

#305-08

L.P. on behalf of minor children J.P. and B.P., :

PETITIONER, :

V. :

COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE TOWNSHIP :
OF IRVINGTON, ESSEX COUNTY, :

DECISION

RESPONDENT. :

_____ :

SYNOPSIS

Petitioner – an Irvington resident – filed a *pro se* residency appeal contending that he is the legal guardian of his nephews, J.P. and B.P., and that they are therefore entitled to a free public education in the Irvington School District. Respondent Board was directed by the Bureau of Controversies and Disputes, pursuant to *N.J.A.C. 6A:3-1.5*, to file an answer to the petition within 20 days from the receipt of the petition. Respondent additionally received second and third notices advising that if no response was filed within ten days of the receipt of same, each count of the petition would be deemed admitted and the Commissioner might decide the matter on a summary basis. No answer has been received from the respondent nor from any attorney purporting to represent respondent.

The Commissioner concluded that the allegations, which respondent has chosen not to deny, may be deemed admitted, pursuant to *N.J.A.C. 6A:3-1.5(e)*, and are sufficient to justify an order that respondent provide petitioner’s nephews with a free public education. Accordingly, summary decision was granted to petitioner; J.P. and B.P. shall remain enrolled in respondent’s district, so long as there is no change in their status.

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.

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BOARD OF EDUCATION OF THE TOWNSHIP : COMMISSIONER OF EDUCATION
OF IRVINGTON, ESSEX COUNTY, : DECISION
RESPONDENT. :
_____ :

Petitioner, Lesly Philippe, *Pro Se*

This matter was opened before the Commissioner of Education on April 16, 2008, by way of a verified petition against the respondent board of education. Petitioner alleged that respondent was challenging the right of his nephews, J.P. and B.P. – who are in petitioner’s care and custody – to receive a free public education in Irvington.

By notice dated April 16, 2008, the Bureau of Controversies and Disputes (the Bureau) directed respondent, via telecopy and regular mail, to file an answer to the petition. On May 20, 2008, and then again on June 11, 2008, the Bureau directed respondent for a second and a third time – via both certified and regular mail – to file an answer to the petition. Neither the notices sent by regular mail nor the receipts for the certified notices were returned to the Commissioner. The postal system tracking site indicates that a notice of the first certified letter to respondent was delivered to the Board Secretary’s address on May 21, 2008, and that the second certified letter was delivered on June 13, 2008.

The first communication from the Bureau clearly provided respondent with notice that, pursuant to *N.J.A.C.* 6A:3-1.5, an individual against whom a petition is filed shall have

20 days from receipt of the petition to file an answer. The second and third notices advised that if respondent did not file an answer within ten days of the receipt of same, each count of the petition would be deemed to have been admitted and the Commissioner might decide the matter on a summary basis. The Bureau has received neither an answer to the petition from the respondent nor from any attorney purporting to represent respondent.

The Commissioner concludes that the allegations, which respondent has chosen not to deny, may be deemed admitted, pursuant to *N.J.A.C. 6A:3-1.5(e)*, and are sufficient to justify an order that respondent provide petitioner's nephews with a free public education.

Accordingly, summary decision shall be granted to petitioner and J.P. and B.P. shall remain enrolled in respondent's district, as long as there is no change in status.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: July 14, 2008

Date of Mailing: July 14, 2008

¹ This decision may be appealed to the Superior Court, Appellate Division, pursuant to P.L. 2008, c. 36.