

#89-12 (OAL Decision: Not yet available online)

J.A.E., on behalf of minor child, K.H., :
 PETITIONER, :
 V. : COMMISSIONER OF EDUCATION
 BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
 OF WEST ORANGE, ESSEX COUNTY, :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioner appealed the determination of the respondent Board that her daughter, K.H., is not eligible for a free public education in the West Orange school district during the 2011-2012 school year. Petitioner contended that she and her daughter are domiciled in West Orange and produced documentation including a driver’s license and a PSE&G bill which both bore a West Orange address. The Board asserted that petitioner was not domiciled in West Orange, but failed to produce documentation that petitioner was living anywhere else.

The ALJ found that: based on the testimony and documentation, petitioner and her daughter live in an apartment in West Orange with petitioner’s spouse, W.S.; the lease for the apartment is in W.S.’s name; no evidence was presented to show that J.A.E., K.H., or W.S. reside or have resided elsewhere during the 2011-2012 school year; and J.A.E. and W.S. presented credible testimony in this matter. Accordingly, the ALJ concluded that the petitioner has met her burden of proof that she, her spouse and her daughter reside in West Orange and therefore K.H. is entitled to a free public education in West Orange schools. Further, the ALJ concluded that there are no grounds for a counterclaim for reimbursement of tuition. The ALJ ordered respondent to re-enroll K.H. in its schools.

Upon a full and independent review, the Commissioner concurred with the findings and conclusion of the ALJ. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this case.

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.

March 12, 2012

OAL DKT. NO. EDU 13716-11
AGENCY DKT. NO. 290-9/11

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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 did not file exceptions to the Initial Decision.

Upon full review and consideration, the Commissioner concurs with the Administrative Law Judge that petitioner has met her burden of establishing that she and minor child K.H. are domiciliaries of West Orange, thereby entitling K.H. to a free public education in that District's schools.

Accordingly, the recommended decision of the OAL is adopted for the reasons expressed therein. The Board is hereby ordered to continue K.H.'s enrollment in its school system, free of charge, as long as there is no change in circumstances that would alter her entitlement.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 12, 2012

Date of Mailing: March 12, 2012

* 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).