

M.S., on behalf of minor child, D.G.,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
TOWNSHIP OF BELLEVILLE,	:	
ESSEX COUNTY,	:	
	:	
RESPONDENT.	:	
	:	
_____	:	

SYNOPSIS

Petitioning parent challenged Board’s residency determination concerning her daughter, D.G.

In light of petitioner’s nonappearance at hearing and failure to present proofs, the ALJ found that petitioner failed to carry the burden of proof in regard to the residency determination. ALJ concluded that petition should be dismissed and D.G. should be removed from Belleville’s public schools. ALJ further assessed tuition at the rate of \$46.84 per day for the period of D.G’s ineligible attendance at Belleville High School during the 1997-98 school year.

Commissioner adopted findings and determination in initial decision as his own and ordered petitioner to compensate the Board for the period of ineligible attendance.

JULY 22, 1998

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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 his careful and independent review of the record, the Commissioner concurs with the Administrative Law Judge (ALJ) that, as petitioner did not appear for the hearing in this matter nor provide any proofs of minor child D.G.'s entitlement to a free public education in the Township of Belleville, petitioner has failed to sustain her burden of proof, pursuant to *N.J.S.A. 18A:38-1b(2)*, in this residency matter. As such, the within Petition of Appeal must be dismissed and D.G. must be immediately removed from Belleville High School. The Commissioner further agrees with the ALJ's determination that the Board's counterclaim for tuition, at a rate of \$46.84 per diem, for the period of M.S.'s ineligible attendance at its school during the 1997-98 school year must be granted.

Accordingly, the initial decision of the OAL is affirmed. The within Petition of Appeal is dismissed and petitioner is ordered to compensate the Board, at the rate of \$46.84 per school day, for the period of M.S.'s ineligible attendance at Belleville High School.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

JULY 22, 1998

* 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. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.