

P.B., on behalf of minor child, C.K., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF LAWRENCEVILLE,
MERCER COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed a *Pro Se* Residency Appeal challenging the Board's residency determination that her granddaughter, C.K., is not eligible for a free education in the Township of Lawrenceville School District. Petitioner contended that C.K. resides with her in Lawrenceville, although the child sometimes stays with her mother in Trenton. Respondent Board claimed that C.K. is not eligible to attend Lawrenceville schools under *N.J.S.A.* 18A:38-1 (b), as she is domiciled in Trenton with her mother, T.B., and that P.B. – as grandmother – is not the proper party to bring this action on behalf of the interest of C.K.

The ALJ found, *inter alia*, that: petitioner does have standing to bring the instant appeal on behalf of her daughter and granddaughter; petitioner is not the legal guardian of C.K.; petitioner does not support C.K. *gratis* as required by law; and there is no intention of having C.K. reside with petitioner beyond the school term, as she spends weekends in Trenton with her mother. The ALJ concluded that petitioner failed to demonstrate by a preponderance of credible evidence that C.K. is entitled to attend the respondent's schools free of charge, and ordered the appeal dismissed.

Upon independent review of the record, the Commissioner adopted the recommended decision of the OAL and dismissed the petition, noting that the respondent Board had elected to waive any tuition due from P.B. as a consequence of C.K.'s ineligible attendance in its schools.

<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>

April 2, 2009

OAL DKT. NO. EDU 8990-08
AGENCY DKT. NO. 278-9/08

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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 her full review, the Commissioner initially concurs with the Administrative Law Judge (ALJ) that P.B. is the appropriate petitioner in this affidavit residency matter. She further agrees that petitioner has failed to sustain her burden of establishing that her minor grandchild, C.K., is entitled to a free public education, pursuant to *N.J.S.A. 18A:38-1(b)(1)*, in the Lawrenceville Township Schools and, consequently, C.K. may appropriately be disenrolled by the Board. It is duly noted, however, that the Board has elected to waive any tuition due from P.B. as a consequence of C.K.'s ineligible attendance in its schools.

Accordingly, the recommended decision of the OAL is adopted for the reasons stated therein and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: April 2, 2009

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

