

J.R. AND M.R.,	:	
PETITIONERS,	:	
V.	:	
BOARD OF EDUCATION OF THE FREEHOLD REGIONAL HIGH SCHOOL DISTRICT, MONMOUTH COUNTY, AND JAMES WASSER,	:	COMMISSIONER OF EDUCATION
SUPERINTENDENT, PATRICIA HORVATH, BOARD PRESIDENT, DR. LOUIS G. TALARICO, DEPUTY SUPERINTENDENT/SUPERVISOR OF COURSE CURRICULUM AND TERRI GREY, PRINCIPAL, MANALAPAN HIGH SCHOOL,	:	DECISION
RESPONDENTS.	:	

SYNOPSIS

Petitioning parent and high school senior J.R. sought emergent relief, challenging the determination that J.R. was being required to take U.S. History II for the third time (he failed the course in his junior year and took a summer course that was not approved) to meet his graduation requirements and was, consequently, being denied the opportunity to take an alternative course of his choosing. Moreover, since he had not accumulated the requisite credits and did not attend an approved summer school course, he was denied participation on the football team and, therefore, deprived of the opportunity of obtaining an athletic scholarship.

The ALJ issued a recommended order denying petitioners' application for emergent relief and denying the parties' cross-motions for summary decision. The ALJ concluded that petitioners' legal rights to relief could only be determined by considering whether the respondent Board was arbitrary, capricious and unreasonable in its decision "not to accept the tutorial of U.S. History [II] for credit." The ALJ determined that the order on application for emergency relief should remain in effect until the issuance of a decision in this matter and directed that the matter be referred for plenary hearing.

Upon careful and independent review of the full record of this matter, including the parties' submissions before him and the OAL, as well as the audiotapes of the three hearings conducted at the OAL and the exception and reply arguments, and based upon the factual findings, the Commissioner determined to set aside the ALJ's recommended denial of the parties' cross-motions for summary disposition and, instead, grant summary decision to respondents. The Commissioner determined that the Board could not be said to have acted arbitrarily or unreasonably when it declined to give "after the fact" approval to a last-minute arrangement for a 14-day tutorial of the history course needed for credit without its prior knowledge or permission, and without any established basis in Board policy. Thus, the Commissioner found that petitioners failed to meet their burden of proving the Board acted improperly. The Commissioner granted respondents' motion to dismiss the petition.

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.

OAL DKT. NO. EDU 6141-01
AGENCY DKT. NO. 359-9/01

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This matter was brought before the Commissioner of Education by Petition of Appeal, with Motion for Emergent Relief and Summary Decision filed on September 12, 2001. The matter was transmitted to the Office of Administrative Law (OAL) prior to receiving an Answer from respondents, pursuant to *N.J.A.C. 6A:3-1.6*. At the OAL, respondents filed an Answer, supporting affidavits, a Cross-Notice of Motion for Summary Dismissal and a Brief in Opposition to Petitioners' Motion for Both Emergent Relief and Summary Disposition and in Support of Respondents' Cross Motion for Summary Dismissal (hereafter, "Respondents' Brief").

Hearings were conducted at the OAL on September 19, 2001, September 26, 2001 and October 5, 2001 and were tape-recorded. On the latter date, the Administrative Law Judge (ALJ) issued a recommended Order denying petitioners' application for emergent

relief and denying the parties' cross-motions for summary decision. Additionally, at the hearing on October 5, 2001, the ALJ recused himself from considering the merits of this matter, although the same is not memorialized in his recommended Order.

Thereafter, on October 9, 2001, petitioners filed a Notice of Motion for Reconsideration for Emergent Relief and for Summary Disposition. However, since the OAL regulations do not provide for such a filing, this submission shall be deemed petitioners' exceptions to the recommended decision, pursuant to *N.J.A.C. 1:1-18.4*.¹ The respondents replied on October 11, 2001.

