

E.P.F. on behalf of minor child M.W., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF MOUNT OLIVE,
MORRIS COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed a *Pro Se* residency appeal, challenging the respondent Board's determination that her niece, M.W., is not entitled to a free public education in the Mt. Olive School District. Petitioner stated that she is M.W.'s guardian, her niece relocated from Florida to live with her because of conflicts with her stepfather and because she missed petitioner and her grandmother, and M.W.'s parents will continue to support her financially. Respondent Board filed a counterclaim seeking payment of tuition for the number of days M.W. attended school in the district.

The ALJ found that: petitioner is not the legal guardian of M.W.; M.W.'s parents live in Florida and do not have a permanent home within the district; and petitioner has failed to establish that M.W.'s parents are incapable of supporting or providing care for their daughter due to a family or economic hardship pursuant to *N.J.S.A. 18A:38-1*. Accordingly, the ALJ concluded that M.W. is not entitled to a free public education in Mt. Olive schools, and the respondent Board is entitled to reimbursement for tuition for the period of M.W.'s ineligible attendance at the rate of \$75 per day.

Upon a full and independent review of the record, the Commissioner adopted the ALJ's finding that M.W. is not entitled to a free public education in respondent's district. The case file, however, did not include evidence that the daily tuition rate is \$75.00; accordingly the Commissioner remanded the case to the OAL for the sole purpose of factual findings regarding the tuition due to respondent.

<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 1980-10
AGENCY DKT. NO. 18-2/10

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The Commissioner has reviewed the record of this matter, the Initial Decision of the Office of Administrative Law (OAL), petitioner's exceptions and respondent's replies to same. The Administrative Law Judge's (ALJ) finding that M.W. is not entitled to a free public education in respondent's district is adopted. However, the Commissioner was unable to find evidence, by way of certification or recitation of testimony,¹ that the daily tuition fee in respondent's district is \$75.00.

Accordingly, this case is remanded to the OAL for the sole purpose of factual findings regarding the tuition due to respondent.

IT IS SO ORDERED. ²

COMMISSIONER OF EDUCATION

Date of Decision: May 12, 2010
Date of Mailing: May 12, 2010

¹ The Commissioner was not provided with a transcript of the hearing.

² This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36*.