

#466-11

E.I., on behalf of minor child, R.C., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
: DECISION
BOARD OF EDUCATION OF THE CITY :
OF BAYONNE, HUDSON COUNTY :
RESPONDENT. :

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of her grandchild in September 2010, stating that R.C. lived with her in Bayonne rather than in Jersey City with her mother. The respondent filed an answer and counterclaim for tuition. Petitioner received appropriate notice of a hearing scheduled for October 4, 2011, but failed to appear and provided no explanation for her nonappearance. However, the record includes a letter from the respondent Board, dated December 13, 2010, advising that the petitioner had obtained custody of R.C. and therefore the Board's objections to R.C.'s attendance in Bayonne schools were withdrawn, together with the counterclaim for tuition.

Accordingly, the Commissioner deemed that this matter is no longer a contested case before him, and dismissed the petition with prejudice.

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.

November 1, 2011

OAL DKT. NO. EDU 11370-10
AGENCY DKT. NO. 541-9/10

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: DECISION
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OF BAYONNE, HUDSON COUNTY :

RESPONDENT. :

The record of this matter – transmitted to the Commissioner by the Office of Administrative Law (OAL) pursuant to *N.J.A.C. 1:1-14.4* and including an advisement of petitioner’s failure to appear at the scheduled October 4, 2011 OAL hearing – has been reviewed. Petitioner filed no explanation for her failure to appear, notwithstanding the opportunity to do so. However, the Commissioner notes the Board’s letter of December 13, 2010, advising the administrative law judge prior to the scheduled prehearing conference on December 20, 2010 that the Petitioner had obtained custody of the minor child and, accordingly, the Board no longer objected to the student’s attendance. This letter also withdrew the Board’s counterclaim and asked the Petitioner to send a written withdrawal of the petition to the judge. This letter should have obviated the need for scheduling another prehearing and a plenary hearing ten months later.

In view of the foregoing, this matter is no longer deemed to be a contested case before the Commissioner and is hereby dismissed with prejudice.*

IT IS SO ORDERED.

ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 1, 2011
Date of Mailing: November 1, 2011

* 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)*.