

L.E.H., on behalf of minor child, Z.H., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
TOWNSHIP OF WEST ORANGE,  
ESSEX COUNTY, :  
RESPONDENT. :

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SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of her daughter, Z.H., a student in respondent's school district. The respondent Board contends that Z.H. is not eligible for a free public education in the district based on information showing that petitioner is not a resident of West Orange. The petitioner failed to appear for a scheduled hearing on May 15, 2009, and the Board presented proofs in support of its claim for tuition reimbursement. The ALJ issued an Initial Decision on May 19, 2009 granting the relief sought by the Board and directing the removal of Z.H. from the West Orange schools. Petitioner then submitted a letter asserting that she had not received notice of the hearing, had been forced to leave her residence in West Orange, and was homeless. In a decision dated July 1, 2009, the Commissioner remanded the matter to the OAL for further consideration in light of petitioner's assertions. Petitioner once again did not appear at a hearing scheduled for September 30, 2009, and has provided no explanation for her failure to appear.

The ALJ found that: the petitioner has twice failed to appear and prosecute her appeal of the Board's residency determination; the Board's determination that Z.H. was not domiciled in West Orange during much of the 2008-2009 school year should be upheld and the petition dismissed pursuant to *N.J.A.C. 1:1-14.4*; and the Board has demonstrated entitlement to tuition reimbursement in the amount of \$8,199.36. Accordingly, the ALJ ordered the petition dismissed with prejudice, and granted the Board's application for tuition reimbursement.

Upon independent review and consideration of the record, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter. Petitioner is directed to remit tuition in the amount of \$8,199.36 to the West Orange Board of Education for the period of Z.H.'s ineligible attendance in the district.

<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>
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OAL DKT. NO. 7571-09  
(EDU 3787-09 ON REMAND)  
AGENCY DKT. NO. 41-3/09

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 PETITIONER, :  
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 V. : COMMISSIONER OF EDUCATION  
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 BOARD OF EDUCATION OF THE TOWNSHIP : DECISION ON REMAND  
 OF WEST ORANGE, ESSEX COUNTY, :  
 :  
 RESPONDENT. :  
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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 fully concurs with the Administrative Law Judge (ALJ) that petitioner has failed to prosecute her claim despite being afforded every reasonable opportunity to do so, and that the Board has demonstrated its entitlement to tuition in the amount of \$8,199.36 for Z.H.'s attendance in the district from November 1, 2008 until her withdrawal in May 2009.<sup>1</sup>

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter for the reasons expressed therein. The petition is dismissed and petitioner is directed to remit tuition in the amount of \$8,199.36 to the West Orange Board of Education for the period of Z.H.'s ineligible attendance in the district.

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: November 10, 2009

Date of Mailing: November 12, 2009

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<sup>1</sup> See Initial Decision at 3, Note 1.

<sup>2</sup> Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Appellate Division of the Superior Court.