

BOARD OF EDUCATION OF THE :
BOROUGH OF LODI, BERGEN COUNTY, :
 :
 PETITIONER, :
 : COMMISSIONER OF EDUCATION
V. :
 : DECISION
BOARD OF EDUCATION OF THE :
TOWNSHIP OF ROCHELLE PARK, :
BERGEN COUNTY, :
 :
 RESPONDENT. :
_____ :

SYNOPSIS

Petitioner, the Lodi Board of Education (Lodi), asserted that the Rochelle Park Board of Education (Rochelle Park) must share financial responsibility for two special education students whose divorced parents reside separately, each in one of the two school districts. Rochelle Park contended that under *N.J.A.C. 6A:22-3.1 et seq.*, shared financial responsibility would be appropriate only when it is not possible to determine where a child is domiciled, and that in the instant matter, a single domicile can be determined; accordingly, Lodi’s appeal should be denied. Rochelle Park filed a motion for summary decision.

The ALJ found, *inter alia*, that: there are no material facts in dispute, and the matter is ripe for summary decision; at the time of their divorce in 2008, the parents herein were granted joint custody of the two children; when the children were registered in the Lodi school district in 2009, both parents were domiciled in Lodi, but at separate addresses; one parent moved to Rochelle Park in May 2015; in September 2015, Lodi proposed that the cost of programming for the two children at issue here – one of whom attends an out-of-district placement at the Valley Program in Westwood, New Jersey, while the other attends an in-district placement in Lodi – be shared by the two school districts, and forwarded contracts to that effect to Rochelle Park; in October 2015, Rochelle Park denied any financial responsibility for the children; pursuant to *N.J.S.A. 18A:38-1*, children attend school in the district in which they are domiciled; the domicile of children under shared custody arrangements after a divorce often makes it difficult to assign domicile under the traditional rules, but the regulatory scheme found at *N.J.A.C. 6A:22-3.1 et seq.* favors an interpretation that assigns a child only one domicile; further, the question of where the two students are domiciled can be answered by reference to *N.J.A.C. 6A:22-3.1(a)(1)(ii)*, which instructs that a student’s domicile is the domicile of the parent or guardian with whom the child resided on the last school day prior to the October 16th preceding the application date; thus the domicile of these children is the present domicile of the parent with whom they resided on October 15, 2014; as both parents were domiciled in Lodi on that date, Lodi is the district responsible for these children in accordance with *N.J.A.C. 6A:22-3.1*; and the facts in Cumberland Regional H.S. District v. Freehold Regional H.S. District are inapposite to the within matter, and emphasize the flaws in Lodi’s argument. The ALJ concluded that Lodi’s position is unsupported by either the facts in this matter or by the current law; accordingly, Rochelle Park’s motion for summary decision was granted, and the petition was dismissed.

Upon review, the Commissioner concurred with the findings and conclusions of the ALJ, and adopted the Initial Decision of the OAL as the final decision in this matter for the reasons well expressed therein.

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 20236-15
AGENCY DKT. NO. 362-12/15

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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 did not file exceptions to the Initial Decision.

Upon a comprehensive review of the record in this matter, the Commissioner concurs with the Administrative Law Judge (ALJ) – for the reasons thoroughly set forth in the Initial Decision – that requiring the two school districts to share the financial responsibility for the special education of the minor children is not supported by *N.J.A.C. 6A:22-3.1*; instead, only one district is responsible for the cost of their education. The Commissioner further agrees with the ALJ that the domicile of the minor children is determined by where they resided on October 15, 2014, pursuant to *N.J.A.C. 6A:22-3.1(a)(1)(ii)*. Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: July 21,2016

Date of Mailing: July 21,2016

* Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Superior Court, Appellate Division.