

T.D'O. and R.D., on behalf of minor children, :  
 J.F.D., S.M.D. and S.C., :  
 PETITIONERS, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE BOROUGH : DECISION  
 OF FORT LEE, BERGEN COUNTY, :

RESPONDENT. :

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SYNOPSIS

Petitioning parents challenged the Board's decision to deny enrollment to their children based on *N.J.A.C. 6A:28-2.4(a)(1)(vii)*, which provides that where the students' dwelling is located within 2 or more local districts, the district of domicile for school attendance purposes shall be that of the municipality to which the resident pays the majority of property tax.

The ALJ found that it was undisputed that petitioners' property was located both in Fort Lee and Englewood and that the majority of the property taxes for the residence were paid to the City of Englewood. Therefore, it would be unfair for respondent to bear the financial burden of providing a free public education to petitioners' children while the City of Englewood received the benefit of the bulk of petitioners' taxes. The ALJ concluded that petitioners' children were not entitled to a free public education in the Borough of Fort Lee. *Citing Zadran*, the ALJ also concluded that, under the facts of this case, it would be inequitable to assess tuition against petitioners for the period of their children's attendance in respondent's schools.

The Commissioner adopted the findings and determination in the Initial Decision as his own.

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.

OAL DKT. NO. EDU 3920-02  
AGENCY DKT. NO. 107-4/02

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The Board's exceptions were timely filed pursuant to *N.J.A.C.* 1:1-18.4. No reply was filed by petitioners.

The Board's exceptions, objecting to the Administrative Law Judge's (ALJ) failure to award it tuition in this matter, essentially recast and reiterate a factual recitation and arguments advanced below which the Commissioner determines were fully addressed by the ALJ in her decision and, therefore, will not be revisited herein.

Upon careful and independent review of the record in this matter, the Commissioner concurs with the ALJ that J.F.D., S.M.D. and S.C. are not domiciled in the Borough of Fort Lee and, thus, are not entitled to a free public education in the District's schools. The Commissioner, similarly, agrees with the ALJ that, under the particular circumstances existing here, it would be inequitable to assess tuition against petitioners for the period of their children's attendance in Fort Lee schools. *Zadran v. Board of Education of the Township of*

*Belleville*, 97 N.J.A.R. 2d (EDU) 335, *aff'd in part, rev'd in part*, State Board of Education, April 1, 1998.

Accordingly, the Initial Decision of the OAL is adopted for the reasons clearly stated therein and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.\*

COMMISSIONER OF EDUCATION

Date of Decision: September 2, 2003

Date of Mailing: September 4, 2003

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\* This decision 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.* 6A:4-1.1 *et seq.*