Petitioners initially contend that since the ALJ recused himself from hearing this matter, he should not have issued a recommended Order, and that his decision, therefore, is in error. (Petitioners' Exceptions at 5)

With respect to the substance of the ALJ's recommended Order, petitioners underscore that J.R. has met the standard articulated in *Crowe v. DeGioia*, 90 N.J. 126 (1982) for the grant of emergent relief. Absent the grant of such relief, it is likely this matter will not be concluded until J.R. graduates from high school. Petitioners assert that since J.R. is currently being required to take U.S. History II for the third time in order to meet his graduation requirements, he is, consequently, being denied an opportunity to take an alternative course of his choosing. Additionally, J.R. is being denied the opportunity to play football this fall, his senior year, and is, therefore, deprived of the opportunity of obtaining an athletic scholarship. (*Id.* at 6)

¹ Petitioner's submission dated October 10, 2001, filed on October 11, 2001, cannot be considered by the Commissioner, since there is no provision for a subsequent submission beyond the filing of exceptions or replies to exceptions. Moreover, even if the material contained in the October 11th filing had been presented along with petitioner's October 9th filing, it could not be considered by the Commissioner since evidence that was not presented at the hearing at OAL may not be presented as part of a party's exceptions. (*N.J.A.C. 1:1-18.4(c)*)

Petitioners continue to aver that they acted in good faith in commencing J.R.’s summer tutorial course and that respondents should be “estopped from acting contrary to their representations that if the specified criteria for a summer course were met, successfully completed, and upon review and approval of that course by Dr. Talarico [the Deputy Superintendent], [J.R.] would be credited for his course work in U.S. History II.” (*Id.* at 7) According to petitioners, respondents changed their position, but failed to timely notify them *prior* to J.R.’s completion of the course work on September 4, 2001. (*Id.* at 9)

Moreover, petitioners contend that the Board’s decision to deny J.R. credit for the course was *ultra vires*, in that the Board failed to fully consider the course materials or conduct a meaningful inquiry as to the Deputy Superintendent’s review of the course work. (*Id.* at 10-11) Petitioners additionally charge that the Board’s actions violated the Open Public Meetings Act. (*Id.* at 13)

As to the likelihood of prevailing in the merits of their claims, petitioners argue that there is no dispute that J.R. completed the course work, that the course taken was not new and, as such, did not require Board approval, and that Dr. Talarico found the course to meet district standards. (*Id.* at 22-23) Petitioners underscore that there are no genuine issues of material fact in this matter and, therefore, it is ripe for summary disposition. (*Id.* at 14-15) In this connection, petitioners note that respondents have also admitted that this matter is “suited for summary disposition,” by cross-moving on that basis. (*Id.* at 15-16).

Finally, as to the balance of interests in this matter, petitioners argue that J.R. will suffer great harm if emergent relief is denied, but if emergent relief is granted, the respondents’ harm, if any, is negligible. (*Id.* at 23) Respondents will not, petitioners reason, be prejudiced in any way because it is their duty to credit a student for course work successfully completed when

the work has been duly approved by the persons charged with the responsibility for doing so.

(*Id.* at 23-24)

Respondents' reply relies upon papers previously submitted, affirming that petitioners did not meet the standards necessary to grant emergent relief.

Upon review, although the Commissioner would ordinarily limit his ruling to petitioners' application for emergent relief, he is persuaded that the merits of this matter may be determined summarily, on an expedited basis. Noting that the parties have cross-moved for summary disposition,² and mindful that the course at issue is required for J.R.'s anticipated graduation in the Spring of 2002, the Commissioner has determined to rule on the Petition of Appeal so as to avoid the possibility of later, and perhaps more severe, disruption to J.R.'s educational program.³

Having reviewed the full record of this matter, including the parties' submissions before him and the OAL, as well as the audiotapes of the three hearings conducted at the OAL and exception and reply arguments, the Commissioner finds the following facts to be undisputed:

² Discussions at hearing clearly indicate that, although respondents later claimed facts were in dispute, the only dispute is in regard to the conclusion to be drawn from the material facts, not the facts themselves. Such disputes are not sufficient to defeat a motion for summary decision. *Contini v. Board of Education of Newark*, 96 N.J.A.R. 2d (EDU) 196, 215, *citing Lima & Sons, Inc. v. Borough of Ramsey*, 269 N.J. Super. 469, 478 (App. Div. 1994).

