

M.C., on behalf of minor child, S.M., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
TOWNSHIP OF UNION, UNION COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

SYNOPSIS

Petitioner challenged the Board's determination that her daughter was not entitled to a free public education in its District. The Board denied that petitioner's daughter was entitled to a free education in its District and counterclaimed for tuition.

The ALJ determined, based on the testimony and evidence presented, that petitioner is not domiciled in Union Township, and that, although S.M. might be living in Union Township, she is not living there with a parent or guardian who is domiciled in the district. The ALJ rejected the testimony of both petitioner and A.B., a family friend who assists petitioner in caring for her children, that petitioner lives in Union Township with her daughter, and found credible the testimony of the Board's investigator that petitioner was not at her purported residence on the six days she visited and observed the residence. The ALJ determined that petitioner must reimburse the Board tuition.

The Commissioner affirmed the decision of the ALJ and ordered that petitioner reimburse the Board tuition for the period of ineligible attendance.

July 20, 2001

OAL DKT. NO. EDU 1822-01  
AGENCY DKT. NO. 5-1/01

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

Upon careful and independent review of the record in this matter, the Commissioner concurs with the Administrative Law Judge (ALJ) that petitioner has failed to meet her burden of proving by a preponderance of the credible evidence that she was a domiciliary of Union during the period from November 28, 2000 through the present time, so as to entitle her daughter, S.M. to attend the Board's schools free of charge during this time. In so finding, the Commissioner notes, as did the ALJ, the conflicting nature of the documents and testimony brought to the record with respect to petitioner's claim of domicile. The Commissioner likewise concurs with the ALJ, for the reasons detailed on page 8 of the Initial Decision, that the testimony of petitioner's supporting witness is incredible.

Accordingly, the Initial Decision of the OAL is affirmed for the reasons expressed therein. Petitioner is directed to reimburse the Board for the period of S.M.'s ineligible attendance in its schools, at the rate, as calculated by the Board, of \$740.90 a month.

IT IS SO ORDERED.\*

COMMISSIONER OF EDUCATION

Date of Decision: July 20, 2001

Date of Mailing: July 23, 2001

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\* This decision, as the Commissioner's final determination 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:2-1.1 et seq.* Commissioner decisions are deemed filed three days after the date of mailing to the parties.