

New Jersey Commissioner of Education

Final Decision

Board of Education of the Delaware Valley
Regional High School District, Hunterdon
County,

Petitioner,

v.

Board of Education of the Hunterdon County
Vocational School District, Hunterdon County and
Board of Education of the North Hunterdon-
Voorhees Regional High School
District, Hunterdon County,

Respondents.

Synopsis

Petitioner, Delaware Valley Regional High School District, sought an order relieving it of the obligation to pay for the tuition and transportation costs for its students to attend the respondent, Hunterdon County Vocational School District's (HCVSD) Biomedical Sciences Academy (Academy). Petitioner contended that its high school provides an equivalent biomedical sciences program which has been approved as a Career and Technical Education (CTE) program, and which has the same Classification of Instruction Code (CIP) as HCVSD's Academy, however is not an approved vocational school and has not applied for such status.

The ALJ found, *inter alia*, that: there are no material facts at issue in this case and the matter is ripe for summary decision; the two issues to be determined, 1) whether the approval for a CTE program is equivalent to being an approved vocational school, and if this relieves the petitioner from the obligation to pay for students to go to the respondent vocational school, and 2) whether the location of the vocational school at a regional high school disqualifies it from receiving students and tuition from the petitioning district; *N.J.S.A.* 18A:54-20.1(a) requires school districts to pay tuition for student who are accepted into a county vocational school, and the statute makes no distinction regarding the location of the program; the location of the HCVSD's Academy on the campus of North Hunterdon-Voorhees Regional High School is irrelevant because it is a separate, approved vocational school with its own school code; *N.J.S.A.* 18A:38-15, which provides districts with discretion to pay the tuition for their students to attend another district that offers a course of study not offered by the home district, does not apply here because *N.J.S.A.* 18A:54-20.1(a) already creates the mandatory obligation to pay; further, petitioner is not exempt from *N.J.S.A.* 18A:54-20.1(a) because its approved CTE program in biological sciences is not the equivalent of a vocational school.

Upon review the Commissioner concurred with the ALJ that petitioner is required to pay tuition costs for its students to attend HCVSD's Academy pursuant to *N.J.S.A.* 18A:54-20.1(a). Finding petitioner's exceptions to be without merit, the Commissioner adopted the Initial Decision as the final decision in this matter. The petition was dismissed.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

June 8, 2020

New Jersey Commissioner of Education
Final Decision

Board of Education of the Delaware Valley
Regional High School District, Hunterdon
County,

Petitioner,

v.

Board of Education of the Hunterdon County
Vocational School District, Hunterdon County
and Board of Education of the North
Hunterdon-Voorhees Regional High School
District, Hunterdon County,

Respondents.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C.* 1:1-18.4 by the petitioner, Delaware Valley Regional High School District Board of Education (petitioner), and the reply thereto filed by the respondent, Hunterdon County Vocational School District Board of Education (HCVSD).¹

Petitioner seeks an order declaring that it is not required to pay tuition or transportation costs for its students to attend HCVSD's Biomedical Sciences Academy (Academy). By way of background, HCVSD operates six vocational schools in Hunterdon

¹ Respondent North Hunterdon-Voorhees Regional High School District Board of Education also filed exceptions to point out that the Initial Decision failed to make conclusions with respect to its motion to dismiss but contends that in granting HCVSD's motion for summary decision, the ALJ intended to dismiss the petition as to both respondents. The Commissioner agrees.

County, including the Academy, which is located in a leased classroom on the campus of respondent North Hunterdon-Voorhees Regional High School District Board of Education (North Hunterdon-Voorhees). Students who attend the Academy take classes that are provided either directly by HCVSD, or pursuant to a contract between HCVSD and North Hunterdon-Voorhees. Petitioner operates a Career and Technical Education (CTE) program in biomedical sciences that has the same classification of instructional program (CIP) code as HCVSD's biomedical sciences CTE program, but has not been approved as a vocational school.

