

#86-10 (OAL Decision: Not available online)

D.B., ON BEHALF OF MINOR CHILD,	:	
D.M., JR.,	:	
	:	
PETITIONERS,	:	COMMISSIONER OF EDUCATION
	:	
V.	:	DECISION
	:	
BOARD OF EDUCATION OF THE	:	
TOWNSHIP OF ALLOWAY,	:	
SALEM COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

Petitioner submitted that – through a court order – she shares joint custody of minor child D.M. with his natural parents, and filed a *pro se* residency appeal on his behalf challenging the Board’s determination that D.M. is not entitled to a free public education in Alloway Township schools. Petitioner failed to appear for telephone pre-hearing conferences on October 14 and December 10, 2009, and provided no explanation for her nonappearance. The respondent subsequently moved to dismiss the case.

The ALJ found that petitioner failed to appear for the pre-trial conference and failed to respond to the motion to dismiss, despite receiving sufficient notice of both. Accordingly, the ALJ dismissed the petition.

The Commissioner adopted the Initial Decision as the final decision in this matter, noting that respondent Board’s counsel certified that during a December 10, 2009 telephone conference, D.M.’s mother represented that D.M. no longer resided with petitioner and had ceased attending Woodstown High School as a sending student from Alloway Township.

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.
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March 22, 2010

OAL DKT. NO. EDU 10068-09  
AGENCY DKT. NO. 190-8/09

D.B., ON BEHALF OF MINOR CHILD, :  
D.M., JR., :  
 :  
 PETITIONERS, : COMMISSIONER OF EDUCATION  
V. :  
 : DECISION  
BOARD OF EDUCATION OF THE :  
TOWNSHIP OF ALLOWAY, :  
SALEM 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 dismissal of this matter is appropriate in light of petitioner's evident abandonment of her appeal. Additionally, the Commissioner notes Board counsel's uncontested certification that, during a December 10, 2009 telephone conference, D.M.'s mother represented that D.M. no longer resided with petitioner and had ceased attending Woodstown High School as a sending student from Alloway Township. (Motion to Dismiss, Affidavit of Counsel at 2)

Accordingly, this matter is no longer deemed to be a contested case before the Commissioner and is hereby dismissed with prejudice.<sup>1</sup>

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: March 22, 2010

Date of Mailing: March 22, 2010

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<sup>1</sup> The Board's separate petition against D.B. and the parents of D.M., seeking tuition for the period of D.M.'s ineligible enrollment in the district, was not consolidated with the instant matter and is proceeding separately at the OAL as Docket No. EDU 10465-2009S.

<sup>2</sup> Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Appellate Division of the Superior Court.