

H.S., on behalf of her minor children,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE CITY OF BAYONNE, HUDSON COUNTY,	:	DECISION
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

Petitioning parent challenged Board's residency determination that the S. family was not domiciled in the District during the 1998-99 school year and that the children were not entitled to a free public education there.

ALJ found that the domicile of the S. children between September 14, 1998 and October 31, 1998 was that of the parents, M.S. and H.S., and that all objective indicia were that the family was domiciled at Staten Island from March to October 1998 because they went there so that the father, M.S., could keep his job. The family, however, refused to remain there and moved back to Bayonne. Thus, the ALJ concluded that the S. family was not domiciled in Bayonne for purposes of *N.J.S.A.* 18A:38-1 between September 14 and October 31, 1998, and the Board was entitled to collect tuition from petitioner for that period of time.

Commissioner concurred with the ALJ and directed petitioner to reimburse the Board the amount of \$4, 64.14, representing tuition costs for her three children from September 14, 1998 through October 31, 1998, that period when they were ineligible to attend school free of charge in the District.

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. Although petitioner's exceptions were filed outside the time period permitted by *N.J.A.C.* 1:1-18.4, the Commissioner nonetheless considered these arguments, having noted that a change of address for H.S. and M.S. delayed their receipt of the initial decision.

Upon careful and independent review, the Commissioner concurs with the Administrative Law Judge's findings and conclusions, and affirms that petitioner and M.S. were not domiciled in the Board's District until November 1, 1998. As such, petitioner is obligated to reimburse the Board the amount of \$4,648.14, representing tuition costs for her three children from September 14, 1998 through October 31, 1998, that period when they were ineligible to attend school free of charge in the District.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

November 17, 1999

* This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6:2-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.