The Administrative Law Judge (ALJ) found that petitioner is required to pay tuition and transportation costs for its students to attend HCVSD's Academy, even though the Academy is housed at another regional high school. *N.J.S.A.* 18A:54-20.1(a) requires districts to pay tuition for their students who are accepted into a county vocational school, and the statute makes no distinction regarding the location of the program. Despite petitioner's arguments, the ALJ found that the location of the Academy on the campus of North Hunterdon-Voorhees is irrelevant because it is a separate vocational school with its own school code and is approved by the Department. The ALJ also found that *N.J.S.A.* 18A:38-15 – which provides districts with the discretion to pay the tuition for their students to attend another district that offers a course of study not offered at the home district – does not apply to this matter because *N.J.S.A.* 18A:54-20.1(a) already creates the mandatory obligation to pay. Moreover, petitioner is not exempt from *N.J.S.A.* 18A:54-20.1(a) because its approved CTE program in biomedical sciences - while considered a vocational-technical program - is not the equivalent of a vocational school.

In its exceptions, petitioner argues that the ALJ erred by concluding that *N.J.S.A.* 18A:54-20.1 requires petitioner to pay tuition for its students to attend the Academy. Petitioner maintains that the plain language of the statute only requires tuition payment when a student

attends a CTE program that is housed on the campus of “any of the schools of the county vocational school district,” which does not include programs that are located at another high school. (Petitioner’s Exceptions at 4). Instead of *N.J.S.A.* 18A:54-20.1, petitioner argues that *N.J.S.A.* 18A:38-15 - which gives districts the discretion to pay tuition when students attend programs at another school - should apply. Petitioner further argues that the Academy can hardly be considered a “school,” as it is just a four-course CTE program, and all other aspects of education are provided by North Hunterdon-Voorhees.

Petitioner also contends that the ALJ erred in finding that it does not operate a vocational school. Petitioner maintains that since it has an approved-CTE program, it meets the definition of “vocational school” for the purposes of *N.J.S.A.* 18A:54-20.1(a). Further, the Department’s regulations “strongly indicate” that approval of a CTE program is also approval to operate a vocational school. For example, *N.J.A.C.* 6A:19-2.1(c) authorizes boards of education to apply the terms “career and technical” or “vocational-technical” to their schools or programs once they have been approved. (Petitioner’s Exceptions at 12-13). Petitioner also relies on the unpublished Appellate Division decision in *Board of Education of the Bergen Vocational and Technical School District v. Board of Education of the Ramapo-Indian Hills Regional School District*, No. A-3572-04, 2006 *N.J. Super. Unpub. LEXIS* 355 (App. Div. Mar. 6, 2006), to support its argument that obtaining a CIP code is the functional equivalent of an approved vocational school. Accordingly, petitioner maintains that because it operates a vocational school, it should be exempt from the obligation to pay tuition under *N.J.S.A.* 18A:54-20.1(a).

Finally, petitioner argues that HCVSD does not have the authority to operate a vocational school in another district’s high school. Petitioner claims that *N.J.S.A.* 18A:54-20, which sets forth the powers of a county vocational school board, does not permit a county

vocational school to admit students beyond the capacity of its campus and send those students to a vocational program at an existing high school. Although *N.J.S.A.* 18A:54-20 permits vocational schools to lease school buildings, petitioner maintains that the statute does not contemplate leasing a classroom for a CTE program and contracting with an existing high school for the remainder the classes. Accordingly, petitioner urges the Commissioner to reject the Initial Decision and declare that petitioner is not required to pay tuition for students attending the Academy.

In reply, HCVSD contends that the Initial Decision should be affirmed in its entirety. HCVSD disagrees with petitioner's argument that the location of the Academy at North Hunterdon-Voorhees or the provision of non-CTE classes by that high school means that the Academy is not a vocational school. HCVSD emphasizes that the Academy is a separate and distinct school with its own school code that is run by HCVSD. HCVSD maintains that it was expressly permitted to open the Academy in a local school as it was created pursuant to a grant by the Commissioner, and - at that time - the Legislature encouraged vocational schools to establish programs in existing facilities. *N.J.S.A.* 18A:6-132 *et seq.* HCVSD further argues that the ALJ correctly concluded that the petitioner does not operate a vocational school. A CIP code for a CTE program is not the same as operating a vocational school, which requires separate approval by the Department. Accordingly, petitioner is obligated to pay for its students to attend the Academy, pursuant to *N.J.S.A.* 18A:54-20.1(a).

