

#51-05

OAL DKT. NO. EDU 8380-04
AGENCY DKT. NO. 310-9/04

L.G., on behalf of minor children, K.W., B.S. and T.W., :

PETITIONER, :

V. :

COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE TOWNSHIP
OF EWING, MERCER COUNTY, :

DECISION

RESPONDENT. :

_____ :

The record of this matter and advisement of petitioner's failure to appear transmitted to the Commissioner by the Office of Administrative Law (OAL) pursuant to *N.J.A.C.* 1:1-14.4, along with a copy of the notification sent to the parties by OAL on January 12, 2005, providing petitioner ten days to submit an explanation for such nonappearance, have been reviewed. There being no explanation filed by petitioner, the petition of appeal is hereby dismissed with prejudice due to petitioner's failure to appear at hearing or provide an explanation for her nonappearance.

Notwithstanding the dismissal of the petition, the Commissioner notes that the Board's Answer in this residency matter contained a counterclaim for tuition which was left unresolved by the Administrative Law Judge. In that the record before the Commissioner contains no affidavit of a responsible Board official attesting to the amount of tuition claimed by the Board as a consequence of the ineligible attendance of petitioner's children in its schools, this matter is hereby remanded to the OAL for supplementation of the record in this regard and an appropriate recommended order regarding the payment of tuition.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: February 2, 2005

Date of Mailing: February 2, 2005

* This decision 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.* 6A:2-1.1 *et seq.*