

New Jersey Commissioner of Education

Final Decision

Passaic County Technical Institute,

Petitioner,

v.

Board of Education of the City of Paterson,
Passaic County, and Board of Education of
the Manchester Regional School District,
Passaic County,

Respondents.

Synopsis

Passaic County Technical Institute (PCTI) filed a petition of appeal seeking an order requiring the respondent boards of education to provide transportation for its non-remote students – those who reside within 2.5 miles of the school – or, in the alternative, requiring the Boards of Education of the City of Paterson (Paterson) and the Manchester Regional School District (Manchester) to pay the costs of transportation provided by PCTI for those students. PCTI argued that it is hazardous for students from Manchester and Paterson to walk to the school because of the heavily trafficked roads that they must traverse. Paterson previously provided courtesy transportation for non-remote students to PCTI, but ceased this practice in June 2017; Manchester has never provided courtesy transportation for non-remote student to PCTI. The respondents filed a motion for summary decision, contending that students who reside within 2.5 miles of their high school are not provided transportation to and from that school.

The ALJ found, *inter alia*, that: there are no material facts at issue, and the matter is ripe for summary decision; the issues of law for determination here are whether respondents are required to provide transportation for non-remote students to PCTI, and whether petitioner’s appeal was timely filed; relevant transportation regulations make clear that the meaning of the “resident district board of education shall be responsible for the... transportation costs of any resident student admitted to the county vocational school” in *N.J.A.C. 6A:19-2.3* means transportation in accordance with *N.J.A.C. 6A:27-1.4(a)*, *i.e.* transportation “shall be provided to public school students who reside remote from their assigned school of attendance...”; any other reading would give vocational school students preferential treatment regarding transportation that is not available to other high school students; *N.J.A.C. 6A:27-1.5* stipulates that districts may choose to provide transportation for non-remote students in accordance with their own policies, but does not require a school district to provide courtesy transportation, nor does it require a district that has previously provided courtesy transportation to continue to provide it; and, as to the issue of timeliness, PCTI knew in June 2017 that Paterson was no longer providing courtesy transportation for non-remote students – and likewise knew that Manchester had never provided such service, in the 2017-18 school year or before – yet did not file its petition until September 2018. The ALJ concluded that Paterson and Manchester are not required to provide transportation costs for non-remote students to PCTI; further, petition was untimely filed. Accordingly, the ALJ granted the respondents’ motion for summary decision.

Upon review, the Commissioner adopted the Initial Decision of the OAL with the modification that the 90-day rule did not preclude the filing of the within petition. The petition of appeal was dismissed.

<p>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.</p>

May 22, 2019

New Jersey Commissioner of Education
Final Decision

Passaic County Technical Institute,

Petitioner,

v.

Board of Education of the City of Paterson,
Passaic County, and Board of Education of
the Manchester Regional School District,
Passaic 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 by petitioner Passaic County Technical Institute (PCTI) pursuant to *N.J.A.C.* 1:1-18.4, and the replies thereto filed by the Paterson Board of Education (Paterson) and the Manchester Regional Board of Education (Manchester).

In this matter, PCTI seeks an order requiring Paterson and Manchester to provide transportation for its non-remote students – those who reside within 2.5 miles of the school – or requiring Paterson and Manchester to pay the costs of transportation provided by PCTI to those students. Paterson stopped providing courtesy transportation for non-remote students attending PCTI in June 2017, while Manchester never provided courtesy transportation to PCTI students. Paterson filed an appeal with the Commissioner on September 6, 2018. Following motions for summary decision filed by Paterson and Manchester, the Administrative Law Judge (ALJ) found that Paterson and Manchester are not required to provide transportation of non-remote students to PCTI. The ALJ also found that the petition was not timely filed under the 90-day rule, because Paterson terminated its courtesy transportation more than a year before

the petition was filed, and its request for reimbursement from Manchester for the 2017-18 school year was not filed within 90-days.

PCTI takes exception to the ALJ's dismissing of this matter without the opportunity to complete discovery. PCTI argues that there are disputed material facts, which should have precluded summary decision, specifically whether Manchester or Paterson has adopted a hazardous bus policy. PCTI contends that this disputed fact implicates *N.J.S.A.* 18A:39-1.5, which requires school districts that provide courtesy busing to adopt a policy for students who walk to and from school along hazardous routes. Without discovery, PCTI claims that it cannot determine if Paterson previously designated the roads near PCTI as hazardous routes. As nothing has changed on these routes to make them less hazardous, this information could enable PCTI to prove whether Paterson or Manchester have designated routes as hazardous, which then require them to provide courtesy busing services pursuant to *N.J.S.A.* 18A:39-1.5.