Upon review, the Commissioner agrees with the ALJ that petitioner is required to pay tuition costs for its students to attend the HCVSD's Academy. *N.J.S.A.* 18:54-20.1(a) provides:

The board of education of each school district or regional school district in any county in which there is a county vocational school

district shall send to any of the schools of the county vocational school district each pupil who resides in the school district or regional school district and who has applied for admission to and has been accepted for attendance at any of the schools of the county vocational school district. The board of education shall pay tuition for each of these pupils to the county vocational school district pursuant to subsection c. of this section. The provisions of this section shall not apply to the board of education of a school district or regional school district maintaining a vocational school or schools pursuant to article 2 of chapter 54 of Title 18A of the New Jersey Statutes.

As the Academy is one of the schools of the county vocational school district, the petitioner is obligated to send any of its students who are accepted into the program and pay for their tuition. Petitioner does not fall into the exception outlined in *N.J.S.A.* 18A:54-20.1(a) because it does not operate a vocational school since it has never applied or been approved to do so. Operating a CTE program is not the same as operating a vocational school. Additionally, the location of the vocational school program in a regional high school does not violate the statute. Accordingly, there is no basis for petitioner to be discharged of its obligation to pay the tuition costs for its students to attend the Academy.

The Commissioner does not find petitioner's exceptions to be persuasive as they substantially reiterate arguments that were already addressed by the ALJ. The plain language of *N.J.S.A.* 18A:54-20.1, specifically the use of "any of the schools of the county vocational school district," does not support petitioner's interpretation that the tuition requirement only applies to vocational schools that are located on their own campus and not those that are housed on the campus of another high school. Instead, the plain language applies to any vocational school and does not differentiate between programs based on their location. Further, *N.J.S.A.* 18A:38-15, does not supersede petitioner's obligation to pay tuition for its students to attend vocational schools under *N.J.S.A.* 18A:54-20.1. Contrary to petitioner's arguments, the Department's

regulations do not establish that the approval of a CTE program is the same as an approval to operate a vocational school. The case it relies on, *Bergen Vocational and Technical School District, supra*, is unpublished and not precedential, but nevertheless fails to establish that maintaining a CIP code for a CTE program equates to operating a vocational school. Finally, the Commissioner disagrees with petitioner that HCVSD did not have the authority to create the Academy.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter. The petition of appeal is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: June 8, 2020

Date of Mailing: June 10, 2020

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36 (N.J.S.A 18A:6-9.1)*.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

GRANTING SUMMARY DECISION

OAL DKT. NO. EDU 13276-19

AGENCY REF. NO. 191-8/19

**DELAWARE VALLEY REGIONAL
HIGH SCHOOL DISTRICT, BOARD
OF EDUCATION,**

Petitioner,

v.

**HUNTERDON COUNTY VOCATIONAL
SCHOOL DISTRICT BOARD OF
EDUCATION AND NORTH
HUNTERDON-VOORHEES REGIONAL
HIGH SCHOOL, BOARD OF EDUCATION,**

Respondents.

