

CEREBRAL PALSY LEAGUE, INC., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
NEW JERSEY DEPARTMENT : DECISION
OF EDUCATION, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner appeals the Department’s determination to disallow certain expenses in the computation of final tuition rates for the 2002-2003 school year for two private schools for the disabled operated by petitioner, one located in Union and the other in Cranford. The Cranford school appeals from the denial of an increase in its final tuition rate of more than 10% over its tentative rate, and both the Cranford and the Union schools appeal from the Department’s refusal to recognize “employee merit awards” as an allowable expense, arguing that they do not constitute merit pay increases within the scope of *N.J.A.C. 6A:23-4.4(a)(15)*.

The ALJ found, *inter alia*, that: as early as October 2003, petitioner’s executive director and trustees knew that the final tuition request for Cranford School would be more than 10% above its tentative rate; petitioner failed to exercise due diligence in complying with the 45-day notice requirement; there is no support for petitioner’s contention that a new school is exempt from the 45-day notice requirement; petitioner’s two schools expended nearly \$70,700 in employee merit awards for FY ’03, which money would otherwise have been refunded to the sending public school districts; petitioner failed to timely file a copy of its merit award plan with the Department, thereby allowing no opportunity to review and approve the payout; and respondent Department uncovered serious deficiencies in the design of the merit award plan after a copy was ultimately obtained. The ALJ concluded that the Department properly disallowed Cranford School’s tuition increase in excess of the 10% limit, and both schools’ employee merit awards, and determined that petitioner’s request for relief should be denied.

Upon thorough and independent review of the record, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter, and dismissed the petition.

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.

June 6, 2006

OAL DKT. NO. EDU 9024-04
AGENCY DKT. NO. 117-3/04

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner’s exceptions and the Department’s reply thereto, submitted in accordance with *N.J.A.C.* 1:1-18.4, were fully considered by the Commissioner in reaching her decision herein.

Petitioner’s exceptions essentially recast and reiterate its arguments advanced below. As it is determined that these were fully addressed and considered by the Administrative Law Judge (ALJ) in his decision, they will not be revisited here.

Upon a thorough and independent review of the record, which included transcripts of the hearing below,¹ the Commissioner is in agreement with the ALJ – for the reasons clearly detailed in the Initial Decision - that the Department properly disallowed Cranford School’s tuition increase in excess of the 10% limit, and the employee merit awards for both Cranford and Union Schools, from the computation of petitioner’s approved tuition rates for the 2002-03 fiscal year.

¹ Hearing was conducted on May 24, May 25, and July 29, 2005.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: June 6, 2006

Date of Mailing: June 7, 2006

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.*