

#160-12R (OAL Decision: Not yet available online)

T.K., on behalf of minor children, D.K., Y.K., and A.K.,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE TOWNSHIP OF WEST ORANGE, ESSEX COUNTY,	:	DECISION
	:	
RESPONDENT.	:	
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SYNOPSIS

Petitioner appealed the determination of the respondent Board that her children, D.K., Y.K. and A.K., are not eligible for a free public education in the West Orange school district. Petitioner was notified by letter from the Board dated June 22, 2011 that her children would be removed from West Orange schools, and that she had 21 days in which to file an appeal of this determination with the Commissioner. Her appeal was filed on July 27, 2011; subsequently, the Board filed a motion for summary decision contending that petitioner’s appeal was untimely filed, as well as a request for tuition reimbursement for the period of D.K., Y.K. and A.K.’s ineligible attendance. An initial decision dismissing the case for untimeliness and ordering petitioner to reimburse the Board for tuition was issued by the OAL in November 2011. A final decision was issued by the Commissioner in January 2012, remanding the matter to OAL for consideration of the merits of the case.

On remand, the ALJ found, *inter alia*, that: T.K. had residential custody of all four of her children during the 2010-2011 and 2011-2012 school years; the record is devoid of credible evidence that T.K. was domiciled in West Orange during the 2010-2011 school year; although T.K.’s three older children have resided on Main Street in West Orange since February 2011, in a house owned by their grandmother, they were not entitled – pursuant to *N.J.S.A. 18A:38-1(b)* – to a free public education in respondent’s schools during the 2010-2011 school year because they were not supported by their grandmother gratis during that time; and T.K. and her youngest child resided in Irvington during the 2010-2011 school year, and did not reside in West Orange until June 2011, after the school year ended. Accordingly, the ALJ concluded that T.K. failed to prove that D.K., Y.K. and A.K. were eligible for a free public education in West Orange schools during the 2010-2011 school year and therefore owes the Board tuition in the amount of \$17,452.71 for the period of ineligible attendance; the ALJ further concluded that T.K. has proven that D.K., Y.K. and A.K. were domiciled in West Orange and eligible for a free public education since the start of the 2011-2012 school year.

Upon a full and independent review, the Commissioner adopted the Initial Decision as the final decision in this case.

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.

April 27, 2012

OAL DKT. NO. EDU 9645-11
(EDU 9645-11 ON REMAND)
AGENCY DKT. NO. 205-7/11

T.K., on behalf of minor children, D.K., Y.K., and A.K.,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
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BOARD OF EDUCATION OF THE	:	DECISION
TOWNSHIP OF WEST ORANGE,	:	
ESSEX COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

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

Upon such review, the Commissioner adopts the Initial Decision as the final decision for the reasons set forth therein.

IT IS SO ORDERED. *

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 27, 2012

Date of Mailing: April 27, 2012

* This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L.* 2008, *c.* 36 (*N.J.S.A.* 18A:6-9.1).