

C #101-05
SB # 16-05

S.B., on behalf of minor child, J.B., :
PETITIONER-APPELLANT, : STATE BOARD OF EDUCATION
V. : DECISION
BOARD OF EDUCATION OF THE :
TOWNSHIP OF NUTLEY, ESSEX COUNTY, :
RESPONDENT-RESPONDENT. :
_____ :

Decided by the Commissioner of Education, March 22, 2005

Decision on motion by the Commissioner of Education, April 20, 2005

For the Petitioner-Appellant, S.B., pro se

For the Respondent-Respondent, Gaccione, Pomaco & Malanga (Mark A. Wenczel, Esq., of Counsel)

On April 13, 2005, the appellant, S.B., submitted a letter to the Commissioner of Education by fax requesting to appeal the Commissioner's decision in this matter dated March 22, 2005. In his decision, the Commissioner had concluded that the appellant had failed to demonstrate that his son was entitled to a free public education in the Nutley school district during the 2004-05 school year, and he granted the Nutley Board's counterclaim for tuition in the amount of \$5,936.14.

By letter dated April 13, 2005, the Director of the State Board Appeals Office notified the appellant that his letter was being considered as a notice of appeal to the State Board of Education. The Director informed the appellant, however, that his notice

was deficient in that he did not file a signed original copy, provide a copy of the decision being appealed or submit proof of service of his notice on the counsel for the Nutley Board, as required by the regulations governing appeals to the State Board, N.J.A.C. 6A:4-1.1 et seq. The appellant was given until April 25 to correct these deficiencies. When he failed to submit the required documents by that date, the Director notified the appellant by letter dated April 29, 2005 that this matter was being referred to the Legal Committee of the State Board for consideration of the effect of his failure to correct the deficiencies.

By letter dated May 19, 2005, the Chairperson of the Legal Committee notified the appellant that the Legal Committee had reviewed the matter and determined that, because of his status as a pro se litigant, the appellant would be given one last opportunity to correct the deficiencies. He was advised that “if you choose not to take advantage of this opportunity and fail to submit the required documents to the State Board Appeals Office by May 31, 2005, your appeal will be dismissed by the State Board.”

The appellant still has failed to correct the deficiencies. Most significantly, despite repeated notice, the appellant has failed to file a signed original copy of his notice of appeal or to provide proof of service of that notice on the counsel for the Nutley Board, as required by our regulations. In view of the fact that the appellant was provided with several opportunities to cure the deficiencies and was expressly notified that his appeal would be dismissed if he failed to correct them by May 31, we find such noncompliance to be fatal to his appeal. Hence, while we are mindful of the appellant’s

status as a pro se litigant, we conclude that under these circumstances dismissal of the appeal is warranted.

Josephine E. Figueras abstained.

July 6, 2005

Date of mailing _____