³ Notwithstanding additional issues raised in the course of these proceedings, petitioners' prayers for relief are that J.R.'s summer course work shall be deemed accepted and approved, that respondents shall make necessary adjustments to J.R.'s school records and course schedule, and that respondents shall reimburse petitioners for legal costs. As to the latter prayer for relief, the Commissioner notes that he is without the authority to award counsel fees. *B.B., on behalf of her son, L.C. v. Board of Education of the Union County Regional High School District No. 1 and Donald Merachnik, Superintendent of Schools, Union County*, 1987 S.L.D. 323 at 336. See, also, *Balsley v. North Hunterdon Bd. of Educ.*, 117 N.J. 434, 442, 443 (1990).

FINDINGS OF FACT

1. J.R. is a first semester senior at Manalapan High School (MHS), and a member of the High School's football team.
2. In his junior year, J.R. failed U.S. History II, a course that is required for him to receive his diploma. (*N.J.S.A. 18A:35-1; N.J.A.C. 6A:8-5.1(a)*)
3. J.R.'s report card evidences such failure, and the fact that he accumulated a total of 25 credits for the Spring 2001 semester. (Respondents' Brief at 1; Exhibit A)
4. J.R. met with his guidance counselor, Dennis Simpson, prior to the start of the district's summer school program. Mr. Simpson never told J.R. that it was permissible to make up the 2 ½ credits in the following school year and still be eligible for athletic participation. (Simpson Certification, September 12, 2001 at 3) This notwithstanding, J.R. "came away with the understanding" that he would be permitted to make up the U.S. History II course in the Fall semester of his senior year, that his attendance in the summer school program was not necessary for graduation, and that he would remain eligible to play on the MHS football team. (Petition of Appeal at 2)
5. J.R. did not attend summer school to make up the credits.
6. The Athletic Eligibility forms signed by J.R.'s parents on August 15, 2000 and July 13, 2001, in pertinent part, indicate that the signers "understand that requirement for participation in any fall or winter interscholastic sport is the successful completion of at least 27.5 credits in the previous academic year.***" (Respondents' Brief at 1; Exhibits C and D)
7. On either August 14 or 15, 2001, J.R. learned, upon arriving for football practice, that he was not eligible to play. (Board Minutes, September 29, 2001 at 3; Petition of Appeal at 2)
8. By this time, it was too late for J.R. to attend the summer school program, in that the six-week summer courses commenced on July 5, 2001 and ended August 15, 2001, and the three-week courses ran either from July 5, 2001 to July 25, 2001, or from July 25, 2001 to August 15, 2001. (Petition of Appeal at 2; *Tentative Six and Three-Week Courses to Be Offered for the 2001 Summer School*)
9. NJSIAA rules permit a student to regain eligibility by successfully completing any course work for a failed course before the sixth school day of the Fall semester. (*Id.* at 2-3; *New Jersey State Interscholastic Athletic Association Handbook 2000-2001* at 46)
10. By letter dated August 21, 2001, M.R., J.R.'s father, wrote to Board President Patricia Horvath, explaining the above circumstances, informing her that he had located a certified teacher who agreed to teach J.R. the U.S. History II course, subject to the district's summer school requirements, making clear his expectation that petitioners

believed this would be a viable route for M.R. to regain eligibility, and noting that J.R. was to begin the course the next day. M.R. states:

The problem is that the administrators [at Freehold Regional High School District] claim that they can not "approve the course" because course approval is delegated to the Board of Education. The relevant fact that is being ignored is that US History II is already an approved course of study. ***

*** I anticipate that there is a mechanism to get Board [a]pproval (if in fact it is required) before the 9/6/01 deadline conditioned of course on [J.R.'s] successful completion of the course. I have already spent a week trying to get approval beforehand and any further delay commencing the course would be detrimental to his successful completion of the course. (M.R. Letter, August 21, 2001 at 2)

11. Board President Horvath gave M.R.'s letter to legal counsel on August 27, 2001 for counsel's response. (Horvath Affidavit at 2, paragraph 9)
12. The Board's counsel prepared a letter, dated August 30, 2001, addressed to M.R. This letter was duly mailed to M.R.'s address on August 30, 2001. (Buckle Affidavit, September 12, 2001) However, M.R. did not receive the letter via mail in a timely fashion, and first received a copy when it was faxed to him on September 10, 2001. (M.R. Certification, dated September 11, 2001 at 3-4)
13. The letter states in full:

Please be advised that my office is Board Attorney for the Freehold Regional High School Board of Education. Accordingly, your letter of August 21, 2001 to Mrs. Patricia Horvath, Board President, has been referred to my office.

