

R.L., on behalf of minor children,	:	
C.L. AND K.L.,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
CITY OF CLIFTON, PASSAIC	:	
COUNTY,	:	
	:	
RESPONDENT.	:	
	:	

SYNOPSIS

Petitioning parent appealed Board's determination to bar his children's attendance under *N.J.S.A. 18A:38-1*, as well as the authority to conduct reregistration under that statute.

ALJ concluded that the action of the District in undertaking reregistration of students was consistent with the general powers granted a local board under *N.J.S.A. 18A:11-1*, as well as the law governing attendance at school free of charge; thus, the District has the authority to require reregistration. ALJ further concluded that since petitioner failed to sustain the burden of proof as required by statute, the Board's determination to bar the children was proper and the Board was entitled to reimbursement of tuition costs.

Matter was resolved as petitioner's wife provided the necessary proofs of domicile and the Board, therefore, determined not to remove petitioner's children and not to seek any tuition from petitioner. Commissioner, however, affirmed ALJ's determination that the Board had the authority to conduct a reregistration process.

April 27, 1998

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The record of this matter and the initial decision of the Office of Administrative Law have been reviewed. Petitioner's exceptions were untimely filed, in that the initial decision of the ALJ was mailed to the parties on March 12, 1998, and petitioner's exceptions were received by the Department on March 26, 1998, which is outside the 13-day submission period provided by regulation. (See *N.J.A.C.* 1:1-18.4 and Initial Decision at p. 6.) In its reply, the Board urges affirmance of the initial decision as to its authority to conduct a reregistration, but notes that, inasmuch as petitioner's wife provided, subsequent to the issuance of the initial decision, the necessary proofs of domicile in the District, it will not remove petitioner's children and will not seek any tuition from petitioner. (Board's Reply)

Upon careful and independent review of the record in this matter, and in light of the Board's recent notification that it no longer seeks removal of petitioner's children or

reimbursement for tuition, the Commissioner affirms the ALJ's conclusion that the Board's decision to conduct a reregistration process was not inconsistent with relevant law, but sets aside the recommended penalty determination.

Accordingly, the initial decision of the ALJ is affirmed with modification, as set forth above.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

April 27, 1998