

#57-07 (No OAL Decision)

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| BOARD OF EDUCATION OF THE CITY | : | |
| OF CLIFTON, PASSAIC COUNTY, | : | |
| | : | |
| PETITIONER, | : | |
| | : | |
| V. | : | COMMISSIONER OF EDUCATION |
| | : | |
| S.F. AND L.F., | : | DECISION |
| | : | |
| | : | |
| RESPONDENTS. | : | |
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SYNOPSIS

Petitioning Board filed a complaint seeking reimbursement from respondents, S.F. and L.F., of the costs of tuition pertinent to the period of ineligible attendance of respondents' minor child, D.F., during the 2005-2006 school year. Respondents failed to appeal the Board's residency decision, and failed to answer the petition seeking payment of tuition.

The Commissioner directed respondents to submit answer to the petition pursuant to *N.J.A.C. 6A:3-1.5*, and informed respondents that if no answer was submitted, each count of the petition would be deemed admitted and the matter could then be decided on summary judgment. As no answer was subsequently submitted, the Commissioner granted summary decision in favor of the Board, and ordered respondents to pay tuition in the amount of \$8,875.80.

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.

February 8, 2007

BOARD OF EDUCATION OF THE CITY :
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This matter was brought before the Commissioner of Education by the Board of Education of the City of Clifton (Board) by way of a Petition of Appeal filed on October 16, 2006,¹ requesting that respondents be ordered to pay the Board tuition for the period of their child, D.F.’s ineligible attendance in its schools, September 7, 2005 through June 26, 2006; and

The Board served a copy of both the petition and the amended petition on respondents, by certified and regular mail; and

The Commissioner, by notices dated October 16, 2006 and November 16, 2006,² directed that an Answer to the petition be submitted pursuant to *N.J.A.C. 6A:3-1.5*; and

Having received no response to these communications, on December 7, 2006 the Commissioner notified respondents – by regular and certified mail³ - that if an Answer was not submitted, each count of the petition would be deemed admitted and the matter could then be

¹An Amended Petition of Appeal – correcting the name of one of the respondents – was filed on November 16, 2006.

² Second notice sent as a result of receipt of the Board’s amended petition.

³Although the certified mail copy of this notification was returned as “unclaimed,” the copy sent by regular mail was not returned and is, therefore, presumed delivered.

decided on a summary judgment basis pursuant to the Commissioner's authority granted by *N.J.A.C. 6A:3-1.5(e)*; and

As of this date, neither respondents nor any attorney on their behalf has filed an Answer to the petition and, therefore, each count of the petition is deemed to be admitted; and

By letter dated January 8, 2007, the Board advised both the Commissioner and the respondents that the per pupil cost for D.F.'s ineligible attendance in its schools during the period September 7, 2006 through June 26, 2007 was \$8,875.80 (180 days @ \$49.31 per day); and

Subsequent to this notification, neither respondents nor any attorney on their behalf has contested the Board's calculation of tuition; and

Deeming the Board's allegations against respondents to be admitted in the absence of their submission of an Answer, the Commissioner finds that respondents' child, D.F., was ineligible – pursuant to the provisions of *N.J.S.A. 18A:38-1* – to attend school free of charge in the Clifton School District for the period September 7, 2005 through June 26, 2006, as set forth by the Board herein.

IT IS THEREFORE ORDERED that summary decision shall be granted to the Board of Education of the City of Clifton and that respondents shall pay tuition in the amount of \$8,875.80, as requested by the Board, for the period of time in which their daughter was ineligible for a free education in the Clifton School District.⁴

COMMISSIONER OF EDUCATION

Date of Decision: February 8, 2007

Date of Mailing: February 8, 2007

⁴ This decision, as the Commissioner's final determination 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:2-1.1 et seq.*