At the direction of the Superintendent of Schools, Mr. James Wasser, I have reviewed your correspondence with Dr. Patricia Emmerman who is an Assistant Superintendent within the Freehold Regional High School District. Dr. Emmerman has also reviewed your request with resect [sic] to your son's make up of US History II. Dr. Emmerman has indicated to me that there is no Board policy which would permit or allow the procedure that you have set forth in your letter of August 21, 2001. Furthermore, a change of Board policy would require Board discussion, two readings and obviously a detailed analysis of the curriculum relating to the proper program. The aforesaid would take a considerable amount of time which would in all likelihood render your son's particular concerns moot.

Additionally, I understand that your son was informed, prior to summer school, that NJSIAA required 27 ½ credits and thus your son's misunderstanding of what was told to him by his guidance counselor, while unfortunate, is not deemed by Dr. Emmerman to be an appropriate basis to submit this matter to the Board of Education.

In light of the above reasons, please be advised that the Administration is unable to accept your proposal for a truncated make up of the necessary 2 ½ credits needed by your son to participate in football at the Manalapan High School. (Collins Letter of August 30, 2001)

14. By letter dated September 4, 2001, M.R. wrote to Dr. Louis Telorico [*sic*], Deputy Superintendent, who had earlier been on vacation, and explained J.R.'s circumstances and the steps he had undertaken to address J.R.'s ineligibility. Based upon M.R.'s understanding that the curriculum had to be approved by the Board, he attached for Dr. Talarico's review "copies of documentation for the U.S. History II summer course of instruction that [J.R.] completed which includes course work, quizzes and test results." (M.R. Letter of September 4, 2001 at 2)
15. Gregory D. McClain, the teacher who taught the course to J.R., certifies that J.R. demonstrated the level of competency required to earn a passing grade in Academic U.S. History II, and that the textbook used was the same as that used at the Manalapan High School for the Academic U.S. History II course. (McClain Certification, September 4, 2001)
16. By letter dated September 5, 2001, M.R. again wrote to the Board President, indicating that he had not yet received a response to his letter dated August 21, 2001. M.R. therein memorialized the content of a prior phone conversation he had with the Board President, noting, *inter alia*:
 - (7) you advised me that the B.O.E. would be meeting on September 10th at 8:00 p.m. at the Colts Neck H.S.; (8) you advised me that I could attend that meeting and address this matter without having to make any written or formal request beforehand; (9) you confirmed that the B.O.E. in fact has the authority to approve courses and could do so at that meeting; (10) you advised me that the B.O.E. would grant or deny approval of [J.R.'s] summer course work based upon the recommendation provided by Dr. Talarico; and (11) I advised you that I will be attending the upcoming B.O.E. meeting if required to obtain approval for the course work which [J.R.] has successfully completed. (M.R.'s Letter of September 5, 2001 at 2)

17. The Board President does not dispute M.R.'s account of the above-mentioned conversation. (Horvath Affidavit, September 12, 2001)
18. By memorandum addressed to Superintendent Wasser dated September 7, 2001, Dr. Talarico acknowledges receipt, on September 5, 2001, of the "copious documentation" presented by M.R. with respect to J.R.'s U.S. History II course. Dr. Talarico confirmed that Ms. Murphy, the Social Studies supervisor was also provided the material to conduct an independent review. Dr. Talarico additionally affirms that although he was initially told to cease review of the course material, on September 6, 2001, he was informed by the Superintendent "to revisit the matter and to make a recommendation regarding the summer course work in the Academic U.S. History II summer course work as well as to try to locate any policy that is germane to this issue." (Talarico Memorandum, September 7, 2001 at 1, paragraph 4) Dr. Talarico indicates that he located Policy No. 3232, Tutorial Services, and presented it to the Superintendent. With respect to the review of the course, Dr. Talarico wrote:

6. Once I received the materials again, I resumed my analysis immediately and determined that the course work met and surpassed the work completed in this course during the summer school with the total hours of 60 corroborated by the district's certified teacher who taught the course for the student was *** [not readable]. A satisfactory level of competency was found. A certified log with hours have been identified and corroborated by a certified teacher representing our district using the district materials.