Stephen R. Fogarty, Esq., for petitioner, Delaware Valley Regional High School
District, Board of Education (Fogarty & Ohara, attorneys)

Richard A. Vex, Esq., for respondent, Hunterdon County Vocational School
District Board of Education (Vex Law, attorneys)

Teresa L. Moore, Esq., for respondent, North Hunterdon-Voorhees Regional High School, Board of Education (Riker, Danzig, Scherer, Hyland, and Perretti, attorneys)

Record Closed: January 17, 2020

Decision: April 24, 2020

BEFORE **SARAH G. CROWLEY**, ALJ:

STATEMENT OF CASE AND PROCEDURAL HISTORY

Respondent, Hunterdon County Vocational School District (“HCVSD”), operates six schools in Hunterdon County, New Jersey. Respondent operates Career and Technical Education Programs (“CTE programs”) at each of its six schools. Two of HCVSD’s CTE schools are located at its campuses, Central Campus and Bartles Campus. Respondent operates three HCVSD Academies at other locations in Hunterdon County. These Academies are: The “Biomedical Sciences Academy” (“BSA”), the academy at issue, located at the North Hunterdon High School in a leased and remodeled classroom; The Environmental Sustainability & Engineering Academy located at Hunterdon County Educational Services Commission; and The Computer Science and Engineering Academy located at a leased space at both Delaware Valley Regional High School and Voorhees High School.

Each of respondent’s Academies include non-CTE academic and other required courses provided pursuant to contract with a local high school or regional high school other than HCVSD. The BSA offers a four-year, full-time curriculum, and all CTE classes and all academic and other classes are provided either directly by HCVSD or pursuant to contract with the local comprehensive school district. In May 2019, the New Jersey Department of Education (“DOE”) approved petitioner Delaware Valley Regional High School (“DVRHS”) to operate a CTE program in biomedical sciences. DVRHS’s newly approved biomedical sciences CTE program was assigned the CIP code of 260102. The BSA’s CTE program CIP Code is identical to DVRHS’s biomedical

sciences CTE program CIP Code. However, DVRHS is not an approved vocational school, and has not applied for such status with the State Department of Education.

The petitioner filed an action seeking to be relieved of the obligation to pay for students at DVRHS's BSA program on the grounds that they provide an equivalent biomedical program which has received CTE approval. In addition, the petitioner argues that because the BSA program is housed at a different regional school, and not a vo-tech school, they are not obligated to pay tuition for their students under the statute.

The matter was transmitted to the Office of Administrative Law (OAL) as a contested case. The respondent filed a motion for summary decision on October 15, 2019. Petitioner filed opposition to the motion and a cross-motion for summary decision on November 18, 2019. The respondent North Hunterdon-Voorhees Regional High School filed a motion to dismiss this matter, as they have no relationship, contractual or otherwise with the petitioner, and merely house the program at issue in one of their regional high schools. Oral Argument was heard on January 13, 2020, and the record closed on that date.

FINDING OF FACT

1. Respondent, HCVSD, operates six vocational schools in Hunterdon County, New Jersey.
2. HCVSD operates Career and Technical Education Programs at each of its six schools.
3. Two of HCVSD's CTE schools are located at its campuses, Central Campus and Bartles Campus.
4. HCVSD operates three Academies at other locations in Hunterdon County.

5. The Biomedical Sciences Academy is located at the North Hunterdon-Voorhees Regional High School in a leased classroom.
6. The Environmental Sustainability & Engineering Academy is located at Hunterdon County Educational Services Commission.
7. The Computer Science and Engineering Academy is located at leased space at both Delaware Valley Regional High School and North Hunterdon-Voorhees Regional High School.
8. Each of respondent's Academies include non-CTE academic and other required courses provided pursuant to contract with a local high school or regional high school other than HCVSD.
9. The BSA offers a four-year, full-time curriculum, and all CTE classes and all academic and other classes are provided either directly by HCVSD or pursuant to contract with the local comprehensive school district.
10. In May 2019, the New Jersey Department of Education ("DOE") approved petitioner Delaware Valley Regional High School ("DVRHS") to operate a CTE program in biomedical sciences.
11. DVRHS's newly approved biomedical sciences CTE program was assigned the CIP code of 260102.
12. The BSA's CTE program CIP Code is identical to DVRHS's biomedical sciences CTE program CIP Code.
13. DVRHS is not an approved vocational school and has not applied for such status with the State Department of Education.

