

C.M. on behalf of minor child, H.R.S.B., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
MORRIS HILLS REGIONAL SCHOOL :
DISTRICT, MORRIS COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed a residency appeal on behalf of his godchild, H.R.S.B., who has been enrolled as a ninth grader in the Morris Hills Regional School District for the 2007-08 school year. The respondent sought reimbursement of tuition for the period of H.R.S.B.'s alleged ineligible attendance. Petitioner failed to appear for the hearing held on February 6, 2008; *ex parte* proofs regarding the amount of tuition due were presented by the respondent.

The ALJ found that: petitioner failed to prosecute his appeal, leaving no basis to consider overturning the residency determination of the respondent Board; respondent's proofs as to tuition rate were convincing and satisfy its burden of proof for the counterclaim. The ALJ concluded that petitioner must pay the respondent tuition in the amount of \$3,314.44 for the period from November 30, 2007 through the date of the OAL hearing, plus \$80.84 per day for each day H.R.S.B. attends school in the district after February 6, 2008.

The Commissioner concurred with the ALJ, adopted the Initial Decision as the final decision in this matter, ordered petitioner to compensate the Board for tuition owed, and dismissed the petition.

<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>

April 10, 2008

OAL DKT. NO. EDU 12715-07
AGENCY DKT. NO. 356-11/07

C.M. on behalf of minor child, H.R.S.B., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
MORRIS HILLS REGIONAL SCHOOL :
DISTRICT, MORRIS COUNTY, :
RESPONDENT. :

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), memorializing the petitioner’s failure to appear at the OAL hearing, and a copy of the notification sent to the parties by the OAL on January 14, 2008, informing them that the hearing in this matter would be held on February 6, 2008, have been reviewed. It is noted that the OAL hearing notice was sent to the address petitioner entered on his petition.

Because respondent had filed a counter claim for tuition, the Administrative Law Judge (ALJ) took *ex parte* proofs concerning the amount of tuition chargeable to petitioner. The proofs were offered by means of the testimony of Manuel E. Deus – respondent’s business administrator and board secretary – and Exhibit R-1, the final notice of ineligibility sent to petitioner denying H.R.S.B. attendance in respondent’s schools. Deus’s testimony is referenced in the Initial Decision; Exhibit R-1 has been reviewed by the Commissioner.

The Commissioner notes that in the Initial Decision, issued 22 days after the hearing, the ALJ advised that the petitioner had offered no explanation for his nonappearance.

There being no explanation filed, the ALJ rendered his recommended decision on February 28, 2008, and directed that the matter be returned to the Commissioner.

The Commissioner now adopts the Initial Decision for the reasons set forth therein. Accordingly, the petition is dismissed and petitioner is ordered to pay respondent tuition as set forth by the ALJ.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: April 10, 2008

Date of Mailing: April 10, 2008

¹ This decision, as the Commissioner's final determination in the instant matter, 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:4-1.1 et seq.*