PCTI contends that the ALJ failed to consider the "long history of school districts using obstructionist means to deter students from attending vocational schools." (PCTI Exceptions at 8). PCTI maintains that Paterson and Manchester are refusing to provide courtesy transportation solely to prevent students from accessing vocational schools, contrary to *N.J.A.C.* 6A:19-2.3 – which requires boards of education to ensure that students may apply to and attend county vocational schools. Further, PCTI believes educational policy also imposes upon districts a duty of care toward students, which would require the courtesy transportation of students who otherwise must walk on hazardous routes.

Finally, PCTI contends that this matter is not barred by the 90-day rule. PCTI points out that, contrary to the ALJ's finding that the petition needed to be filed within 90 days of the last day Paterson provided courtesy transportation in 2017, "each month that Paterson failed (and continues to fail) to transport, or pay the transportation costs for Paterson resident students to attend PCTI, constitutes a separate cause of action." (PCTI Exceptions at 10). With respect to Manchester, PCTI contends that it never provided courtesy transportation of non-remote students, so no occurrence exists to trigger the 90-day requirement. Alternatively, a relaxation of the rules is warranted, pursuant to *N.J.A.C.* 6A:3-1.16, because

strict adherence would result in injustice, as ongoing discussions occurred with both districts through the fall of 2017.

In reply, Paterson argues that PCTI's exceptions do not comply with the requirements of *N.J.A.C.* 1:1-18.4. PCTI cites no case law, statutes, or regulations for its argument that the ALJ's conclusions were in plain error. Additionally, Paterson points out that PCTI seeks to include evidence and arguments that were not presented to the ALJ, in violation of *N.J.A.C.* 1:1-18.4(c).

Paterson disagrees with PCTI's argument that it was prevented from completing discovery. Even so, discovery and a hearing were not necessary in this case because the issues are purely legal, and none of PCTI's assertions, even if true, would require Paterson to provide courtesy busing for non-remote students. PCTI relies on *N.J.S.A.* 18A:39-1.5 for the proposition that Paterson should be compelled to provide courtesy busing. As that regulation only applies to "[a] school district that provides courtesy busing," it does not apply here, as Paterson does not provide courtesy busing.

Paterson contends that whether the ALJ ignored policy concerns that Paterson was being obstructionist is irrelevant as there are clear and unambiguous statutes and regulations that govern this matter. It is unambiguous that *N.J.A.C.* 6A:27-1.4(a) and *N.J.S.A.* 18A:39-1.5 provide that there is no legal obligation to transport students who live within 2.5 miles of school.

Paterson argues that the ALJ did not err in dismissing the petition as untimely. PCTI never raised the argument that the limitations period should be extended by a year due to ongoing negotiations. Furthermore, Paterson maintains that there is no support for PCTI's contention that each month could constitute a new cause of action.

In reply to PCTI's exceptions, Manchester argues that the ALJ appropriately decided this matter on summary decision. Contrary to PCTI's argument, there are no disputes of material fact regarding Manchester, as PCTI does not contend that Manchester adopted a hazardous bus policy. Additionally, Manchester maintains that PCTI had a meaningful opportunity for discovery, during which time Manchester provided responses to PCTI's interrogatories and requests for production of documents.

Manchester contends that instead of focusing on the law, PCTI focuses on whether Manchester had “obstructionist motives” in not providing transportation and whether public policy requires Manchester to protect students from harm by providing transportation. Manchester notes that it could not possibly have bad motives or be attempting to dissuade students from attending vocational schools, because it has never provided courtesy transportation to any student, whether they attend PCTI or remain at Manchester Regional High School. Furthermore, Manchester students have walked on the routes to PCTI for years, and PCTI admits that the routes have not become more or less hazardous.

Manchester emphasizes that the ALJ carefully reviewed the transportation laws, appropriately applied the remoteness test applicable to all other school districts to vocational schools, and correctly found that there is no right to transportation for PCTI’s non-remote students. Manchester also maintains that it was not required to adopt a hazardous route policy because *N.J.S.A. 18A:39-1.5* only applies to districts that provide transportation to non-remote students.

