

EDU #0735-03
C # 461-05L
SB # 1-06

BOARD OF EDUCATION OF THE LENAPE :
REGIONAL HIGH SCHOOL DISTRICT, :
BURLINGTON COUNTY, :

PETITIONER-RESPONDENT, : STATE BOARD OF EDUCATION

V. : DECISION ON MOTION

NEW JERSEY STATE DEPARTMENT :
OF EDUCATION, OFFICE OF SPECIAL :
EDUCATION, :

RESPONDENT-RESPONDENT. :

Decision on motion by the Acting Commissioner of Education,
December 23, 2005

For the Petitioner-Respondent, Archer & Greiner (Arthur Ridsen, Esq., of
Counsel)

For the Respondent-Respondent, Carolyn Labin, Deputy Attorney General
(Zulima V. Farber, Attorney General of New Jersey)

For the Movant-Movant, Education Law Center (Elizabeth Athos, Esq., of
Counsel)

A.M. (hereinafter "movant") filed several complaint investigation requests pursuant to N.J.A.C. 6A:14-9.2 with the Office of Special Education Programs ("OSEP") in the Department of Education, contending that the Board of Education of the Lenape Regional High School District (hereinafter "Regional Board") had violated special education laws with regard to her son, P.M. OSEP conducted an investigation and

issued a report in October 2002 in which it found the Regional Board to be non-compliant and ordered it to take corrective action. In January 2003, the Regional Board filed a petition with the Commissioner of Education challenging the findings and conclusions of that compliance investigation and seeking to have the finding of non-compliance vacated.

The movant filed a motion to intervene and/or participate in the matter. On December 13, 2005, the Administrative Law Judge (“ALJ”) denied the motion for the reasons set forth in her order of November 7, 2005, in which she denied the movant’s motion in a related matter. In her November 7 decision, the ALJ found that the movant lacked standing and that her true interest in the matter, dismissal of the petition, did not add measurably to the proceeding or aid the fact-finder on the limited issue presented.

On December 23, 2005, the Acting Commissioner of Education determined not to grant interlocutory review pursuant to her discretion under N.J.A.C. 1:1-14.10.

On January 6, 2006, the movant filed the instant motion with the State Board of Education for leave to appeal the Acting Commissioner’s determination of December 23 to deny interlocutory review. N.J.A.C. 6A:4-2.3.¹

After reviewing the papers submitted, we deny the motion. We find that the movant has not demonstrated good cause requiring our review of the Acting Commissioner’s determination not to grant interlocutory review of the ALJ’s ruling. In re Certain Sections of the Uniform Admin. Procedure Rules, 90 N.J. 85 (1982). Nor has

¹ We note that we have relaxed the five-day time limit set forth in N.J.A.C. 6A:4-2.3 for filing a motion for leave to appeal an interlocutory decision. See N.J.A.C. 6A:4-1.19.

the movant demonstrated that the Acting Commissioner abused her discretion in not granting interlocutory review. N.J.A.C. 1:1-14.10.

March 1, 2006

Date of mailing _____