

#378-08 (OAL Decision: Not yet available on-line.)

M.J.-M., on behalf of minor children E.A.M., Jr. :
AND E.M. :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE :
BOROUGH OF RIDGEFIELD, BERGEN COUNTY, :

RESPONDENT. :

AND : COMMISSIONER OF EDUCATION

N.J., on behalf of minor child, S.T., :

DECISION

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE BOROUGH OF :
RIDGEFIELD, BERGEN COUNTY, :

RESPONDENT. :

SYNOPSIS

Petitioners, who are sisters with children attending school in respondent Board’s district, contested the determination that their children were not domiciled in Ridgefield, and therefore were not eligible to attend the district’s schools. Petitioners asserted that they and their children all live at a common address on Prospect Street, Ridgefield, which is owned and also occupied by another sister and her husband. The Board contends that M.J.-M and her sons are actually domiciled in Palisades Park, and that N.J. and her daughter are domiciled in Lodi; the Board counterclaimed for tuition.

The ALJ found the results of the respondent Board’s surveillance of petitioners and their children to be credible. She further found that the petitioners are not credible in that they did not offer convincing documentary evidence of their residency, nor did they produce the obvious witnesses who should have been called if their truthful testimony would have been favorable to the petitioners. The ALJ concluded that the petitioners did not meet their burden of proof, and because they carried the burden of proof of residency from the start of the school year and not just from the commencement of the investigation, the Board is entitled to reimbursement of tuition for the entire school year for each of the three children in question.

Upon a full and independent review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter; ordered petitioner M.J.-M to reimburse the Board for tuition in the of \$15,392; ordered petitioner N.J. to reimburse the Board for tuition in the amount of \$7,128; and dismissed the consolidated petition of appeal.

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.

September 15, 2008

OAL DKT. NOS. EDU 5660-08 AND EDU 5661-08
AGENCY DKT. NOS. 90-3/08 AND 91-3/08
(CONSOLIDATED)

M.J.-M., on behalf of minor children E.A.M., Jr. :
AND E.M. :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE :
BOROUGH OF RIDGEFIELD , :
BERGEN COUNTY, :

RESPONDENT. :

AND :

COMMISSIONER OF EDUCATION

N.J., on behalf of minor child, S.T., :

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BOROUGH OF RIDGEFIELD, :
BERGEN COUNTY, :

RESPONDENT. :

_____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon her full and independent consideration of this matter – and according due deference to the Administrative Law Judge’s (ALJ) credibility determinations¹ – the Commissioner concurs with the ALJ that both M.J.-M. and N.J. have failed to sustain their burden of establishing, by a preponderance

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)*. It is noted that the instant record provides no cause whatsoever to question the ALJ’s determinations in this regard.

of the credible evidence, that they were domiciled in Ridgefield during the 2007-08 school year so as to entitle M.J.-M.'s minor children, E.A.M., Jr. and E.M. and N.J.'s child, S.T. to a free public education in that District.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter for the reasons presented therein and this consolidated petition of appeal is hereby dismissed. Petitioner M.J.-M is hereby directed to reimburse the Board for tuition in the amount of \$15,392 and petitioner N.J. is hereby directed to reimburse the Board for tuition in the amount of \$7,128 for the period of their children's ineligible attendance in the District's schools.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: September 15, 2008

Date of Mailing: September 15, 2008

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.