

BOARD OF EDUCATION OF THE TOWNSHIP OF WAYNE, PASSAIC COUNTY,	:	
PETITIONER,	:	
V.	:	COMMISSIONER OF EDUCATION
E.P. AND R.P., parents of E.P., a minor child,	:	DECISION
RESPONDENTS.	:	
	:	

SYNOPSIS

Petitioning Board sought tuition payment of \$7,637.66 for the period of time during the 1998-99 school year that respondents' son was ineligible, pursuant to *N.J.S.A. 18A:38-1*, to attend school free of charge in petitioner's District.

Respondents having failed to answer the allegations in the petition, the Commissioner deemed such allegations to be admitted. The Commissioner granted summary decision to the Board and ordered respondents to pay tuition in the amount of \$7,637.66 for the period of time in which their son was ineligible for a free education in petitioner's District.

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For Petitioner: Ellen Marie Walsh, Esq. (Fogarty & Hara)

This matter, having been brought before the Commissioner of Education by the Board of Education of the Township of Wayne (Board) by way of a Petition of Appeal filed on August 30, 1999, requesting that respondents be ordered to pay the Board tuition in the amount of \$7,637.66; and

Whereas, respondent parent, E.P, having been served with the petition by the Board on August 27, 1999 and respondent parent, R.P, having been served with the petition by the Board on September 28, 1999; and

Whereas, the Commissioner having sent to each respondent two separate notices directing that an Answer to the petition be submitted pursuant to *N.J.A.C. 6:24-1.4*; and

Whereas, the Commissioner having notified Respondent E.P. by regular and certified mail on October 5, 1999, and Respondent R.P. by regular and certified mail on December 9, 1999, that if an Answer was not submitted, each count of the petition would be deemed admitted and the

matter would then be decided on a summary judgment basis pursuant to the Commissioner's authority granted by *N.J.A.C.* 6:24-1.4(e); and

Whereas, there is no indication that respondents did not receive such communications; and

Whereas, neither of the respondents, nor any attorney on their behalf, has filed an Answer to the charges against them; thus, each count of the charges against respondents having been deemed to be admitted; and

Whereas, the Commissioner's review of the petition indicates that; (1) respondents' son, E.P., attended the Board's Packanack Lake School commencing on or about September 30, 1998; (2) in or about April 1999, E.P.'s teachers began to suspect that he was not residing with his father in Wayne but with his mother in Paterson; and (3) the Board's attendance officer conducted an investigation which lead to the Board's voting to disenroll E.P.; and

Deeming such charges to be admitted in the absence of an Answer being submitted by either of the respondents, the Commissioner finds that respondents' son was ineligible, pursuant to the provisions of *N.J.S.A.* 18A:38-1, to attend school free of charge in the Wayne School District for the period of time during the 1998-99 school year as set forth by the Board herein; now, therefore

IT IS ORDERED on this _____ day of January 2000, that summary decision shall be granted to the Board of Education of Wayne Township and that respondents shall pay tuition in the amount of \$7,637.66, as requested by the Board, for the period of time in which their son, E.P., was ineligible for a free education in the Wayne Township School District.*

COMMISSIONER OF EDUCATION

January 19, 2000

* This decision, as the Commissioner's final determination in the instant matter, 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.* 6:2-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.