

305-02L

August 14, 2002

Michael J. Gross, Esq.
Kenney, Gross, Kovats
and Campbell
130 Maple Avenue/Building 8
P. O. Box 8610
Red Bank, New Jersey 07701

L.L., *Pro Se*

Dear Parties:

I have reviewed the submissions filed in connection with the Board's request that I reconsider or clarify the July 3, 2002 decision of Dwight R. Pfennig, in his capacity as Acting Commissioner, in the matter entitled *L.L. on behalf of minor child v. Board of Education of the Township of Verona, Essex County*, Agency Dkt. No. 24-1/02. In his decision, the Acting Commissioner found that the Verona Board of Education's policy, which sets September 1 as the cut-off date for entrance into kindergarten, is contrary to law and must be amended to reflect a cut-off date no earlier than October 1. Upon such review, I have determined to reaffirm the Acting Commissioner's July 3, 2002 decision.

Upon full consideration of the arguments advanced by the Board,¹ I find nothing to compel a modification or reversal of the Acting Commissioner's decision. Rather, I fully concur with and reaffirm the Commissioner's analysis and interpretation of the four statutory provisions which are applicable to kindergarten admission and eligibility, *N.J.S.A.* 18A:44-2, *N.J.S.A.* 18A:38-1, *N.J.S.A.* 18A:38-5, and *N.J.S.A.* 18A:38-6, in *Donald E. Tepper v. Board of Education of the Township of Hackensack, Bergen County*, 1971 *S.L.D.* 549, which determined that a child who has attained his or her fifth birthday on or before October 1 has an *entitlement* to enrollment. Therefore, the within Board's establishment of September 1 as its kindergarten cut-off date is contrary to law and must be amended.

¹ Petitioner's submission was similarly reviewed and considered.

Accordingly, the July 3, 2002 decision of the Acting Commissioner is reaffirmed. The Board of Education of the Township of Verona is hereby directed to *immediately* modify its kindergarten admission policy to reflect a cut-off date no earlier than October 1.²

Sincerely,

William L. Librera, Ed.D.
Commissioner

c: Board Secretary
County Superintendent
Via Facsimile and Regular Mail (Board only)

² This decision, as the Commissioner's final determination 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. 6A:4-1.1 et seq.*