Manchester further argues that the ALJ correctly found that PCTI’s request for reimbursement for the 2017-18 school year was untimely. PCTI should have been aware by October 2017 that Manchester was not paying for transportation of non-remote students, but it did not file a petition until September 2018, well outside of the 90-day limitations period. Moreover, Manchester contends that PCTI’s exceptions do not provide a justifiable reason why the 90-day period should be relaxed, as there were no negotiations between Manchester and PCTI regarding transportation.

As a preliminary matter, the Commissioner notes that the 90-day rule does not preclude the filing of this petition. PCTI could seek an order requiring Paterson and Manchester to provide courtesy transportation of non-remote students at any time. The fact that Paterson stopped providing courtesy transportation a year before the petition was filed does not prohibit PCTI from asking the Commissioner for relief in connection with the current school year. With respect to PCTI’s request that Paterson and Manchester pay the costs of transportation, this request is not limited to the 2017-18 school year; it appears that PCTI is seeking reimbursement of the transportation cost going forward as an alternative if Paterson and Manchester do not actually provide the transportation.

Upon further review, the Commissioner agrees with the ALJ that Paterson and Manchester are not required to provide transportation costs of non-remote students to PCTI. As thoroughly set forth in the Initial Decision, the relevant regulations provide that transportation is only required when a high school student lives more than 2.5 miles from school. There is no statutory or regulatory provision that requires courtesy transportation be provided for non-remote students.

The Commissioner also does not find petitioner's exceptions to be persuasive. This matter was ripe for summary decision as the only issues were those of law. There is no evidence that Paterson or Manchester are being obstructionist or attempting to deter students from attending PCTI. Even so, such a public policy argument does not create a legal obligation for Paterson and Manchester to provide courtesy transportation to non-remote students. *N.J.S.A.* 18A:39-1.5 indicates that "[a] school district that provides courtesy busing services shall adopt a policy regarding the transportation of students who must walk to and from school along hazardous routes." It is clear and unambiguous that the statute does not require school districts to adopt a hazardous route policy, but rather only requires these policies of school districts that provide courtesy busing services. Here, Paterson and Manchester do not provide courtesy transportation, so the statute does not apply to them.

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

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: May 22, 2019

Date of Mailing: May 24, 2019

¹ 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

SUMMARY DECISION

OAL DKT.NO. EDU 14296-18

AGENCY DKT. NO. 227-9/18

PASSAIC COUNTY TECHNICAL INSTITUTE,

Petitioner,

v.

**BOARD OF EDUCATION OF THE CITY OF
PATERSON, PASSAIC COUNTY AND THE
BOARD OF EDUCATION FOR THE
MANCHESTER REGIONAL SCHOOL
DISTRICT,**

Respondents.

Melanie D. Lipomanis, Esq., for petitioner Passaic County Technical Institute
(Porzio, Bromberg & Newman, P.C., attorneys)

Joseph M. Franck, Esq., for respondent, Paterson Board of Education
(Ingelsino, Webster, Wyciskala Taylor, LLC, attorneys)

Rodney T. Hara, Esq. for respondent, Passaic County Manchester Regional
High School (Fogarty & Hara, attorneys)

Record Closed: February 22, 2019

Decided: February 28, 2019

BEFORE **KIMBERLY A. MOSS**, ALJ:

Passaic County Technical Institute (PCTI or petitioner) seeks an Order requiring respondents to provide transportation for non-remote students attending its school. Respondents moves for summary decision, based on a contention that if you live 2.5 miles or less from your high school, you will not be provided transportation to and from that school.

PROCEDURAL HISTORY

A petition was filed by PCTI requesting that the Paterson Board of Education (Paterson) and Passaic County Manchester Regional High School District (Manchester) pay for transportation of non-remote students in each district who attended PCTI with the Office of Administrative Law on October 1, 2018. Respondents filed motions for summary decision on January 11, 2019. Petitioner filed a reply to that motion on February 8, 2019. Respondents replied to the opposition on February 22, 2019, on which date the record closed.

