

EDU #10120-98
C # 416-99
SB # 6-00

GLOUCESTER COUNTY INSTITUTE OF TECHNOLOGY, GLOUCESTER COUNTY,	:	
	:	
PETITIONER-CROSS APPELLANT,	:	STATE BOARD OF EDUCATION
	:	
V.	:	DECISION ON MOTION
	:	
BOARD OF EDUCATION OF THE LENAPE REGIONAL HIGH SCHOOL DISTRICT, BURLINGTON COUNTY,	:	
	:	
RESPONDENT-APPELLANT.	:	
_____	:	

Decided by the Commissioner of Education, December 16, 1999

Remanded by the State Board of Education, June 7, 2000

For the Petitioner-Cross/Appellant, Zane & Lozuke (Raymond J. Zane, Esq., of Counsel)

For the Respondent-Appellant, Archer & Greiner (Louis L. Chodoff, Esq., of Counsel)

This matter involved a claim by the Gloucester County Institute of Technology (“GCIT”) that the Board of Education of the Lenape Regional High School District (“Lenape Board”) was obligated to pay tuition for its resident students attending GCIT’s Southern New Jersey Academy for the Performing Arts for the 1997-98 school year and thereafter. On December 16, 1999, the Commissioner granted summary decision to GCIT. Although the Commissioner found that GCIT’s petition had not been filed in a timely manner, N.J.A.C. 6:24-1.2(c) [now codified at N.J.A.C. 6A:3-1.3(d)], he concluded

that this matter presented a compelling public interest sufficient to warrant relaxation of the 90-day rule. N.J.A.C. 6:24-1.15 [now codified at N.J.A.C. 6A:3-1.16]. In turning to the merits of the case, the Commissioner determined that the Lenape Board was obligated to pay the tuition costs of its resident students attending GCIT's Academy for the Performing Arts.

The Lenape Board filed an appeal to the State Board of Education, and the GCIT cross-appealed.

On June 7, 2000, we rendered our decision, in which we set aside the Commissioner's decision and remanded the case to him for such proceedings as were necessary to determine the merits of GCIT's claim for tuition consistent with our decision in K.B., on behalf of minor child, H.B., and Gloucester County Institute of Technology v. Board of Education of the Rancocas Valley Regional High School District, decided by the Commissioner of Education, September 25 and December 29, 1997, rev'd by the State Board of Education, March 1, 2000.

The Lenape Board filed the instant motion for clarification of our June 7, 2000 decision. In so doing, it has taken the position that since we did not expressly address the timeliness of GCIT's petition to the Commissioner, we should now "clarify" that decision by determining that relaxation of the 90-day rule was inappropriate in this case.

As previously stated, our remand in this matter was limited to such proceedings as are necessary to determine the merits of GCIT's claim for tuition consistent with our decision in K.B. Based on our review of the papers filed by the parties, we clarify that, although our decision of June 7 did not expressly address the timeliness issue, in

remanding this matter for further proceedings on the merits of GCIT's claim, we were affirming the Commissioner's resolution of that issue.

Samuel J. Podietz abstained.

August 2, 2000

Date of mailing _____