

E.H., ON BEHALF OF MINOR CHILD, G.H., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE CITY : DECISION
OF OCEAN CITY, CAPE MAY COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner appealed the determination of the respondent Board that her daughter, G.H., is not domiciled in the Ocean City School District and therefore not entitled to a free public education in Ocean City schools. The respondent Board contended that petitioner and G.H. reside at a home in Marmora, New Jersey, which was purchased in May 2013, and consequently owe tuition for the period of G.H.'s ineligible attendance during the 2013-2014 school year. A hearing in the matter was conducted on March 20, 2014.

The ALJ found, *inter alia*, that: petitioner and her family resided in Ocean City through 2012; however, a residency investigation in October 2013 confirmed that they are now domiciled at the home they purchased in Marmora in May 2013; petitioner receives her important mail at the Marmora address, and keeps two pets there full-time; petitioner failed to credibly establish that the two or three addresses she identified during the hearing were legitimate or lawful Ocean City residential locations for her and her daughter during the period in question; petitioner stated at hearing that she was simply trying to do what was best for her daughter and did not want to disrupt G.H.'s education and friendships that had been established over seven years in Ocean City schools. The ALJ concluded that petitioner and her daughter were domiciled in Marmora for the 2013-2014 school year. However, the ALJ also concluded that G.H. must remain in the Ocean City Intermediate school for the balance of the 2013-2014 school year, unless petitioner decides to remove her, as changing schools this late in the school year would be too disruptive; further, the ALJ concluded that petitioner owes the respondent Board tuition for the 2013-2014 year. The ALJ denied petitioner's appeal, and ordered that she must pay the Ocean City School District tuition for the period of G.H.'s ineligible attendance.

Upon review, the Commissioner concurred with the ALJ's findings and conclusions in this matter, but determined that the Initial Decision recites no evidentiary findings at hearing with respect to the amount of tuition owed, nor does the record contain any evidence with regard to the amount of outstanding tuition due to the respondent Board. Accordingly, the ALJ remanded the case to the OAL for the sole purpose of factual findings with regard to the amount of tuition owed to the school district for the period of G.H.'s ineligible attendance.

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.

May 16, 2014

OAL DKT. NO. EDU 388-14
AGENCY DKT. NO. 299-12/13

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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 to the Initial Decision.

Upon such review, the Commissioner concurs with the Administrative Law Judge's (ALJ) finding that petitioner has failed to sustain her burden of establishing that she was a domiciliary of Ocean City during the 2013-2014 school year. The Commissioner further concurs with the ALJ's conclusion that G.H. was, therefore, not entitled to a free public education in the District's schools during this time. However, the Initial Decision contains no evidentiary findings with respect to the amount of tuition due and owing the respondent Board of Education as a consequence of G.H.'s ineligible attendance in the District's schools. Nor was the Commissioner able to find evidence in the record, by way of certification or recitation of testimony,¹ regarding the outstanding tuition amount.

Accordingly, this case is remanded to the OAL for the sole purpose of factual findings regarding the tuition due to respondent.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 16, 2014

Date of Mailing: May 16, 2014

¹ The Commissioner was not provided with a transcript of the hearing.

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