

M.P. and D.P. on behalf of minor child, N.P., :
PETITIONERS, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
MORRIS HILLS REGIONAL SCHOOL :
DISTRICT, MORRIS COUNTY :
RESPONDENT. :

SYNOPSIS

Petitioners challenged the Board's residency determination that their nephew, N.P., was not eligible for a free education in the Morris Hills Regional School District. N.P. has resided with his aunt and uncle since the fifth grade. His parents, however, reside in India, where his father is in business.

The ALJ found that N.P.'s parents do not have a permanent home in the district, and neither D.P. nor M.P. is the legal guardian of N.P. Therefore, this situation does not meet the eligibility criteria set forth in *N.J.A.C.* 6A:22-3.1; nor does it satisfy the requirements of *N.J.A.C.* 6A:22-3.2(a)1.i, as the petitioners have not claimed or established any family or economic hardship and have not set forth competent evidence that N.P. is residing with them for any reason other than receiving a free public education. The ALJ concluded that N.P. is ineligible to attend respondent's schools, and that respondent is entitled to reimbursement for the cost of tuition from September 14, 2006 through the date of issuance of the final decision, at the rate of \$78.23 per day, together with post-judgment interest pursuant to *N.J.A.C.* 6A:3-1.17.

Upon careful and independent review of the record, the Commissioner concurs with the findings and conclusions set forth by the ALJ. The Initial Decision of the OAL is adopted as the final decision in this matter, and M.P. and D.P. are directed to reimburse the Board for tuition as set forth therein. The Commissioner noted that a request for post-judgment interest is premature, as the timeline for the granting of such begins subsequent to the issuance of this decision.

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.

April 2, 2007

OAL DKT. NO. EDU 10975-06
AGENCY DKT. NO. 325-9/06

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were received from the parties.

For the reasons expressed therein, the Commissioner adopts the Initial Decision as the Final Decision. The Commissioner agrees that N.P. is ineligible to receive a free public education in respondent's district, and that respondent is due from petitioners a tuition reimbursement for the days that N.P. has attended school in its district - *i.e.*, from September 14, 2006, through the date of the issuance of this decision - at the rate set forth in the Initial Decision, \$78.23. Any request for post-judgment interest is premature, as the 60-day timeline relative to the granting of this interest does not even begin to run until the Commissioner renders her decision in the instant matter. (*N.J.A.C.* 6A:3-1.17(c)2).

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: April 2, 2007
Date of Mailing: April 2, 2007

¹ This decision 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.*