

W.C., ON BEHALF OF MINOR CHILD, D.C.,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
CITY OF ELIZABETH, UNION COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of his son, D.C., seeking a determination that D.C. is entitled to a free public education in the Elizabeth School District. The respondent Board contended that a residency investigation had determined that petitioner resides outside of the City of Elizabeth.

The matter was transmitted to the Office of Administrative Law (OAL) and a hearing was scheduled for June 15, 2017. Petitioner failed to appear at the scheduled hearing. The OAL sent a notice of petitioner’s failure to appear to the Commissioner on June 16, 2017, and returned the file to this agency. Petitioner has provided no explanation for his failure to appear, despite having had the opportunity to do so.

Upon review of the record, it was determined that this matter is no longer a contested case before the Commissioner. However, the record of this residency matter contained a counterclaim for tuition which has not been resolved. Accordingly, the matter was remanded to the OAL for supplementation of the record and an appropriate recommended order with regard to the payment of tuition.

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.

August 7, 2017

OAL DKT. NO. EDU 04774-17  
AGENCY DKT. NO. 50-3/17

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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 copies of the notification sent to the parties by the OAL on June 21, 2017 – providing petitioner thirteen 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 his 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 child in its schools, this matter must be 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: August 7, 2017  
Date of Mailing: August 8, 2017

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\* 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).