

#364-08

BOARD OF EDUCATION OF THE :
TOWNSHIP OF HAMILTON, :
MERCER COUNTY, : COMMISSIONER OF EDUCATION

PETITIONER, : DECISION

V. :

S.K. AND R.C., :

RESPONDENTS. :

SYNOPSIS

Petitioning Board filed a complaint seeking reimbursement from respondents, S.K. and R.C., of the costs of tuition pertinent to the period of ineligible attendance of R.C.'s children, J.B. and Z.B., during the 2007-08 school year. Respondents failed to appeal the Board's residency decision, and failed to answer the petition seeking payment of tuition.

The Commissioner directed respondents to submit an answer to the petition pursuant to *N.J.A.C. 6A:3-1.5*, and informed respondents that if no answer was submitted, each count of the petition would be deemed admitted and the matter could then be decided on a summary basis. As no answer was subsequently submitted, the Commissioner granted summary decision in favor of the Board, and ordered respondents – jointly, severally or in the alternative – to remit to the Board tuition in the amount of \$38,252.24.

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.

September 5, 2008

AGENCY DKT. NO. 157-6/08

BOARD OF EDUCATION OF THE :
TOWNSHIP OF HAMILTON, :
MERCER COUNTY, : COMMISSIONER OF EDUCATION

PETITIONER, : DECISION

V. :

S.K. AND R.C., :

RESPONDENTS. :

For Petitioner, Dennis M. DeSantis, Esq. (Destribats, Campbell, DeSantis,
Magee & Staub)

No appearance by or on behalf of Respondents

This matter came before the Commissioner of Education by way of a verified petition of appeal filed on June 3, 2008 by the Hamilton Township Board of Education (Board), seeking an order directing respondents to pay the Board \$38,252.24 in tuition it has assessed for the 2007-08 school year based on respondent R.C. having falsely represented to the Board that she was residing in the Board's district and respondent S.K. having falsely represented that R.C. and her child, J.B., were living in his home in the district, causing the Board to have assumed responsibility for the education of J.B. and R.C.'s other child, Z.B., who was attending school in an out-of-district placement due to special needs.¹

By notice dated June 3, 2008, the Bureau of Controversies and Disputes (the Bureau) directed respondents, via regular mail, to file an answer to the petition; on June 24, 2008, the

¹ \$6,649.20 of this amount is attributable to J.B., and \$31,603.20 to Z.B. Respondent R.C. was presented with notice of her children's ineligibility on January 18, 2008; a Board hearing was held on March 6, 2008, and on March 17, 2008 the Board resolved to disenroll the students. Demands for back tuition were sent to R.C. on March 19, 2008 and to S.K. on April 9, 2008.

Bureau so directed respondents for a second time, via both regular and certified mail. The certified notice sent to S.K. was confirmed as delivered on the United States Postal Service's tracking system, while the notice to R.C. was returned as refused; the notices sent by regular mail were not returned. The first communication from the Bureau clearly provided respondents with notice that, pursuant to *N.J.A.C. 6A:3-1.5*, an individual against whom a petition is filed shall have 20 days from receipt of the petition to file an answer; the second notice advised that if respondents did not file an answer within ten days of the notice's receipt, each count of the petition would be deemed admitted and the Commissioner might decide the matter on a summary basis.

Notwithstanding the above, neither respondent nor any attorney(s) purporting to represent them individually or jointly has filed an answer to the Board's allegations, which the Board's Director of Secondary Education has certified to be true – including the fact that \$38,252.24 is the amount of tuition due for the time R.C.'s children were improperly enrolled in the Board's district. The Commissioner, therefore, concludes that the Board's allegations – which respondents have chosen not to deny – may be deemed admitted pursuant to *N.J.A.C. 6A:3-1.5(e)*, and are sufficient to justify an order directing respondents to pay the tuition assessed.

Accordingly, it is ORDERED that summary decision shall be granted to the Board, and that respondents shall – jointly, severally or in the alternative – remit to the Board tuition in the amount of \$38,252.24 for the period of time in which R.C.'s children were enrolled in the district notwithstanding their ineligibility for a free education therein.²

COMMISSIONER OF EDUCATION

Date of Decision: September 10, 2008
Date of Mailing: September 10, 2008

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.