

D.B. on behalf of minor child, A.P.G.-B., :
PETITIONER :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF WEST ORANGE,
ESSEX COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed a residency appeal on behalf of her daughter, A.P.G.-B., who was enrolled as a high school student in the West Orange School District for the 2006-07 school year. The respondent sought reimbursement of tuition for the period of A.P.G.-B.'s alleged ineligible attendance. Petitioner failed to appear for a hearing on January 16, 2008; ex parte proofs were presented by the respondent at the hearing.

The ALJ found that: petitioner failed to prosecute her appeal, leaving no basis to consider overturning the residency determination of the respondent Board; respondent's proofs as to ineligibility and tuition rate were convincing and satisfy its burden of proof for the counterclaim. The ALJ concluded that petitioner must pay the respondent tuition in the amount of \$ 13,952 for the period of ineligible attendance.

The Commissioner concurred with the ALJ, adopted the Initial Decision as the final decision in this matter, ordered petitioner to compensate the Board for tuition owed, 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.

March 19, 2008

OAL DKT. NO. EDU 11300-07
AGENCY DKT. NO. 126-5/07

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The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), memorializing the petitioner's failure to appear at the OAL hearing, and a copy of the notification sent to the parties by the OAL on October 30, 2007 informing them that the hearing in this matter would be held on January 16, 2008, have been reviewed. Because respondent had filed a counterclaim for tuition, the Administrative Law Judge (ALJ) took *ex parte* proofs concerning the amount of tuition chargeable to petitioner, which proofs are set forth in exhibits R-1 and R-2 and have been reviewed by the Commissioner.

The Commissioner notes that in the Initial Decision the ALJ advised that, pursuant to *N.J.A.C.* 1:1-14.4(a), he held the matter for one day after the hearing to give petitioner the opportunity to offer an explanation for her nonappearance. There being no explanation filed, the ALJ rendered his recommended decision on February 1, 2008, and directed that the matter be returned to the Commissioner.

The Commissioner now adopts the Initial Decision for the reasons set forth therein. Accordingly, the petition is dismissed and petitioner is ordered to pay respondent \$13,952, representing A.P.G.-B.'s tuition for the 2006-2007 school year.

IT IS SO ORDERED. ¹

COMMISSIONER OF EDUCATION

Date of Decision: March 19, 2008

Date of Mailing: March 19, 2008

¹ This decision, as the Commissioner's final determination in the instant matter, 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.*