FACTUAL DISCUSSION

Having reviewed the motions in support of and in opposition to summary decision, I **FIND** the following **FACTS**:

PCTI is a county vocational school located in Wayne, New Jersey. Students in Manchester and Paterson can attend PCTI. Paterson stopped providing courtesy transportation for non-remote students to PCTI, (non-remote students are students who reside more than 2.5 miles from PCTI) in June 2017. Manchester never provided courtesy transportation for non-remote students to PCTI. Since June 2017, PCTI has provided transportation to non-remote students from Paterson. In the 2017-2018 and 2018-2019 school years PCTI provided transportation for non-remote students in Manchester. On June 1, 2018, PCTI made a demand upon Manchester to pay

transportation for non- remote students in its district. In a letter dated June 8, 2018, Miguel Hernandez, Superintendent of Manchester, stated that Manchester would not provide transportation for non-remote students. On August 24, 2018, PCTI sent Manchester a bill in the amount of \$28,833.95 for transportation of non-remote students from Manchester's district to PCTI. PCTI sent Manchester a subsequent bill for transportation of non-remote students to PCTI through January 2019.

PCTI states that it is hazardous for the students from Manchester and Paterson to walk to PCTI. There are two heavily trafficked roads that they must traverse. Neither Paterson nor Manchester has not designated any routes as hazardous. PCTI filed a verified petition to order Paterson and Manchester to provide transportation to PCTI for non-remote students on September 6, 2018.

LEGAL ANALYSIS AND DISCUSSION

Both respondents are requesting summary decision. The rules governing motions for summary decision in an OAL matter are embodied N.J.A.C. 1:1-12.5. These provisions mirror the language of Rule 4:46-2 and the New Jersey Supreme Court's decision in Judson v. Peoples Bank and Trust Company of Westfield, 17 N.J. 67 (1954). Under N.J.A.C. 1:1-12.5(b), the determination to grant summary judgment should be based on the papers presented as well as any affidavits, which may have been filed with the application. In order for the adverse, i.e., the non-moving party to prevail in such an application, responding affidavits must be submitted showing that there is indeed a genuine issue of fact, which can only be determined in an evidentiary proceeding. The Court in Brill v. Guardian Life Insurance Company of America, 142 N.J. 520, 523 (1995), set the standard to be applied when deciding a motion for summary judgment. Therein the Court stated:

The determination whether there exists a genuine issue with respect to a material fact challenged requires the Motion Judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party . . . are sufficient to permit a rational

fact finder to resolve the alleged disputed issue in favor of the non-moving party.

In Martin v. Rutgers Cas. Ins Co 346 N.J. Super 320, 323 (App. Div. 202) The Court stated “The record is barren of any evidence that plaintiff had such a license other than her own self-serving assertion to that effect. That is clearly insufficient to create a question of material fact for purposes of a summary judgment motion.”

In this matter there is no material issue of fact. There are issues of law. Whether respondents are required to provide transportation for non-remote students to PCTI, whether petitioner’s petition was timely filed.

N.J.A.C. 6A:27-1.4 (a) 1 provides:

(a) Transportation shall be provided to public school students who reside remote from their assigned school of attendance, nonpublic school students who reside remote from their school of attendance and meet the eligibility criteria of N.J.A.C. 6A:27-2.2, and special education students who reside remote from their assigned school or who require transportation services in accordance with their individualized education program (IEP). Transportation shall also be provided to preschool students who live remote from their school of attendance and either are enrolled in a universal preschool program or meet the age and income eligibility requirements of and are enrolled in a targeted preschool program pursuant to N.J.S.A. 18A:7F-43 et seq.

1. The words "remote from the school of attendance" shall mean beyond two and one-half miles for high school students (grades nine through 12) and beyond two miles for elementary school students (grades preschool through eight).

N.J.A.C. 6A:27-2.2(a) regarding non-public-school students’ eligibility for the District to provide transportation provides:

Elementary school students shall reside more than two miles from their nonpublic school and secondary school students shall reside more than two and one-half miles from their nonpublic school to be eligible for transportation services.

N.J.A.C. 6A:27-3.2(a) regarding charter and renaissance schools provides:

Students in kindergarten through grade eight and preschool students who meet the eligibility requirements defined in N.J.A.C. 6A:27-1.4(a) who reside more than two miles and students in grades nine through 12 who reside more than two and one-half miles from the charter or renaissance school that they attend are eligible for transportation services

N.J.A.C. 6A:27-4.2 (a) regarding interdistrict public school choice programs provides:

Students in kindergarten through grade eight and preschool students who meet the eligibility requirements defined in N.J.A.C. 6A:27-1.2(a) who reside more than two miles and students in grades nine through 12 who reside more than two and one-half miles from the choice school that they attend, and provided that the choice school is not more than 20 miles from the student's residence, are eligible for transportation services, unless the cost of such services exceeds the annual maximum statutorily established amount per student for nonpublic school transportation.

