

B.S., on behalf of minor child, D.L.S., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF EWING, MERCER COUNTY :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of her granddaughter in September 2009. The respondent Board filed an answer and counterclaim for tuition. Petitioner participated in a telephone conference on the matter in October 2009, wherein a hearing date was set for January 4, 2010, and a notice of the hearing was subsequently sent to petitioner by the OAL. Petitioner failed, however, to appear at the January hearing and provided no explanation for her nonappearance.

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 tuition rate established entitlement to tuition reimbursement from petitioner in the amount of \$ 4,019.38. The ALJ concluded that D.L.S. was not entitled to a free public education in Ewing Township Schools, and ordered petitioner to pay respondent the tuition due for unauthorized attendance.

The Commissioner remanded the matter to the OAL in order for the ALJ to evaluate petitioner's reasons for not appearing at the scheduled hearing and for a determination as to whether rescheduling of the hearing is appropriate.

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.

February 25, 2010

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Subsequent to the issuance of the Administrative Law Judge’s decision on January 21, 2010, petitioner – by letter dated January 25, 2010 – filed exceptions to the Initial Decision with the OAL, which were in turn forwarded by that office to this Agency.

The Administrative Law Judge’s decision in this matter dismissed petitioner’s residency appeal as a consequence of her failure to appear at the hearing scheduled for this matter without providing any explanation for her non-appearance. As petitioner, therefore, failed to sustain her burden of establishing that D.L.S. was entitled to a free public education in the Ewing Township schools, the ALJ accepted the Board’s ex parte proofs as to the tuition due the Board as a result of D.L.S.’s ineligible attendance in its schools and she ordered petitioner to pay the Board tuition of \$4,019.38 for such attendance.

Exceptions submitted on behalf of petitioner – in pertinent part – stated:

I, Brenda Seigle am writing this letter on behalf of my mother (Barbara Seigle) who live’s (sic) at 2 Dorset Dr., with my father (John Seigle) and her grand-daughter [D.S.]. She received a letter on 1/23/10 regarding a hearing decision that she was never notified

to attend, she never received anything in the mail to tell her the date or location of the hearing....

Given petitioner's *pro se* status, the Commissioner is compelled to return this matter to the OAL in order for the ALJ to evaluate petitioner's reasons for not appearing at the scheduled hearing and her determination as to whether rescheduling of the hearing is appropriate.

Accordingly, this matter is hereby remanded to the OAL for further disposition as indicated herein.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 25, 2010

Date of Mailing: March 1, 2010

* 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).