

S.M., ON BEHALF OF MINOR	:	
CHILDREN, S.M. AND Y.M.,	:	
	:	COMMISSIONER OF EDUCATION
PETITIONER,	:	
	:	DECISION
V.	:	
	:	
BOARD OF EDUCATION OF THE	:	
TOWNSHIP OF BLOOMFIELD,	:	
ESSEX COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

Petitioner filed a residency appeal on behalf of her children, who were enrolled as high school students in the Bloomfield School System in September 2007. The respondent sought reimbursement of tuition for the period of S.M. and Y.M.'s alleged ineligible attendance. Petitioner failed to appear at a November 2007 hearing, and respondent moved to dismiss the petition on the basis that petitioner failed to prosecute her case.

The ALJ found that: petitioner failed to prosecute her appeal, leaving no basis to consider overturning the residency determination of the respondent Board, and respondent's proofs as to ineligibility and 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 \$2,404.42 for the period of ineligible attendance.

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. The Commissioner noted that no findings were made with respect to the suggestion in the Initial Decision that petitioner may be homeless, and that the procedures of *N.J.A.C. 6A:17-2.1 et seq.* must be implemented if petitioner now claims to be so.

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.
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January 11, 2008

OAL DKT. NO. EDU 9962-07
AGENCY DKT. NO. 262-9/07

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon review, the Commissioner concurs that the petitioner – having failed to appear at hearing or file an explanation for such failure – has not demonstrated S.M. and Y.M.’s entitlement to attend the schools of the district pursuant to *N.J.S.A.* 18A:38-1, and that the Bloomfield Board of Education is entitled to collect tuition for the period of their ineligible attendance in the district.*

Accordingly, the Initial Decision of the OAL – directing disenrollment of S.M. and Y.M. from the Bloomfield schools and petitioner’s reimbursement to the Board of \$2,404.42 in tuition – is adopted as the final decision in this matter. In so holding, the Commissioner stresses that no findings are made herein with respect to any suggestion (Initial Decision at 4-5) that the petitioner may be homeless; however, if she now claims

* In the interest of clarity, the Commissioner notes – with respect to the ALJ’s statements in the Initial Decision at 5 – that the burden of proof in this matter rests with petitioner, notwithstanding the Board’s counterclaim for tuition.

to be such, the parties and the Essex County Superintendent of Schools – by copy of this decision – are reminded that the procedures of *N.J.A.C. 6A:17-2.1 et seq.* must be implemented forthwith.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: January 11, 2008

Date of Mailing: January 11, 2008

² 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:4-1.1 et seq.*