LEGAL ARUGMENT AND CONCLUSION

A motion for summary decision should be granted where there is no genuine issue as to any material fact and the moving party is entitled to prevail as a matter of law. N.J.A.C. 1:1-12.5(b). The same standard is applied in the courts of this State pursuant to R. 4:46-2. Summary judgment "is designed to provide a prompt, businesslike and inexpensive method" to dispose of actions which do not present any genuine issue of material fact. Judson v. Peoples Bank & Trust Co. of Westfield, 17 N.J. 67, 74 (1954). The movant must show that there is no genuine issue of material fact, and all inferences of doubt are drawn against the movant. Id. at 74-75.

In determining whether there exists a genuine issue as to a material fact, the judge must "consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational fact-finder to resolve the alleged disputed issue in favor of the non-moving party." Brill v. Guardian Life Ins. Co. of America, 142 N.J. 520, 523 (1995). In this matter, there are no genuine issues of material fact. The respondent has a vocational program in Biomedical Sciences that it houses at a regional high school in its district. The petitioner has students attending this program and pays their tuition pursuant to N.J.S.A. 18A:4-20.1(a). The petitioner recently received CTE approval for a program in Biomedical Science. However, the petitioner does not operate a vocational school and has not applied or received approval to run a vocational school.

There are two issues before me on this motion. The first is whether the approval for a CTE program by the petitioner school district is analogous to approval for a vocational school, thus relieving them of the obligation to pay for students to go to the respondent vocational school. The other issue is whether the location of the vocational program at a regional high school disqualifies them from receiving students and tuition from the petitioner.

1. **Issue: Does the housing of a vocational program by HCVSD preclude them from collecting tuition for students attending the program?**

The petitioner has argued that the fact that HCVSD houses its Biomedical Academy in a regional high school renders null DVRHS's obligation to pay tuition for its students attending the academy. Petitioner argues that the plain language of the statute does not compel regional high schools to pay the tuition for students who attend a vo-tech program that is held at another regional high school, and that N.J.S.A. 18A:54-20.1(a) only mandates tuition payments to situations where the student attends the vo-tech school's campus. However, the language of the statute makes no such distinction, nor can such an interpretation be implied by the language, case law or statutory intent. N.J.S.A. 18A:54-20.1(a) states:

The board of education of each . . . regional school district in any county in which there is a county vocational school district shall send to any of the schools of the county vocational school district each pupil who resides in the . . . regional school district and who has applied for admission to and has been accepted for attendance at any of the schools of the county vocational school district.

The program at issue is run by the respondent vocational school, which has received approval by the state to run the program. There is nothing in the statute which would mandate where the program is to be held.

Petitioner has argued that the fact that the respondent's Biomedical Academy is hosted at another regional high school negates petitioner's obligation to pay the tuition of its resident students attending the Biomedical Academy. The plain language of the statute contradicts this understanding. N.J.S.A. 18A:54-20.1(a) states:

The board of education of each . . . regional school district in any county in which there is a county vocational school district shall send to **any of the schools** of the county vocational school district each pupil who resides in the . . . regional school district and who has applied for admission to

and has been accepted for attendance at **any of the schools** of the county vocational school district. The board of education shall pay tuition for each of these pupils to the county vocational school district . . . The provisions of this section shall not apply to the board of education of a . . . regional school district **maintaining a vocational school** or schools **pursuant to article 2 of chapter 54 of Title 18A** of the New Jersey Statutes.

[N.J.S.A. 18A:54-20.1(a) (emphasis added).]

The statute states that the board of education of each regional school district shall send resident pupils to **any of the schools of the county vocational school district** for each resident pupil who has applied to and been accepted for attendance at **any of the schools of the county vocational school district**. N.J.S.A. 18A:54-20.1(a) (emphasis added). There are three important features of the language of this provision. First, it is important to note that the regional school district must send their students to any of the schools of the county vo-tech school district, as noted by the mandatory language “shall.” This shows that regional school districts have no discretion to prevent their resident students from attending any of the schools of the county vocational school district. The regional school district must send their resident students to those schools. Next, the provision makes clear that the regional school district must send those students to “any” of the schools of the county vocational school district. There is no specification that the pupils must be restricted to attending only classes hosted at some main campus. There is no mention of a campus, main school, headquarters, or any narrowing language that would support petitioner’s argument. Instead, the broad language “any” was used, implying that of the many schools within a county vocational school district, the regional schools must send their pupil to whichever of those schools to which their resident pupils were accepted for attendance. Finally, the provision includes the word “schools,” plural, implying that it was contemplated that county vocational school districts may have multiple schools. Again, the word “schools” is not clarified or modified except by “of the county vocational school district.”

