

#452-12 (OAL Decision: Not yet available online)

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| C.B., on behalf of minor child, S.H., | : | |
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| PETITIONER, | : | |
| | : | |
| V. | : | |
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| BOARD OF EDUCATION OF THE | : | COMMISSIONER OF EDUCATION |
| BOROUGH OF HAWTHORNE, | : | |
| PASSAIC COUNTY. | : | DECISION |
| | : | |
| RESPONDENT. | : | |
| | : | |
| AND | : | |
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| BOARD OF EDUCATION OF THE | : | |
| BOROUGH OF HAWTHORNE, | : | |
| PASSAIC COUNTY. | : | |
| | : | |
| V. | : | |
| | : | |
| D.H. and C.B., on behalf of minor child, | : | |
| S.H., | : | |
| | : | |
| RESPONDENTS. | : | |
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SYNOPSIS

Petitioner appealed the determination of the respondent Board that her sister, S.H., is ineligible to receive a free public education in the Hawthorne school district. D.H., the mother of S.H., requested to be joined in the litigation. C.B. contended that her sister came to live with her after her mother’s house was damaged by hurricane Irene, thus enabling S.H. to complete her senior year at the Passaic County Technical Institute. The Board filed a counterclaim against both C.B. and D.H., seeking tuition for the period of S.H.’s ineligible attendance.

The ALJ found that: no evidence was presented – aside from broad statements by C.B. and a temporary guardianship agreement, which was not provided by a court of law – in support of S.H.’s domicile during the time in question, April through June 2011 and for the entire 2011-2012 school year; and the overwhelming evidence suggests that S.H. was residing at her mother’s residence in Garfield during the period at issue; The ALJ concluded that S.H. was not domiciled in Hawthorne and accordingly D.H. and C.B. are liable for the costs of educating S.H. for the period in question. The ALJ stated that the Board provided certification that the per-student tuition rate for the 2011-2012 school year was \$11,864 and the daily cost was \$69.91.

Upon a full review, the Commissioner found that Initial Decision does not provide the information necessary to determine the tuition rate for the 2010-2011 school year, without which it is not possible to compute the exact amount of tuition owed. Accordingly, the Initial Decision was rejected and the matter was remanded to the OAL for a determination of the total amount of tuition due and owing.

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.

November 27, 2012

OAL DKT. NOS. EDU 14659-11 and EDU 6569-12 (CONSOLIDATED)
AGENCY DKT. NOS. 342-11/11 and 70-3/12

C.B., on behalf of minor child, S.H., :
PETITIONER, :
V. :
BOARD OF EDUCATION OF THE : COMMISSIONER OF EDUCATION
BOROUGH OF HAWTHORNE, :
PASSAIC COUNTY. : DECISION
RESPONDENT. :
AND :
BOARD OF EDUCATION OF THE :
BOROUGH OF HAWTHORNE, :
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D.H. and C.B., on behalf of minor child, :
S.H., :
RESPONDENTS. :
_____ :

The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. This consolidated matter involves a residency dispute between the Hawthorne Board of Education (Board) and D.H., the mother of S.H., and C.B., the sister of S.H. The Administrative Law Judge (ALJ) found that S.H. was ineligible to attend school in the district from April 1, 2011 through June 2011, and for the entire 2011-2012 school year. The ALJ also awarded tuition costs to the Board. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner finds that the Initial Decision does not adequately and completely address the tuition costs that D.H. and C.B. are required to reimburse the Board for S.H.'s ineligible attendance in the district. The ALJ ordered that "D.H. reimburse the respondent the full tuition costs associated with the attendance of S.H. in the Hawthorne School District between April through June 2011 and for the entire 2011-2012 school year." (Initial Decision, page 8). The testimony revealed that the per-student tuition rate for the 2011-2012 school year is \$11,864 with a per diem rate of \$69.91. There is no indication in the Initial Decision, however, as to what the tuition rate was for the 2010-2011 school year. As a result, the Commissioner cannot determine the amount of tuition costs that are owed to the Board for S.H.'s attendance in the district from April through June 2011 despite the fact that D.H. was found liable for those costs as well.

Additionally, the Initial Decision found that C.B. was only responsible for tuition costs associated with S.H. for a portion of the 2011-2012 school year beginning September 30, 2011. The specific amount of tuition costs that C.B. is liable for is also not stated in the Initial Decision. Accordingly the Initial Decision is rejected, and this matter is remanded to the OAL for a determination as to the exact amount of tuition costs that both D.H. and C.B. are liable for in connection with S.H.'s ineligible attendance in the district.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: November 27, 2012

Date of Mailing: November 30, 2012

* 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*).