N.J.A.C. 6A: 19-2.3 provides:

Each resident district board of education shall ensure that resident students may apply to and, if accepted, attend a county vocational school pursuant to N.J.S.A. 18A:54-20.1. The existence of the same career and technical education program at the resident district board of education shall not negate a student's right to apply to and, if accepted, attend a county vocational school, subject to the following limitations:

1. The resident district board of education shall be responsible for the tuition and transportation costs of any resident student admitted to the county vocational school in which the school district is located, unless the resident district board of education maintains a vocational school pursuant to N.J.S.A. 18A:54-5 et seq., and such school offers the same program as the county vocational school where the student has been admitted. A program shall be deemed the same, for purposes of this section, if it is approved by the Department in accordance with N.J.A.C. 6A:19-3.1 and 3.2, is assigned the same Classification of Instructional Programs (CIP) code, and meets or exceeds all applicable program performance standards; and

2. The resident district board of education shall be responsible for the tuition, transportation costs, and nonresident fee (where applicable) of any resident student admitted to a county vocational school outside the county in which the resident school district is located, unless the district board of education maintains a vocational school pursuant to N.J.S.A. 18A:54-5 et seq., or the county in which the resident school district is located maintains a county vocational school, and either of these schools offers the same program as the non-resident county vocational school where the student has been admitted. A program shall be deemed the same, for purposes of this section, if it is approved by the Department in accordance with N.J.A.C. 6A:19-3.1 and 3.2, is assigned the same Classification of Instructional Programs (CIP) code and meets or exceeds all applicable program performance standards.

In this matter, when reading the transportation regulations, it is clear that the meaning of the “resident district shall be responsible for transportation costs of students in vocational school” in N.J.A.C. 6A: 19-2.3 means transportation in accordance with the N.J.A.C. 6A:27-1.4 (a). Any other reading would lead to results where a student who lived next door or across the street from PCTI would have to be transported to PCTI. In addition, other regulations that address transportation of students to non-public schools, inter-district schools, charter and renaissance schools, list one criteria eligibility for transportation of high school students as they have to live more than 2.5 miles from the high school. Any other reading of N.J.A.C. 6A: 19-2.3 would give students at vocational high school preferential treatment regarding transportation not available to other high school students.

N.J.A.C. 6A: 27-1.5 provides:

(a) District boards of education may provide for the transportation of students who reside less than remote from their school in accordance with their local policies and at their own expense.

1. District boards of education may elect to charge the parent or legal guardian for all or part of the cost of this service in accordance with N.J.S.A. 18A:39-1.3.

(b) District boards of education that provide for the transportation of students pursuant to N.J.S.A. 18A:39-1 or a cooperative transportation services agency (CTSA) may provide for the transportation of resident and

nonresident students who are not otherwise eligible for transportation services by any other law and charge the parent or legal guardian for all or part of the cost of this transportation in accordance with N.J.S.A. 18A:39-1.3.

1. The parent or legal guardian of a nonpublic school student who receives aid in lieu of transportation from their resident district board of education may purchase transportation services from another district board of education or CTSA.

(c) Whenever a district board of education agrees to provide nonmandated transportation to and from school for reasons of hazard, the board shall adopt a hazardous busing policy in accordance with N.J.S.A. 18A:39-1.5.

(d) When the parent or legal guardian elects to have transportation provided for their child pursuant to this section, the district board of education or CTSA may elect to charge the parent or legal guardian for all or part of the cost. However, the cost of the transportation paid by the parent or legal guardian shall be no more than the per student cost of the route and shall be paid at the time and in the manner determined by the district board of education or CTSA.

(e) Municipal governments may elect to pay the cost of transportation for students who live less than remote from their school through an interlocal agreement with the district board of education in accordance with N.J.S.A. 18A:39-1.2. Municipalities may elect to charge the parent or legal guardian for all or part of the cost of this service.

(f) Students who are unable to pay because of financial hardship may not be excluded from receiving services described under this section. The criteria used to determine financial hardship shall be the same as the Statewide eligibility standards established for free and reduced-price meals under the State school lunch program.