The petitioner also argues that allowing county vo-tech schools to collect tuition for students taught in non-campus locations, such as a local regional high school, is contrary to legislative intent. Specifically, petitioner argued that reading the statute to allow tuition payments to county vo-tech schools for students attending vo-tech classes at other regional high schools would encourage a county vo-tech school “to scavenge for empty classroom space in nearby high schools to increase its tuition revenue.” Petitioner pointed to N.J.S.A. 18A:38-15 for support to show that the Legislature intended local school districts to have to pay the tuition of students attending vo-tech courses hosted at another regional high school. N.J.S.A. 18A:38-15 provides that a local school board has discretion to pay the tuition of a resident student wishing to take a course of study at another high school if the home district does not offer the course of study. N.J.S.A. 18A:38-15. Petitioner argued this provision’s discretion should be carried over to a student attending another regional high school for the vo-tech courses hosted there if the home district does not offer the course of study. Also, petitioner goes as far as to say that DVRHS would not need to pay tuition under the N.J.S.A. 18A:38-15 because it offers instruction in the same vo-tech course of study as the other regional high school. In sum, petitioner argued that the home district should have discretion to pay tuition for a resident student who takes vo-tech courses taught by a county vo-tech school at a different regional school district, and even applying that standard, petitioner would not have to pay the tuition because petitioner offers the same course at the home district. However, the statute in question is not discretionary and the analogy to the N.J.S.A. 18A:38-15, is not appropriate.

Petitioner’s final argument is that HCVSD has no statutory authority to accept students beyond the capacity of its schools and send those students and an instructor to a high school operated by another school district. Petitioner relies upon N.J.S.A. 18A:54-20, which outlines the powers of vo-tech schools, for the lack of authority to set up the relationship present in this case. HCVSD responds that the Biomedical Science Academy is a properly approved vo-tech school and the fact that it is hosted on the North Hunterdon-Vorhees Regional High School campus is irrelevant. First, respondent HCVSD argued that its Biomedical Sciences Academy located at the North Hunterdon-

Voorhees Regional High School (“disputed vo-tech school”) is a separate and distinct vocational school operated by HCVSD. Moreover, the disputed vo-tech school was specifically approved by the DOE, has a separate school code, the classes are hosted by HCVSD, attending students receive their diploma from HCVSD, and those students are counted on roll with the HCVSD by the DOE. Accordingly, the disputed vo-tech school is duly authorized under the relevant statutes and regulations, and the location of the program at a local school does not vitiate the obligation to pay tuition.

2. Is the approval of a CTE program in Biosciences by the petitioner the equivalent of maintaining a vocation school pursuant to N.J.S.A. 18A:54-5?

DVRHS argues that it qualifies for the exemption under N.J.S.A. 18A:54-20.1(a), since DVRHS operates its own program that is the same as the one operated by HCVSD. However, such an exemption is permitted only where there is an approved vocational school in the district. The DOE's approval of a career and technical education program ("CTE program") is not the equivalent to the DOE's approval of a school district operating a vocational school. The exemption from tuition payments is limited to regional school districts which maintain a vocational school pursuant to N.J.S.A. 18A:54-5 and -6 found in N.J.S.A. 18A:54-20.1(a). Having a CTE approved program is not the equivalent of operating a vocational school. Moreover, discretionary obligation under N.J.S.A. 18A:38-15 is not mirrored in the vocational statute, and the language in the vocational status is clear.

