, the Board is responsible for transporting J.V. between the NCHRS and the MCVTS for the remainder of the 1999-2000 school year. Additionally, pursuant to *N.J.S.A.* 18A:54-20.1(a), the Board is directed to reimburse J.P.'s parents the amount of \$1,011 for transportation costs from the NRCHS to the MCVTS for the 1998-99 school year. The Board is further ordered to continue to pay J.V.'s parents and J.P.'s parents each the amount of \$704, representing aid in lieu of transportation costs from the students' respective homes in Lincoln Park to the NCHRS for the 1999-2000 school year. *N.J.S.A.* 18A:39-1.²

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

November 29, 1999

¹ The Commissioner herein notes that, after issuing his final decision in *M.R.*, *supra*, on July 29, 1997, the decision was appealed to the State Board of Education. There, the respondent Board contended for the first time that the Commissioner's determination violated the Carl D. Perkins Vocational and Applied Technology Act, 20 U.S.C. Section 2301 *et seq.* (*M.R.*, *supra*, State Board of Education, December 3, 1997, slip op. at p. 3) Upon request of the Commissioner, the State Board remanded this matter on December 3, 1997 to the Commissioner with direction that it be transmitted to the OAL "for hearing and determination of all the issues raised [in the] appeal, including the factual question of whether the Board can offer a comparable program to petitioners in Passaic County." (*Id.* at pp. 3, 4) While at the OAL, the parties settled the matter.

² This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6:2-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.