

#235-12 (OAL Decision: Not yet available online)

A.P. on behalf of minor child, M.M., :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE : COMMISSIONER OF EDUCATION

NORTH HUNTERDON-VOORHEES : DECISION

REGIONAL HIGH SCHOOL DISTRICT, :

HUNTERDON COUNTY, :

RESPONDENT. :

SYNOPSIS

Petitioner appealed the determination of the respondent Board that her son, M.M., was not eligible to attend Voorhees Regional High School for the 2011-2012 school year. Petitioner based her appeal on the assertion that – as M.M.’s mother and primary parent – she should have been properly notified of the district’s decision to disenroll her son for the 2011-2012 school year. Respondent Board contends that petitioner and M.M.’s father – who are divorced – live separately out-of-district and, accordingly, M.M. is not domiciled in the school district; he is therefore not entitled to a free public education pursuant to *N.J.S.A. 18A:38-1(a)*. Further, the Board asserts that it complied with the notice requirements of *N.J.A.C. 6A:22-4.2* when it disenrolled M.M. pursuant to *N.J.A.C. 6A:22-4.3* because he no longer met the residency requirement for attendance in the district’s schools.

The ALJ found, *inter alia*, that: M.M. does not reside in the respondent school district, and is not entitled to attend North Hunterdon-Voorhees Regional High School because neither of his parents resides within the school district; the circumstances of this case do not establish family or economic hardship pursuant to *N.J.S.A. 18A:38-1(b)(1)*; the Board afforded petitioner an opportunity to participate in a hearing to set forth her position, thereby placing her on notice of the Board’s determination of ineligibility pursuant to *N.J.A.C. 6A:22-4.2*; petitioner’s assertion of unfairness in this case appears to be an argument based on equitable estoppel, which would require that petitioner establish that there was misrepresentation by the school district resulting in manifest injustice to the petitioner; and evidence of this was never presented. The ALJ concluded that petitioner’s challenge to the Board’s eligibility determination is without any basis in fact or law, and must be dismissed.

Upon a full and independent review, the Deputy Commissioner – to whom this matter has been delegated pursuant to *N.J.S.A. 18A:4-33* – concurred with the findings and conclusion of the ALJ, and adopted the Initial Decision of the OAL as the final decision in this case. The respondent’s motion for summary decision was granted and the petition was dismissed.

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 9011-11
AGENCY DKT. NO. 183-7/11

A.P. on behalf of minor child, M.M., :
PETITIONER, :
COMMISSIONER OF EDUCATION
V. :
DECISION
BOARD OF EDUCATION OF THE :
NORTH HUNTERDON-VOORHEES :
REGIONAL HIGH SCHOOL DISTRICT, :
HUNTERDON COUNTY, :
RESPONDENT. :
_____ :

Upon consideration of the record and Initial Decision of the Office of Administrative Law,¹ the Deputy Commissioner – to whom this matter has been delegated pursuant to *N.J.S.A.* 18A:4-33 – adopts the Initial Decision as the final decision in this case – for the reasons articulated by the Administrative Law Judge. Accordingly, respondent’s motion for summary disposition is granted and the petition is dismissed

IT IS SO ORDERED.²

DEPUTY COMMISSIONER OF EDUCATION

Date of Decision: June 14, 2012

Date of Mailing: June 14, 2012

¹ Neither party filed exceptions to the Initial Decision.

² 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)