

S.H., on behalf of minor child, S.B., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF WEST ORANGE, ESSEX COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner contested respondent's determination that her nephew, S.B., is ineligible to attend West Orange Township schools because she failed to demonstrate a family or economic hardship which would render the parent unable to support or provide care for the child, pursuant to *N.J.S.A.* 18A:38-1(b). Respondent sought tuition reimbursement for the alleged period of ineligible attendance. Petitioner failed to appear at hearing scheduled for October 16, 2006, and the OAL issued an Initial Decision affirming the Board's decision, and granting the application for tuition reimbursement; this Initial Decision was subsequently rejected by the Commissioner and the matter was remanded to the OAL for a hearing on the merits based on petitioner's exceptions, which stated that she failed to appear because she believed the hearing was scheduled for another day. On March 22, 2007, S.B. withdrew from respondent's schools after his arrest for an offense involving a controlled dangerous substance. A second hearing was conducted on April 13, 2007, at which the sole issue was whether S.H. is responsible for tuition reimbursement.

The ALJ found, *inter alia*, that: petitioner kept S.B. in her home, supporting him gratis, for a temporary period, but did not intend to keep and support him for longer than the school year; S.B.'s mother, C.K., failed to demonstrate that she is incapable of supporting or providing care for her son due to family or economic hardship; and concluded that S.B. was not entitled to a free education in West Orange Township schools. The ALJ granted the Board's application for tuition reimbursement for S.B.'s ineligible attendance.

Upon a full and independent review of this matter, the Commissioner adopted the Initial Decision as the final decision, and ordered petitioner to remit tuition in the amount of \$23,208.28 to the West Orange Board of Education for the period from September 2005 to March 22, 2007.

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 13, 2007

OAL DKT. NO. EDU 1869-07
(EDU 9150-06 ON REMAND)
AGENCY DKT. NO. 180-5/06

S.H., ON BEHALF OF MINOR CHILD, S.B., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE :
TOWNSHIP OF WEST ORANGE, : DECISION ON REMAND
ESSEX COUNTY, :
RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon review, the Commissioner concurs with the Administrative Law Judge that, during the period at issue, S.B. was ineligible to attend the schools of respondent's district under either *N.J.S.A. 18A:38-1(a)* or *N.J.S.A. 18A:38-1(b)*.¹

Accordingly, the Initial Decision of the OAL is adopted for the reasons expressed therein, and petitioner is hereby directed to remit the sum of \$23,208.28 to the West Orange Board of Education, representing tuition for S.B.'s attendance at West Orange High School from September 2005 to March 22, 2007.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: June 13, 2007

Date of Mailing: June 14, 2007

¹ The remaining provisions of *N.J.S.A. 18A:38-1* are inapplicable to S.B. and were not invoked by petitioner.

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.*