

G.P. and I.R.-P., on behalf of minor child, A.P, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION  
OF HAMILTON, MERCER COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

### SYNOPSIS

*Pro se* petitioners filed an appeal of the determination of the respondent Board that their child, A.P., was not entitled to a free public education in Hamilton Township schools for the 2015-2016 school year. Petitioners further appealed the Board’s associated tuition claim for the period of A.P.’s ineligible attendance. Petitioners asserted that they share custody of A.P., with the child’s time equally divided between G.P. – who is domiciled in Hamilton Township – and I.R.-P., who resides in Trenton. The Board contended that the results of a residency investigation proved that A.P. did not reside in Hamilton. Accordingly, the Board sought tuition reimbursement for the period from October 23, 2015 to March 16, 2016 – when petitioners filed a consent order in the Superior Court of New Jersey that designates Hamilton as the district of residency for education purposes.

The ALJ found, *inter alia*, that: pursuant to *N.J.S.A.* 18A:38-1(a), public schools are required to provide a free education to individuals aged 5 to 20 years who are domiciled within the school district; the domicile of unemancipated children is the domicile of their parent or guardian; in the instant case, the provisions of *N.J.A.C.* 6A:22-3.1(a)1ii apply, and state that in equal-time parenting situations where no court order or written agreement exists between the parents designating the school district of attendance, “the student’s domicile is the present domicile of the parent or guardian with whom the student resided on the last school day prior to the October 16 preceding the application date; although petitioners’ behavior indicates the existence of an agreement between them as to A.P.’s district of residence, the regulation explicitly calls for a court order or written agreement, which was not in place until the entry of the Consent Order in March 2016; on the last school day prior to October 16, 2015, A.P.’s domicile was I.R.-P.’s home in Trenton. The ALJ concluded that A.P. was not entitled to a free public education in Hamilton Township schools until the entry of the court order on March 16, 2016. Accordingly, the ALJ ordered that the Board’s residency determination be affirmed, and ordered petitioners to pay respondent tuition in the total amount of \$5,891.70 for the period of A.P.’s ineligible attendance.

Upon review, the Commissioner concurred with the ALJ’s findings and conclusions, and adopted the Initial Decision of the OAL as the final decision in this matter.

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.

December 15, 2016

OAL DKT. NO. EDU 02621-16  
AGENCY DKT. NO. 23-2/16

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.<sup>1</sup> Petitioner, I.R.-P., filed exceptions.<sup>2</sup>

Upon such review, the Commissioner concurs with the Administrative Law Judge's (ALJ) finding that petitioners failed to sustain their burden of establishing that A.P. was a domiciliary of Hamilton between October 26, 2015 and March 16, 2016. The Commissioner further concurs with the ALJ's conclusion that A.P. 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 Board is entitled to tuition reimbursement in the amount of \$5,891.70 (\$71.85 per day for eighty-two days) for the time period from October 26, 2015 and March 16, 2016,<sup>3</sup> during which time A.P. was ineligible to attend, as detailed in the ALJ's Initial Decision.

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<sup>1</sup> The Commissioner was not provided with a transcript of the July 6, 2016 hearing at the OAL.

<sup>2</sup> I.R.-P.'s exceptions were not timely filed in accordance with *N.J.A.C.* 1:1-18.4. Additionally, there is no indication that I.R.-P.'s exceptions were served upon the Board and G.P. Accordingly, the exceptions were not considered by the Commissioner. However, with regard to the concerns raised by I.R.-P. about payment of tuition, the Commissioner notes that both G.P. and I.R.-P. are liable for the assessed tuition, and it is the responsibility of the parties to determine the schedule and method of remittance.

<sup>3</sup> The Initial Decision notes that between October 26, 2015 and March 16, 2016, there were eight-five school days held, but the Board was willing to revise the days down to eighty-two school days because of a concern raised by petitioner, G.P., over the number of school days in January.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter. Petitioners are directed to reimburse the Board in the amount of \$5,891.70 for tuition costs incurred during the time period that A.P. was ineligible to attend school in Hamilton. The petition of appeal is hereby dismissed.

IT IS SO ORDERED.<sup>4</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: December 15, 2016

Date of Mailing: December 15, 2016

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<sup>4</sup> 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*).