

#85-13 (OAL Decision: Not yet available online)

R.L., on behalf of minor child, K.O.L., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF HILLSIDE, UNION COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed an appeal on behalf of his child, K.O.L., from the determination of the respondent Board that he is not domiciled in its district. K.O.L. is classified as multiple disabled, and was placed in a group home in 2010 by the Division of Developmental Disabilities (DDD); Hillside was determined by the Department of Education to be K.O.L.'s district of residence for school funding purposes pursuant to *N.J.S.A. 18A:7B-12(b)*. The Board contended that because R.L. is no longer a resident of Hillside, he is now responsible for the cost of K.O.L.'s educational services; the Board filed a cross petition for tuition reimbursement.

The ALJ found, *inter alia*, that: pursuant to *N.J.S.A. 18A:7B-12b* and *N.J.A.C. 6A:23A-19.2*, K.O.L.'s district of residence at the time he was placed in the group home in 2010 was Hillside; petitioner was domiciled in Massachusetts from July 2011 through November 2012, and is presently homeless; there is no evidence that the respondent Board complied with the provisions of *N.J.A.C. 6A:23A-19.2(c)*, (e), and (f), and therefore K.O.L.'s district of residence remains Hillside; the Board has not filed an appeal or request for re-determination of K.O.L.'s district of residency, and accordingly the Commissioner's determination regarding his district of residence has not been reversed; and R.L. is not responsible for tuition reimbursement to Hillside in accordance with *N.J.S.A. 18A:7B-12(d)* since he was domiciled in Massachusetts from July 2011 through November 2012, and has been homeless since November 2012. The ALJ ordered that: the decision of the respondent Board to remove K.O.L. be reversed; any change in residency for K.O.L. must be made in accordance with *N.J.A.C. 6A:23A-19.2*; and Hillside's cross-petition for tuition reimbursement from R.L. is denied.

Upon reasoned review, the Commissioner concurred with the ALJ to the extent that she concluded that the respondent Board's determination to discontinue the funding for K.O.L.'s educational services must be overturned. The Commissioner found, *inter alia*, that: pursuant to *N.J.S.A. 18A:7B-12(b)*, Hillside was K.O.L.'s district of residence for school funding purposes when he was placed in a group home by DDD; the Board is bound by this district of residence determination unless it is reversed on redetermination or appeal; the Board has not filed an appeal or request for re-determination pursuant to *N.J.A.C. 6A:23A-19.2 (c)*, (e), and (f); the filing of the cross-petition for tuition reimbursement is not appropriate as R.L. bears no financial responsibility whatsoever in this matter. He, therefore, determined that it was not necessary to address the ALJ's other recommendations. Accordingly, the Commissioner adopted the Initial Decision with modification.

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.

March 4, 2013

OAL DKT. NO. EDU 11863-12
AGENCY DKT. NO. 214-7/12

R.L., on behalf of minor child, K.O.L., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF HILLSIDE, UNION COUNTY, :
RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Exceptions and reply exceptions of petitioner and the Board – filed in accordance with the provisions of *N.J.A.C.* 1:1-18.4 – were fully considered by the Commissioner in making his determination herein.

Upon a reasoned review of the record – which included a transcript of the hearing conducted on December 12, 2012 – the Commissioner concurs with the Administrative Law Judge’s (ALJ) decision to the extent that it concludes that the Hillside Board of Education’s determination to discontinue the funding of K.O.L.’s educational services must be overturned. In so determining, the Commissioner finds that it is undisputed that when K.O.L. was placed in a group home by the Division of Developmental Disabilities (DDD) in 2010, the Department of Education determined – pursuant to *N.J.S.A.* 18A:7B-12(b) – that Hillside was K.O.L.’s district of residence for school funding purposes. Any change in such designation cannot be accomplished by Hillside refusing to honor its financial obligation to K.O.L. based on its internal determination that the child’s parent is no longer domiciled in the District and treatment of this matter as a residency issue including the filing of a cross-petition

for tuition reimbursement against the parent, *who bears no financial responsibility whatsoever in this matter*. Rather, Hillside shall remain bound by the 2010 district of residence determination unless it is reversed on redetermination or appeal. The appropriate course of action for Hillside in this matter, when it believed that R.L. was no longer domiciled in its district, was to file an appeal or a request for re-determination of K.O.L.'s district of residence pursuant to *N.J.A.C. 6A:23A-19.2* (c), (e), and (f). As Hillside has failed to comply with these provisions, K.O.L.'s district of residence continues to be Hillside. Given the above determination, the Commissioner finds it unnecessary to address the ALJ's other recommendations.

Accordingly, the recommended decision of the OAL – as modified above – is adopted. Hillside remains the district of residence responsible for the funding of K.O.L.'s educational services unless and until such designation is altered through the utilization of the appropriate methodology.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: March 4, 2013

Date of Mailing: March 5, 2013

* 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*).