

#94-05 (No OAL Decision)

C. DeV., on behalf of minor child, N. DeV., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF HAMILTON, MERCER COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner filed a Petition of Appeal, challenging the Board's residency determination that her daughter, N. DeV., was not eligible for a free education in the Hamilton School District.

After directing the Board to file an Answer to the petition by notices dated December 22, 2004 and January 19, 2005, the Commissioner deemed the Board's failure to Answer the petition to be a removal of its opposition to N. DeV.'s claim of entitlement to attend its schools. Therefore, the Commissioner granted a summary decision on behalf of the petitioner, and ordered that the petitioner's daughter is entitled, for as long as circumstances remain unchanged, to attend school free of charge in the Hamilton School District pursuant to *N.J.S.A.* 18A:38-1.

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.

March 16, 2005

C. DeV., on behalf of minor child, N. DeV., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF HAMILTON, MERCER COUNTY, :
RESPONDENT. :
_____ :

This matter having been opened before the Commissioner of Education by way of a Petition of Appeal, filed on December 21, 2004, claiming that petitioner and her daughter are domiciled in the Township of Hamilton so as to entitle the child to attend school in the Hamilton School District free of charge pursuant to *N.J.S.A.* 18A:38-1, and seeking an Order requiring the Board of Education of the Township of Hamilton to admit petitioner's child to the District's schools; and

The Commissioner having directed the Board by notices dated December 22, 2004, via facsimile and regular mail, and January 19, 2005, via certified and regular mail, to file an Answer to the petition; and

K. Loffrodo having acknowledged receipt of service of the January 19, 2005 notice by signing the certified delivery receipt on behalf of the Board; and

As of this date, neither the Board nor any attorney on its behalf has filed an Answer to the petition and, therefore, each count of the petition is deemed to be admitted; and

The Board's failure to Answer the petition is deemed to be a removal of its opposition to N. DeV.'s claim of entitlement to attend its schools; now therefore

IT IS ORDERED on this ____ day of March 2005 that summary decision shall be granted to petitioner. Petitioner's daughter, N. DeV. is deemed to be domiciled in the Hamilton Township School District and, therefore, for as long as circumstances remain unchanged, is entitled to attend school free of charge in that District pursuant to *N.J.S.A.* 18A:38-1.*

COMMISSIONER OF EDUCATION

Date of Decision: March 16, 2005

Date of Mailing: March 16, 2005

* 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.*