7. I had an independent assessment made by Mrs. Murphy, supervisor of social studies at Manalapan High School. Her assessment is attached and corroborates that those indicators of content, degree of difficulty, evaluation were met. The only issue that was not clear from her report was the determination of grade assessment by the teacher. Mr. McLain [*sic*], the social studies teacher, was contacted to specify the method used to determine the grades earned by the student. Mr. Gregory McLain [*sic*] specifically identified the assessment method used in determining the grade. He also provided evidence that the course work, tests and level of competency in earning a passing grade in Academic U.S. History II was met. Additionally, the Freehold Regional High School District materials needed for the course work as well as the exact course offered by the District was provided to [J.R.]

8. I recommend to the Superintendent that the Academic U.S. History II Course meets the standards set in our curriculum as set forth in our summer school program. The course work credits have been met as per this independent review. Knowing full well that the Superintendent will ultimately be the only authority to

make this decision, this is not a new course and does not need board approval of the course itself. (*Id.* at 1-2)

19. The Board met in Executive Session on September 10, 2001. According to M.R.'s certification, when asked, Dr. Emmerman replied that she had not had an opportunity to review the materials he had submitted regarding J.R.'s course work. (M.R. Certification, dated Septmenber 11, 2001 at 2, paragraph 4) Dr. Emmerman does not refute making this statement. (Emmerman Affidavit, September 12, 2001)
20. At the Board meeting, M.R. presented his documentation demonstrating J.R.'s successful completion of the course, together with the evaluation dated September 7, 2001 by Dr. Talarico. (M.R. Certification at 2) Respondents do not dispute M.R.'s claims that only “[o]ne of the board members took a cursory look at the documents while the other eight members did not even do that in my presence,” [and] “[n]one of the board members read Dr. Talarico's evaluation report in its entirety while in my presence.” (*Ibid.*)
21. M.R. was denied the opportunity to question Dr. Talarico at the hearing (*ibid.*) and was excluded from the Board's discussion regarding his request. (*Id.* at 5)
22. The Board determined in executive session to deny J.R. credit for the U.S. History II course, and so informed J.R.'s parents that night.
23. The Board did not tape its meeting held on September 10, 2001. (OAL Hearing Tape, September 19, 2001)
24. At the September 19, 2001 hearing conducted at the OAL, the Board did not produce the minutes of its September 10, 2001 meeting. (*Ibid.*)
25. At the September 26, 2001 hearing at the OAL, the Board presented to the ALJ its closed executive session meeting minutes from September 10, 2001, indicating that it was the Board's consensus to deny J.R.'s request for credit approval. (OAL Hearing Tape, September 26, 2001)
26. Based on ALJ's direction to the Board to set forth the basis for its decision reached in Executive Session on September 10, 2001, by letter dated September 27, 2001 addressed to M.R. from the Board's counsel, M.R. was notified that the Board would meet on Saturday morning, September 29, 2001. Counsel stated, "During the Public Meeting the Board will take whatever appropriate action they deem necessary and proper. For example, if the matter is not settled the Board will then, in accordance with Judge Bruno's directives, articulate in Open Public Session, in detail, their position and reasons for same." (Certification of M.R., October 4, 2001, Exhibit GG, Collins Letter of September 27, 2001 at 1)

27. At its meeting held on September 29, 2001, the Board adopted the following resolution:

RESOLVED that the Freehold Regional High School District Board of Education hereby memorializes and confirms the discussion and decision of the September 10, 2001 executive meeting concerning the denial of course credit for U.S. History I [sic] for student., J.R., based on the following reasons: 1. Prior approval of the tutorial course was not obtained. 2. The teacher violated board policy by tutoring a student in his school. 3. The student declined attending summer school and tried to use an alternative method. 4. The number of credits needed to participate in sports is clearly indicated on the report card. 5. The student signed the eligibility card for sports. 6. There was a conflict between the coaching hours and the tutoring log. 7. The parent is responsible to follow up on making up course credit due to notification on report card. 8. In review of tutoring documents, all of the grades were within 1 or 2 points of each other. 9. The teacher is a coach and teacher in the same school which is against the policy of the district. 10. There are formal documents about summer school notice and the fact that the student allegedly told his father that he did not have to attend summer school is contrary to documents. 11. The guidance counselor, who was quoted to have approved the situation, had not knowledge of this situation. 12. Prior approval to this course was never granted by anyone. 13. On August 15th, the student in question reported to football practice and was told that he was ineligible. That is where the events began. 14. The entire arrangement was not in accordance with policy for summer school. 15. There is no precedence for this situation and other student athletes went to summer school. 16. Obvious notice was given to the student and parent regarding eligibility of sports. [sic] 17. Notification of credits needed shown on report card. 18. Student signed eligibility card for athletics with notice of credits required for athletic eligibility. 19. There was no formal pre-approval for this course." (Board Minutes, September 29, 2001 at 2-3)

