

A.O.L., on behalf of minor children, :
A.L., A.L. and J.L., :
PETITIONER, :
COMMISSIONER OF EDUCATION
V. :
DECISION
BOARD OF EDUCATION OF THE :
TOWNSHIP OF BLOOMFIELD, :
ESSEX COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner appealed the Board's determination that his children were not entitled to free public education in the district during the 2002-03 school year, contending that the children lived with him in Bloomfield during that time and not with their mother in Newark.

The ALJ found the testimony of petitioner and his witnesses to be both incredible and insufficiently supported by the documentary record. The ALJ ordered petitioner to pay \$16,116.66 in tuition plus costs and interest.

The Commissioner adopted the Initial Decision, noting that, pursuant to *N.J.S.A. 52:14B-10(c)* and *In re Morrison*, the record provided no basis on which to disturb the factual findings and credibility determinations of the ALJ. The Commissioner ordered payment of tuition, but set aside the order for payment of costs and interest as without support or explanation in the record.

<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 1854-03
AGENCY DKT. NO. 1-1/03

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_____	:	

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Although petitioner submitted exceptions to the Initial Decision, these have not been considered because they were filed well beyond the period provided by *N.J.A.C.* 1:1-18.4, with neither a request for extension nor an explanation for the inability to submit such request having been made in accordance with *N.J.A.C.* 1:1-18.8.¹

Upon review, and in the absence of any basis in the record on which to dispute the fact-finding and credibility determinations of the Administrative Law Judge (ALJ) pursuant to *N.J.S.A.* 52:14B-10(c), *In re Morrison*, 216 *N.J. Super.* 143, 158 (App. Div. 1987), the Commissioner concurs that petitioner has not met his burden of demonstrating that A.L., A.L. and J.L. were entitled to a free public education in the respondent's school district during the 2002-03 school year.

¹ The Initial Decision was mailed to the parties on February 22, 2005, so that exceptions, or any non-emergency request for extension, would have been due on March 7, 2005. Petitioner's submission was filed, with no prior request for extension and no claim of extraordinary circumstances, on March 16, 2004.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and petitioner is directed to pay tuition to respondent in the amount of \$16,116.66 for the period of his children's ineligible attendance. However, in that the record contains nothing to explain or support the ALJ's assessment of "costs and interest" (*cf.* *N.J.A.C.* 6A:3-1.17), that portion of the Initial Decision's recommended Order is hereby set aside.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: April 8, 2005

Date of Mailing: April 8, 2005

² 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.*