

BOARD OF EDUCATION OF :  
THE CITY OF CLIFTON, :  
PASSAIC COUNTY, :

PETITIONER, : COMMISSIONER OF EDUCATION

V. : DECISION

R.N., :

RESPONDENT. :

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SYNOPSIS

Petitioning Board filed a complaint seeking reimbursement from respondent, R.N., of the costs of tuition pertinent to the attendance of respondent’s minor cousin, D.C., in 2003 on the basis that D.C. was not entitled to a free public education in Clifton schools.

The parties stipulated that R.N. did not have custody or legal guardianship of D.C. while the latter attended Clifton High School. The ALJ found neither D.C.’s mother nor D.C. were domiciled in Clifton, and that no evidence – apart from broad statements by R.N. and D.B., D.C.’s mother – was presented to support the conclusion that R.N. assumed responsibility for D.C.’s personal obligations during the Spring of 2003. Further, no affidavit was offered by D.C.’s mother to demonstrate economic or family hardship under *N.J.S.A.18A:38-1(b)*. The ALJ concluded that D.C. was not entitled to a free public education in Clifton Schools, and petitioner is entitled to tuition reimbursement from respondent in the amount of \$1,474.55.

The Commissioner concurs with the ALJ’s determinations in this matter. Accordingly, the petition is granted and – pursuant to *N.J.S.A. 18A:38-1(b)(1)* – respondent is liable for tuition in the amount of \$1,474.55.

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.

September 28, 2006

OAL DKT. NO. EDU 3239-05  
AGENCY DKT. NO. 435-12/04

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In this matter, the petitioner seeks reimbursement of tuition for thirty-five days of school attendance by respondent's cousin in May and June of 2003. The record and Initial Decision have been reviewed. No transcript of the proceedings has been provided to the Commissioner, and no exceptions have been filed.

The record reveals that respondent R.N., a resident of Clifton, agreed to take in his teenaged cousin, D.C., in the Spring of 2003. On April 30 and May 1, 2003, respondent and D.C.'s mother, D.B., filled out multiple documents required by petitioner for the enrollment of D.C. in petitioner's high school. In one of the documents, respondent stated that D.C.'s parent or guardian resided at his address. (J-1) The filled-in information in another of the documents (J-2) could also have been interpreted to indicate that D.C.'s mother's address was respondent's home at 120 M. Avenue in Clifton.<sup>1</sup> Two documents contained notations that respondent and/or D.B. had not submitted the required verifications of residence but would subsequently do so. (J-2; J-3)

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<sup>1</sup> According to the Administrative Law Judge (ALJ) D.B. testified at the hearing on the one hand that she lived in Clifton during May and June of 2003 (ID4) but on the other hand that she had never been domiciled or lived in Clifton (ID3).

Respondent also signed documents that contained warnings that he could be assessed tuition if information he was providing was false. (J-1; J-4)

The Initial Decision (ID) recites that during May and June 2003, D.C. attended high school in petitioner's district. On or about June 10, 2003, petitioner filled out further District forms (J-4)<sup>2</sup> seeking D.C.'s enrollment in the District for the 2003-2004 year. However, the required affidavit by D.C.'s actual parent or legal guardian demonstrating economic or family hardship was not included in J-4. In fact, J-4 identified D.C.'s uncle in North Carolina as his legal guardian.<sup>3</sup> Respondent's request to enroll D.C. in the District for the 2003-2004 school year was denied and D.C. did not return after the 2002-2003 school year.

To support its claim for tuition reimbursement, petitioner submitted to the OAL an affidavit by its business administrator establishing the per diem tuition rate for petitioner's high school students and the number of days that D.C. attended the high school.

Based upon the foregoing, the Commissioner agrees with the ALJ's conclusion that D.C. was not entitled to a free public education in Clifton during the months of May and June 2003. Since R.N. was neither a parent nor a legal guardian of D.C. during the relevant time period, D.C. was not domiciled in Clifton and was consequently not eligible to attend school there under *N.J.S.A. 18A:38-1(a)*. Nor did D.B. submit the affidavit of hardship that would have had to have been offered to petitioner to show why D.C. needed to live with R.N. and to prove that D.C. was eligible, under *N.J.S.A. 18A:38-1(b)*, for a free public education in Clifton.

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<sup>2</sup> J-4 also contained a warning that respondent could be assessed tuition if the information he was providing was false.

<sup>3</sup> It was apparently stipulated at the hearing (ID-2) that respondent had not had custody of D.C. while D.C. attended petitioner's high school. An employee of petitioner, however, testified that respondent told her that he was seeking custody of D.C. (ID5) Generally, testimony by D.B. and R.N. indicated that D.B. had been having problems getting D.C. to go to school, and that R.N. had helped her with D.C. over an extended period of time. (ID6-7).

The Commissioner is further persuaded that the ALJ is correct in finding that the proofs established that the tuition owed for D.C.'s education in petitioner's district during May and June of 2003 is \$1,474.55.

Accordingly, the petition is granted and, pursuant to *N.J.S.A. 18A:38-1(b)(1)*, respondent is liable for tuition in the amount of \$1,474.55.

IT IS SO ORDERED.<sup>4</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 28, 2006

Date of Mailing: September 29, 2006

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<sup>4</sup> 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.*