

C.F., on behalf of minor child, A.F., :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
BOARD OF EDUCATION OF THE :
BOROUGH OF SPRING LAKE, :
MONMOUTH COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner appealed the determination of the respondent Board that her child, A.F., be removed from Spring Lake schools because she had moved to an address in Spring Lake Heights, which is not in the school district. Petitioner had acknowledged at a residency hearing in February 2012 that she was living in Spring Lake Heights, but contended that she did not realize that her address was not within the Spring Lakes school district. The Board filed a counterclaim seeking reimbursement for tuition for the 2011-2012 school year, as well as reimbursement for the cost of A.F.'s special education component. The matter was scheduled for hearing in April 2013, but petitioner failed to appear, claiming late receipt of the hearing notice. A new hearing date was set for July 2013, but petitioner again failed to appear. Counsel for the respondent Board did appear, presented proofs regarding the counterclaim for tuition and special education costs, and moved for dismissal.

The ALJ found, *inter alia*, that: the petitioner did not attend the hearing, but acknowledged in her own appeal letter that A.F. was not domiciled in the district at the time of the residency hearing; the Board provided proof of the district's 2011-2012 per pupil costs, in the amount of \$16,471 for the year; the Board's proofs regarding the purported cost of A.F.'s special education component – \$5,417.87 – failed to establish the accuracy or authenticity of this amount; A.F. became ineligible to attend school in the district on October 1, 2011 – the date upon which the lease commenced on the property in Spring Lake Heights; and, accordingly, A.F. attended school in the district for 162 days in the 2011-2012 school year while domiciled outside of the district. The ALJ concluded that the district is entitled to reimbursement in the amount of \$14,824.62 for 162 days of tuition at a cost of \$91.51 per day, and dismissed the appeal.

Upon a full and independent review, the Commissioner concurred with the ALJ's findings, and adopted the Initial Decision of the OAL as the final decision in this case. The petitioner was ordered to pay tuition in the amount of \$14,824.62 for the period of A.F.'s ineligible attendance, and the petition was dismissed.

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 4845-12
AGENCY DKT. NO. 77-3/12

C.F., on behalf of minor child, A.F., :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
BOARD OF EDUCATION OF THE :
BOROUGH OF SPRING LAKE, :
MONMOUTH COUNTY, :
RESPONDENT. :

The question before the Commissioner in this controversy is whether petitioner's minor child was eligible, during the 2011-2012 school year, for a free public education in respondent's district. After independently considering the record and Initial Decision of the Office of Administrative Law, the Commissioner concurs with the finding of the Administrative Law Judge (ALJ) that – as of October 1, 2011 – A.F. was not eligible for same. The Commissioner further agrees with the ALJ's conclusion that the estimate offered by respondent's representative concerning costs for special services received by A.F. should not be included in the tuition charged to petitioner for A.F.'s education in Spring Lake.

Accordingly, the Initial Decision is adopted for the reasons set forth therein, the petition is dismissed, and petitioner is hereby liable to respondent for tuition in the amount of \$14,824.62.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: September 17, 2013
Date of Mailing: September 17, 2013

¹ This decision may be appealed to Superior Court, Appellate Division, pursuant to *P.L.* 2008, *c.* 36 (*N.J.S.A.* 18A:6-9.1).