

M.L.P. on behalf of minor child C.L.P., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF BLOOMFIELD,
ESSEX COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed a *Pro Se* Residency Appeal challenging the Board's residency determination that her child, C.L.P. is not eligible for a free education in the Bloomfield Public Schools. The Board contends that C.L.P. resides with her grandmother in East Orange.

The ALJ found that the petitioner M.L.P. did not appear for the hearing and did not provide any explanation for the nonappearance; therefore petitioner failed to carry the burden of proof that C.L.P. met the requirements to receive a free education within the respondent school district. The ALJ concluded that the petition should be dismissed, and the petitioner assessed tuition for the period of C.L.P.'s ineligible attendance in district schools.

Upon careful and independent review of the record, the Commissioner rejects the Initial Decision of the OAL for the following reasons: respondent does not challenge the fact that petitioner is domiciled in its district; it is well settled that the domicile of a minor child is determined by the domicile of the parent; and – by virtue of M.L.P.'s undisputed domicile in Bloomfield – her child had a right to a free public education in respondent's district. Accordingly, no tuition is due for C.L.P.'s attendance in Bloomfield schools during the 2005-2006 school year.

<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>

September 19, 2006

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Petitioner, M.L.P., a resident of Bloomfield, initiated this matter when respondent, Bloomfield Board of Education, acted to disenroll her daughter, C.L.P., from its school district. The record and Initial Decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were received.

The procedural history as described in the Initial Decision is adopted by the Commissioner.¹ In addition, the Commissioner accepts as undisputed the facts set forth in the Initial Decision, which facts were primarily provided by way of respondent's June 30, 2006 certification, and were unopposed by virtue of petitioner's failure to appear at the hearing and failure to respond to respondent's certification.

After careful consideration, the Commissioner rejects the Initial Decision and Order for the following reasons. Respondent does not challenge the fact that petitioner was

¹ The Commissioner notes, however, certain discrepancies in the record. First, while the official OAL hearing notice did set June 21, 2006 as the hearing date for this controversy, correspondence and certification dated June 30, 2006 from the respondent identified June 15, 2006 – presumably incorrectly – as the date that the hearing took place. In addition, in a July 13, 2006, letter from the OAL to the petitioner – in which petitioner was invited to make objections to respondent's tuition proofs – the Administrative Law Judge (ALJ) stated that a hearing notice had been sent to the parties on March 15, 2006. In actuality, the official OAL notice appears to have been disseminated on March 20, 2006.

domiciled in its district; it contends that C.L.P. stayed with her grandmother in East Orange during the school week, and therefore failed to meet the domicile requirement that would entitle her to a free public education in Bloomfield. However, it is well settled that a minor child does not establish his or her own domicile. Rather, the domicile of the child is determined by the domicile of the parent. Although it appears that C.L.P. spent a great deal of time at her grandmother's residence, she nonetheless had a right to a free public education in respondent's district by virtue of the fact that her mother, the petitioner, was domiciled in that district. *See, e.g. J.M. on behalf of minor child S.C. v. Board of Education of the Township of West Orange, Essex County*, OAL Dkt. No. EDU1061-00, Agency Dkt. No. 347-11/99, decided May 24, 2001.

Notwithstanding petitioner's failure to appear at the hearing, the facts that respondent offered established petitioner's domicile in Bloomfield, and there was nothing in the record to cast doubt on petitioner's legal custody of C.L.P. Therefore, C.L.P. must be deemed to have been domiciled in Bloomfield during the 2005-2006 school year and entitled to a free public education there. Accordingly, no tuition is due respondent.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 19, 2006

Date of Mailing: September 20, 2006

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.*