

T.G., ON BEHALF OF MINOR CHILDREN, :
T.S. AND T.S., :
 :
 PETITIONER, :
 : COMMISSIONER OF EDUCATION
 V. :
 : DECISION
 BOARD OF EDUCATION OF THE TOWNSHIP :
 OF HAMILTON, MERCER COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of her children in August 2015, seeking a determination that T.S. and T.S. were entitled to a free public education in Hamilton Township schools. Respondent Board contended that a residency investigation concluded that petitioner and her children are domiciled in the City of Trenton and, accordingly, counterclaimed for tuition. The matter was transmitted to the Office of Administrative Law (OAL) and scheduled for a hearing on January 4, 2016. Petitioner failed to appear on the scheduled date, and requested that the hearing be rescheduled. Petitioner again failed to appear on the rescheduled date of April 14, 2016, despite having received appropriate notice of the hearing, and offered no explanation for her absence.

The ALJ ordered the within petition dismissed for failure to appear and prosecute on the rescheduled hearing date of April 14, 2016, pursuant to *N.J.A.C. 6A:22-5.1* and *N.J.A.C. 6A:22-6.2*. Further, the ALJ assessed tuition against petitioner for the period of ineligible attendance of the two children, in the total amount of \$46,999 (rounded to the nearest dollar), and authorized the respondent school district to remove T.S. and T.S. in accordance with applicable law and the regulations of the New Jersey Department of Education.

Upon review, the Commissioner concurred with the ALJ findings and conclusions, and adopted the Initial Decision as the final decision in this matter. The petitioner was directed to reimburse the Board in the amount of \$46,998.62, plus \$73.13 for each day beyond April 14, 2016 that T.S. and T.S. remain enrolled in the District's schools.

<p>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.</p>

OAL DKT. NO. EDU 13582-15
AGENCY DKT. NO. 222-8/15

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.¹ The parties did not file exceptions.

Upon such review, the Commissioner concurs with the Administrative Law Judge's (ALJ) finding that because petitioner failed to appear at the April 14, 2016 OAL hearing without providing an explanation – after the court rescheduled the hearing following petitioner's previous failure to appear at the January 4, 2016 OAL hearing – the petition of appeal is dismissed with prejudice.

The Commissioner also agrees with the ALJ's assessment of tuition – pursuant to *N.J.S.A. 18A:38-1b* – against petitioner for the period of ineligible attendance by her minor children in Hamilton Township, in accordance with the Board's counterclaim seeking tuition. Therefore, the Board is entitled to tuition reimbursement in the amount of \$46,998.62² (\$13,238 plus \$73.13 per day for 137 days for the younger T.S. and \$13,723 plus \$73.13 per day for 137

¹ The Commissioner was not provided with a transcript of the April 14, 2016 hearing at the OAL.

² The ALJ found that the petitioner owed the Board \$46,999 by rounding the calculation to the nearest dollar. The Commissioner has calculated the exact amount owed.

days for the older T.S.) for the entire 2014-2015 school year and from the start of the 2015-2016 school year through April 14, 2016 – plus \$73.13 per child for each day beyond April 14, 2016 that the minor children remain in Hamilton Township’s schools.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed. Petitioner is directed to reimburse the Board in the amount of \$46,998.62 – plus \$73.13 for each day beyond April 14, 2016 that T.S. and T.S. remain enrolled in the District’s schools – for tuition costs incurred during the time period that the minor children were ineligible to attend school in Hamilton Township.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: June 10, 2016

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³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).