28. At the same meeting, the Board resolved to pursue settlement discussions, which were ultimately not successful.

COMMISSIONER'S DETERMINATION

Upon careful and independent review, and based upon the factual findings, *ante*, the Commissioner determines to set aside the ALJ's recommended denial of the parties' cross-motions for summary disposition and, instead, grant summary decision to respondents.⁴

In considering the merits of their appeal, the Commissioner notes that it is petitioners' burden to prove, by a preponderance of credible evidence, that the Board's decision to deny J.R. credit for the U.S. History II course that he undertook by way of tutorial sessions was arbitrary, capricious and unreasonable. *Kopera v. West Orange Board of Education*, 60 N.J. Super. 288, 297 (App. Div. 1960). When a local school board acts within its authority, its decision is entitled to a presumption of correctness and will not be upset unless there is an affirmative showing that the decision was arbitrary, capricious or unreasonable. *Thomas v. Bd. of Ed. of Morris Tp.*, 89 N.J. Super. 327, 332 (App. Div. 1965). Although the Board admittedly had no policy regarding the acquisition of credit under such circumstances, as the ALJ noted, the absence of a policy does not necessarily prevent it from issuing an *ad hoc* decision, based on the facts before it.

It is clear on this record that petitioners were duly notified that J.R. failed U.S. History II in his junior year, thereby resulting in his accumulating only 25 credits for his spring semester, rather than the 27.5 required by the rules promulgated by the NJSIAA to retain eligibility to participate in interscholastic athletics. It is also apparent that J.R. misunderstood what his guidance counselor told him at their meeting prior to the start of summer school, and

⁴ In so deciding, although petitioners object to the ALJ's issuance of a recommended Order, notwithstanding his recusal, the Commissioner notes that such matters relating to the proceedings before the OAL are subject to the authority of the Director of the OAL. *N.J.A.C. 1:1-3.2(c)*. Additionally, the Commissioner has conducted his own complete and independent review of the parties' submissions and the tapes of the hearing in order to reach the determination herein.

that once the error was discovered, he and his parents undertook extraordinary measures in an attempt to restore J.R.’s eligibility status in time to meet NJSIAA requirements for participation in fall and winter sports. Indeed, J.R. commenced the 14-day tutorial on August 22, 2001 (*ante* at 9) and completed the course on September 4, 2001. (Petitioners’ Exceptions at 7) Thus, even if M.R. had received the August 30, 2001 letter from the Board’s counsel on the *same date* as written, which letter clearly notified him “that the Administration is unable to accept your proposal for a truncated make up of the necessary 2 ½ credits needed by your son to participate in football***” (*ante* at 10), J.R. would nevertheless have already been 9 days into his 14-day course. It cannot be found on the record before the Commissioner, then, that the unfortunate situation that resulted was created by dilatory conduct of respondents, but rather, by petitioners’ unilateral decision to move ahead, under what they viewed as urgent circumstances, with a unique method of course delivery of their own devising, absent a specific policy permitting J.R. to so gain credits, and absent Board approval of that particular method of course delivery *for credit*. Thus, while it is regrettable that J.R. successfully completed this 14-day tutorial before learning that the Board would not accept it for credit, the Board cannot be said to have acted arbitrarily or unreasonably when it declined to give “after the fact” approval to a last-minute arrangement made without its prior knowledge or permission, and without any established basis in Board policy.

Accordingly, for the reasons set forth herein, the Commissioner finds that

petitioners have failed to meet their burden and respondents' motion to dismiss the within petition is granted.

IT IS SO ORDERED.⁵

COMMISSIONER OF EDUCATION

Date of Decision: 10/26/01

Date of Mailing: 10/26/01

⁵ 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.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.