

E.C. ON BEHALF OF MINOR, D.B., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE :
TOWNSHIP OF UNION, UNION : DECISION
COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner, mother of D.B., challenged the Board's determination that during the entire period that D.B. attended school in the District (since September 1999) he was not a legal resident there.

In light of the testimony of the witnesses, including the school's residency investigators, the ALJ determined that D.B. did not reside in Union. The ALJ noted that not even on one occasion did the investigators observe D.B. going to school in Union without having been taken there from Newark. The ALJ concluded there was no reasonable question concerning D.B.'s residence -- he and petitioner were not living in Union. The ALJ ordered petitioner to reimburse the Board for tuition owed for the period of D.B.'s unauthorized attendance in the District.

The Commissioner adopted the Initial Decision as his own and ordered petitioner to pay the Board tuition in the amount of \$31,847.16 for the ineligible attendance of D.B. in the District.

<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>

OAL DKT. NO. EDU 7229-02
AGENCY DKT. NO. 150-5/02

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	:	
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	:	
_____	:	

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner’s exceptions were untimely filed pursuant to *N.J.A.C. 1:1-18.4(a)*, in that the Initial Decision was mailed to the parties on January 12, 2004 and the exceptions were filed on February 2, 2004, well outside the 13-day period prescribed by regulation. Consequently, this submission was not considered in the Commissioner’s determination of this matter.

Upon careful and independent review of the record in this matter, and based on the ALJ’s credibility assessments, *N.J.S.A. 52:14B-10(c)*, the Commissioner finds no cause to disturb the factual findings and legal conclusions of the ALJ.

Accordingly, the Initial Decision of the ALJ is adopted for the reasons expressed therein, and the within Petition of Appeal is dismissed. Consistent with the affidavit submitted by the Board’s School Business Administrator, the tuition rate for D.B.’s attendance at the Connecticut Farms School is as follows:

- \$6,773 for the 1999-2000 school year;
- \$7,108 for the 2000-2001 school year;
- \$7,814 for the 2001-2002 school year;
- \$8,169 for the 2002-2003 school year; and
- \$8,301 for the 2003-2004 school year, prorated at \$46.12 per day for each of the 43 days D.B.'s attended school this year, as of November 10, 2003. (Affidavit of Karen Dunn Regarding Tuition Counterclaim, Exhibit R-7)

The Commissioner, therefore, directs that petitioner reimburse the Board for tuition in the amount of \$31,847.16 for the ineligible attendance of D.B. in the district.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: February 23, 2004

Date of Mailing: February 25, 2004

* 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.*