

F.L., on behalf of minor child, R.L., :  
 PETITIONER, :  
 V. : COMMISSIONER OF EDUCATION  
 BOARD OF EDUCATION OF THE TOWNSHIP : DECISION  
 OF WEST ORANGE, ESSEX COUNTY, :  
 RESPONDENT. :  
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SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of his son on May 7, 2013. The respondent Board filed a counterclaim for payment of tuition for R.L.’s 178 days of ineligible attendance at West Orange High School. A hearing at the Office of Administrative Law (OAL) was held on August 21, 2013, but petitioner failed to appear despite having received appropriate notice and provided no explanation for his nonappearance. An *ex parte* hearing was held during which the Board presented testimony of the district’s residency officer regarding R.L.’s ineligible attendance and the amount of tuition due.

The ALJ found that: petitioner failed to appear and prosecute his appeal of the Board’s residency determination; the undisputed evidence established that F.L. and R.L. were not domiciled in West Orange; accordingly, the Board properly determined that R.L. should be removed from the district under New Jersey regulations; pursuant to *N.J.S.A. 18A:38-1(b)(2)*, a board of education is entitled to recover tuition for periods of ineligible attendance in its schools; and the Board presented testimony demonstrating that it is entitled to tuition reimbursement of \$24,040.68 for a period of 178 days during the 2012-2013 school year. The ALJ concluded that F.L. should be assessed \$24,040.68 for the period of R.L.’s ineligible attendance, ordered the petition dismissed, and granted the Board’s counterclaim for tuition.

The Commissioner fully concurred with the ALJ’s findings and conclusions, and accordingly adopted the Initial Decision of the OAL as the final decision in this matter. The petitioner was directed to pay the respondent Board tuition in the amount of \$24,040.68 for the period of R.L.’s ineligible attendance in West Orange schools.

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.

OAL DKT. NO. EDU 09292-13  
AGENCY DKT. NO. 107-5/13

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The Administrative Law Judge’s (ALJ) recommended decision in this matter dismissed petitioner’s residency appeal as a consequence of his failure to appear at the hearing scheduled for this matter, without providing any explanation for the non-appearance. The ALJ further concluded that petitioner should be assessed tuition costs in the amount of \$24,040.68. The parties did not file exceptions to the Initial Decision.

At the request of respondent, and in accordance with *N.J.A.C. 1:1-14.4(d)*, an ex parte hearing was held during which the Board presented the testimony of Gerard Drappi, the district’s residency officer, in regard to the tuition due the Board for R.L.’s ineligible attendance in its schools. Based upon Mr. Drappi’s undisputed testimony, the ALJ found that the school district’s total annual per pupil cost for the 2012-2013 school year was \$24,716.00. The ALJ further found that R.L. attended West Orange High School for a total of 178 days during the 2012-2013 school year. Accordingly, petitioner was ordered to pay the Board tuition of \$24,040.68, representing the cost of 178 days of ineligible attendance.

The Commissioner fully concurs with the ALJ's determination and recommendation that petitioner's failure to prosecute this matter necessitates its dismissal and the award of tuition to the Board. Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter and petitioner is hereby directed to pay the Board \$24,040.68 in tuition for his child's ineligible attendance at West Orange High School during the 2012-2013 school year.

IT IS SO ORDERED.<sup>1</sup>

COMMISSIONER OF EDUCATION

Date of Decision: November 18, 2013

Date of Mailing: November 19, 2013

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<sup>1</sup> 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*).