

#232-15 (OAL Decision: Not yet available online)

J.C., ON BEHALF OF MINOR CHILD, J.C., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
CITY OF LINDEN, UNION COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner appealed the determination of the respondent Board that her daughter, J.C., is not domiciled in the Linden School District and therefore not entitled to a free public education in Linden schools. The respondent Board contended that petitioner and J.C. reside at a home in Roselle, New Jersey, which petitioner and her husband purchased in 1993, and consequently owe tuition for the period of J.C.'s ineligible attendance in Linden schools. Petitioner asserted that she is no longer domiciled at the Roselle house because she is separated from her husband. A hearing in the matter was conducted on September 9, 2014.

The ALJ found, *inter alia*, that: the burden of proving that she is now domiciled in Linden rests with petitioner; petitioner's proofs regarding her domicile included an incomplete lease and a blank personal check, which items are insufficient to corroborate petitioner's legal domicile; petitioner last voted in Roselle; and utility bills for the Linden address are not in petitioner's name, but in her eldest daughter's name. The ALJ concluded that petitioner failed to submit sufficient evidence of legal domicile in Linden, and accordingly determined that petitioner and her daughter, J.C., are not residents in the respondent's school district. The ALJ ordered the petitioner to reimburse the Board at the per diem rate of \$85.67 for the period of J.C.'s ineligible attendance in its schools.

Upon review, the Commissioner concurred with the ALJ's findings and conclusions in this matter, but determined that the record lacks information required to calculate the amount of tuition owed to the school district, specifically the number of days of J.C.'s ineligible attendance. Accordingly, Commissioner remanded the case to the OAL for calculation of tuition due and supplementation of the record as warranted.

<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>

July 8, 2015

OAL DKT. NO. EDU 7290-14
AGENCY DKT. NO. 136-5/14

J.C., ON BEHALF OF MINOR CHILD, J.C., :
PETITIONER, :
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BOARD OF EDUCATION OF THE : DECISION
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_____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.¹ The parties did not file exceptions.

Upon such review, the Commissioner concurs with the Administrative Law Judge's (ALJ) finding that petitioner failed to sustain her burden of establishing that she was a domiciliary of Linden during the 2013-2014 school year. The Commissioner further concurs with the ALJ's conclusion that the minor child was, therefore, not entitled to a free public education in the District's schools during this time.

Pursuant to *N.J.S.A.* 18A:38-1b, the Commissioner shall assess tuition against petitioner for the time period during which the minor child was ineligible to attend school in Linden. However, the present record lacks information required to calculate the amount of tuition monies owed to the District – specifically, the number of days of ineligible attendance by the minor child.²

¹ The Commissioner was not provided with a transcript of the September 9, 2014 hearing at the OAL.

² While respondent's certification (R-12) establishes the district's tuition rates for 2013-2014 and 2014-2015, it fails to establish the minor child's date of enrollment in the district and the total number of days of ineligible attendance.

Accordingly, this matter is remanded to the OAL for calculation of tuition due to the District and supplementation of the record as warranted.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: July 8, 2015

Date of Mailing: July 8, 2015

Pursuant to *N.J.S.A.* 18A:38-1b, “tuition shall be computed on the basis of 1/180 of the total annual per pupil cost to the local school district multiplied by the number of days of ineligible attendance.”

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).