

| | | |
|---------------------------------------|---|---------------------------|
| L.C., on behalf of minor child, P.C., | : | |
| | : | |
| PETITIONER, | : | COMMISSIONER OF EDUCATION |
| V. | : | |
| | : | DECISION |
| BOARD OF EDUCATION OF THE | : | |
| TOWNSHIP OF MONTAGUE, SUSSEX | : | |
| COUNTY, | : | |
| | : | |
| RESPONDENT. | : | |
| _____ | : | |

SYNOPSIS

Petitioning parent sought reimbursement for tuition costs, setting forth numerous complaints and grievances against respondent school district in a letter to the Commissioner of Education. The letter was considered a petition of appeal, and the case was transmitted to the OAL for a hearing.

At the OAL, respondent moved to dismiss the petition for failure to state a claim upon which relief may be granted. Respondent also asserted several procedural deficiencies in the petition. The ALJ granted the motion to dismiss, holding that the petition did not meet the minimal standards regarding parties, allegations and relief; that all allegations concerning events prior to 90 days before November 1, 1999 were out-of-time; and that no allegations against P.C.'s teacher were properly before the Commissioner of Education.

Noting that he had construed this matter as a claim for reimbursement of the costs of providing a tutor for petitioner's daughter due to alleged failures on the part of the District, the Commissioner concluded petitioner failed to articulate and prove specific bases for her claim to be cognizable before him. Petition was dismissed.

L.C., on behalf of minor child, P.C., :
 :
 PETITIONER, :
 : COMMISSIONER OF EDUCATION
 V. :
 : DECISION
 BOARD OF EDUCATION OF THE :
 TOWNSHIP OF MONTAGUE, SUSSEX :
 COUNTY, :
 :
 RESPONDENT. :
 _____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon careful and independent review of the record in this matter, which the Commissioner construes as a claim by petitioner for reimbursement of costs associated with tutoring her daughter, P.C., due to alleged failures on the part of the District, the Commissioner concurs that petitioner has failed to articulate and prove specific bases for her claim cognizable before him pursuant to *N.J.S.A. 18A:6-9*.¹

¹ The Board asserts that petitioner “has consistently declined recommendations that P.C. be referred to the Child Study Team” and, “[b]ecause P.C. has not been classified as a handicapped student, she is entitled only to those school programs that are available to non-handicapped students.” (Board’s Brief in Support of Motion to Dismiss at 5) The Commissioner notes, however, that a Board may take action pursuant to *N.J.A.C. 6A:14-2.7* when there is a disagreement with a parent about whether a student should be evaluated by the Child Study Team. Further, even where a Board concurs that a student is not eligible for special education, the Board may be obliged to provide support services pursuant to Section 504 of the Rehabilitation Act of 1973, if the student is nonetheless determined to have a disability that substantially limits his/her learning.

Accordingly, for this reason, as well as those set forth by the ALJ, this matter is hereby dismissed.²

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: August 14, 2000

Date of Mailing: August 14, 2000

²The Commissioner notes that, although petitioner's letter dated November 9, 1999 was not verified, she *did* submit a separate, notarized verification, also dated November 9, 1999. In light of her *pro se* status, these papers were deemed to satisfy applicable filing requirements. (*See N.J.A.C. 6:11-1.15*, now *N.J.A.C. 6A:3-1.16*.)

³ This decision, as the Commissioner's final determination, 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.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.