

M.L., on behalf of minor children, S.L. and S.L., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF WEST ORANGE, ESSEX COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner contested respondent Board's determination that her children, S.L. and S.L., were ineligible to attend West Orange Township schools. Petitioner asserted that the children spent the night in Irvington on nights when their father – from whom petitioner was separated – helped them with homework. Respondent alleged that S.L. and S.L. were domiciled in Irvington, and sought tuition reimbursement for the period of their ineligible attendance.

The ALJ found, *inter alia*, that: both children were domiciled in Irvington during the time they attended school for fifty-six days in West Orange; petitioner only intended to reside temporarily in West Orange until her family unit was reunited; and petitioner failed to demonstrate that her children were entitled to a free public education in the District's schools. Accordingly, the ALJ granted the Board's application for tuition reimbursement in the amount of \$6,621.44 for S.L. and S.L.'s ineligible attendance.

Upon a full and independent review of this matter, the Commissioner adopted the Initial Decision as the final decision, and ordered petitioner to remit tuition to the West Orange Board of Education for the period from October 6, 2005 to January 10, 2006.

<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>

June 19, 2007

OAL DKT. NO. EDU 1122-06
AGENCY DKT. NO. 314-11/05

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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.

Upon independent and careful review of the record in this matter, and according due deference to the Administrative Law Judge's (ALJ) credibility determinations,¹ the Commissioner agrees with the ALJ's conclusion that M.L. and her children, S.L. and S.L., were not domiciliaries of West Orange and, thus, the children were not entitled to a free public education in that District.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter for the reasons set forth therein. Petitioner is directed to pay the Board \$6,621.44 for her children's ineligible attendance in its schools during the period October 6, 2005 to January 10, 2006 and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: June 19, 2007

Date of Mailing: June 19, 2007

¹ The Commissioner "may not reject or modify any findings of fact as to issues of credibility of lay witness testimony unless it is first determined from a review of the record that the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent and credible evidence in the record." *N.J.S.A.* 52:14B-10(c). The record before the Commissioner provides no cause for modification or rejection in this regard.

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.*