(g) District boards of education shall notify the Department on the Commissioner-prescribed form when transportation is provided for students pursuant to this section.

Manchester has never provided courtesy transportation to non-remote students attending PCTI. Paterson stopped providing courtesy transportation to students attending PCTI in June 2017. Neither Manchester or Paterson has adopted a hazardous bus policy. The regulation does not require a school district to provide

courtesy transportation. The regulation does not require a district that has previously provided courtesy transportation to continue to provide it.

I **CONCLUDE** Paterson and Manchester are not required to provide transportation costs of non-remote students to PCTI.

The next issue is whether PCTI's petition was timely filed. N.J.A.C. 6A:3-1(i) provides:

The petitioner shall file a petition no later than the 90th day from the date of receipt of the notice of a final order, ruling, or other action by the district board of education, individual party, or agency, that is the subject of the requested contested case hearing. This rule shall not apply in instances where a specific statute, regulation, or court order provides for a period of limitation shorter than 90 days for the filing of a particular type of appeal.

Such a rule represents a fair and reasonably necessary requirement for the proper and efficient resolution of disputes under the school laws and falls within the scope of authority granted to the Commissioner. *Kaprow v. Bd. of Educ. of Berkeley Twp.*, 131 N.J. 572, 582 (1993). The limitation period gives school districts the security of knowing that administrative decisions regarding the operation of the school cannot be challenged after ninety days. *Ibid.* Its purposes are to stimulate litigants to pursue a right of action within a reasonable time so that the opposing party may have a fair opportunity to defend and to penalize dilatoriness and serve as a measure of repose by giving security and stability to human affairs. *Id.* at 587.

The ninety-day requirement is to be strictly construed and is mandatory. *Wise v. Bd. of Educ. of the City of Trenton*, EDU 160-00, Comm'r (September 11, 2000), *aff'd*, State Bd. of Educ. (January 3, 2001), <<http://lawlibrary.rutgers.edu/oal/search.html>>. A petitioner must file a petition within ninety days from a notice of adverse action and not within ninety days of her exhaustion of other avenues and mechanisms she might have employed in seeking renewal of employment. *Id.* Informal attempts to resolve a dispute do not serve to toll the statute of limitations. See *Kaprow supra* at 588. Also, the ninety-day period for filing a petition of appeal commences when a petitioner learns of facts that would enable her to file a timely claim. *Id.* at 587. "Adequate notice must be sufficient to inform an individual of some fact that he or she has a right to know and that the communicating party has a duty to communicate." *Ibid.* (citation omitted).

PCTI knew in June 2017 that Paterson was no longer providing courtesy transportation for non-remote students. Ninety day from June 30, 2017, would be September 30, 2017. PCTI filed the petition in this matter on September 5, 2018, over a year after it knew that Paterson was not providing transportation for non-remote students. PCTI cites the cases of Lavin v. Hackensack Board of Education 90 N.J.145 for the proposition that that ninety-day rule does not apply when a statutory right is at stake. However, there is no statutory right of transportation provided by the residents' district for non-remote students. In addition, Lavin was regarding a N.J.S.A. 2A14-1 statute of limitations and not N.J.A.C. 6A:3-1.3(i) ninety-day rule.

PCTI knew that Manchester did not provide transportation for non-resident students in the 2017-2018 school year, it never provided transportation for non-remote students. Again, PCTI did not file this petition until September 5, 2018.

I **CONCLUDE** that PCTI did not file its petition against Paterson within ninety day of Paterson's termination of courtesy transportation for non-remote students. I further **CONCLUDE** that PCTI did not file its petition against Manchester for the 2017-2018 school year within ninety day against Manchester for the 2017-2018 school year.

Since I have **CONCLUDED** that respondents are not required to provide transportation to non-remote students and that petitioner did not file its petition within the ninety-day rule, I will not address the other matters in the motion because it will not affect the outcome of my decision.

ORDER

Based on the foregoing, it is **ORDERED** that respondents motions for summary decision be and is hereby **GRANTED**.

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.

February 28, 2019



DATE

KIMBERLY A. MOSS, ALJ

Date Received at Agency:

February 28, 2019

Date Mailed to Parties:
ljb

February 28, 2019

DOCUMENTS RELIED UPON

- Petitioner and Respondents motions, briefs and exhibits.