

#15-12 (OAL Decision: Not yet available online)

H.T. on behalf of minor child T.A.,	:	
	:	
PETITIONER,	:	COMMISSIONER OF EDUCATION
	:	
V.	:	DECISION
	:	
BOARD OF EDUCATION OF THE	:	
CITY OF ORANGE, ESSEX COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

Petitioner appealed the April 2011 determination of the respondent Board that her daughter, T.A., was not eligible for a free public education in the City of Orange school district. Petitioner claimed that when she moved from her mother’s apartment in Orange in June 2009, T.A. remained living with her grandmother, C.T., for financial reasons. The respondent Board requested dismissal of the petition, but did not file a counterclaim for tuition.

The ALJ found that: the testimony of H.T. and her mother, C.T., was candid and credible; there is no real dispute as to the underlying facts of the matter; although C.T. is undisputedly domiciled within the Orange school district and intends to support T.A. for a longer time than through the school term, T.A. does not meet all of the requirements for enrollment as an affidavit student pursuant to *N.J.S.A. 18A:38-1(b)* because there is no documented family or economic hardship that makes it necessary for her to attend school in Orange as opposed to East Orange, where petitioner is now domiciled. The ALJ concluded that H.T. and C.T. do not satisfy all of the requirements for T.A. to receive a free public education in respondent’s school district, and accordingly dismissed the petition.

Upon a full and independent review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter. In so doing, the Commissioner noted that C.T. should have filed the petition as she is the party who is domiciled in the City of Orange. In this case, however, the identity of the petitioner does not change the outcome recommended by the ALJ. Accordingly, the Commissioner ordered that T.A. be disenrolled from the respondent’s school district.

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.

January 17, 2012

OAL DKT. NO. EDU 7916-11
AGENCY DKT. NO. 114-5/11

H.T. on behalf of minor child T.A., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE :
CITY OF ORANGE, ESSEX COUNTY, :
RESPONDENT. :
_____ :

DECISION

The controversy in this case arose after H.T., the mother of T.A., moved out of respondent's district – where she and her children had been living with her mother, C.T. – and left T.A. behind to continue residing with C.T. In April of 2011, after learning of petitioner's move, respondent notified petitioner that T.A. was ineligible to receive a free public education in Orange. On May 11, 2011 petitioner filed an appeal challenging this determination.¹

The Commissioner has reviewed the record and Initial Decision of the Office of Administrative Law (OAL).² Upon consideration of same, the Commissioner adopts the Initial Decision for the reasons articulated therein. Accordingly, T.A. is hereby disenrolled from respondent's school district and no back tuition is awarded – none having been demanded by way of counterclaim.

IT IS SO ORDERED.³

ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 17, 2012
Date of Mailing: January 18, 2012

¹ Because it is C.T. who resides in respondent's district, it is C.T. who should have filed the petition. *See N.J.A.C. 6A:3-8.1(b)*. In this case, however, the identity of the petitioner does not affect the outcome recommended by the Administrative Law Judge (ALJ). More specifically, the ALJ recommends that the disenrollment of T.A. from respondent's school district be upheld. Further, since no counterclaim for back tuition was filed, neither H.T. nor C.T. will be liable for same.

² No exceptions were filed.

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*. (*N.J.S.A. 18A:6-9.1*)