Petitioner argues that approval for a CTE program is equivalent to approval to operate a vocational school under N.J.S.A. 18A:54-5 and -6, relying upon N.J.A.C. 6A:19-2.1(c) for support of this equivalence. N.J.A.C. 6A:19-2.1(c) provides:

A district board of education shall not apply the term "career and technical" or "vocational-technical" to any of its schools, programs, or programs of study unless those schools, programs, or programs of study are approved by the Department and meet the general requirements included in the approved State Plan for Career and Technical Education.

[N.J.A.C. 6A:19-2.1(c)]

Petitioner interprets this regulation to mean that a district board of education, if permitted to refer to its school as vocational-technical once it obtains program approval, should then be considered a vo-tech school pursuant to N.J.S.A. 18A:54-20.1(a). However, before a vocational school can be established, "the location and rules for management of the school, the course or courses of study to be pursued therein, and all

changes in such courses shall be approved by the commissioner, subject to the advice and consent of the state board. N.J.S.A. 18A:54-6. No such approval was obtained by the petitioner Board of Education and they are not recognized or approved as a vocational school.

The petitioner's CTE program is not a vocational school for the purposes of N.J.S.A. 18A:54-20.1(a) and the two programs are not "the same" per that statute. The statute requires that a local school district is only exempt from making tuition payments for its students attending a county vo-tech school if the local district is operating its own vo-tech school established pursuant to N.J.S.A. 18A:54-5 and -6. N.J.S.A. 18A:54-6 requires that the location and rules for the management of vo-tech school, the course or courses of study, and all changes in such courses shall be approved by the Commissioner of Education, subject to the advice and consent of the state board, before the local district can establish a vo-tech school. N.J.S.A. 18A:54-6; petitioner never sought or attained approval from the Commissioner of Education to operate a vo-tech school. Moreover, the establishment of a CTE program within a regional high school does not equate to the establishment of a vocational school. See Bd. of Educ. of Bergen County Vocational and Tech. Sch. Distr. v. Bd. of Educ. of Ramapo-Indian Hills Regional High Sch., EDU 7891-03, Final Decision (October 13, 2004). And, although there seems to be some movement by the NJDOE away from designated vo-tech schools to in-district CTE programs, there has been no change in the law regarding the establishment of same.

The language of the statute provides that a regional high school that may apply the term "career and technical" or "vocational technical" to any of its schools, programs, or programs of study only if the school, program, or program of study is approved by the Department and meet the general requirements included in the approved State Plan for Career and Technical Education. N.J.A.C. 6A:19-2.1(c). Petitioner does not have an approved "school." Petitioner only offers an approved "program." Just because petitioner is permitted by statute to apply the term vocational-technical to its approved program does not mean that it has met the requirements for approval for a vocational

school. Additionally, the regulation distinguishes between “schools, programs, or programs of study.” N.J.A.C. 1A:19-2.1(c). If an approved program was equivalent to an approved school, there would be no need for the regulation to distinguish between the two ideas. If the agency desired to equate CTE programs and vocational schools, it could have simply stated so. In sum, the petitioner may apply the term career and technical or vocational-technical to its approved CTE program; however, this does not mean that the approved CTE program is a vocational school.

CONCLUSION

For these reasons, I **CONCLUDE** that DVRHS is not exempt from paying for the tuition and transportation of its resident students who wish to attend HCVSD’s BSA because DVRHS does not operate or maintain a vocational school. I further **CONCLUDE** that a CTE program approval is not equivalent to approval of a vocational school. And finally, I **CONCLUDE** that housing the approved vo-tech program at another school does not violate the statute or relieve the petitioner from paying tuition for such students.

ORDER

I hereby **ORDER** that the respondent’s Motion for Summary Decision is hereby **GRANTED** and the petitioner’s Cross-Motion for Summary Decision is **DENIED**, and the petition is hereby **DISMISSED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless

such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



April 24, 2020

DATE

SARAH G. CROWLEY, ALJ

Date Received at Agency:

Date Mailed to Parties: