

New Jersey Commissioner of Education**Final Decision**

Y.Y., on behalf of minor children, W.Y. and D.Y.,

Petitioner,

v.

Board of Education of the Borough of
North Arlington, Bergen County,

Respondent.

Synopsis

In this matter, the Commissioner previously concluded in a July 2019 decision that petitioner's minor children were ineligible to attend school in North Arlington beginning with the 2014-2015 school year, and the petitioner was ordered to reimburse the Board in the amount of \$30,720.36 for tuition costs incurred during the period of ineligible attendance. On appeal, the Appellate Division affirmed the Commissioner's finding that the children were not domiciled in North Arlington but remanded the matter to the Commissioner for factual findings regarding the calculation of tuition for the period from September 2015 to November 2015. The remand was prompted by the petitioner's argument on appeal that she disenrolled D.Y. from the district in September 2015 and began to homeschool D.Y., and the fact that it was not clear from the documents in the appellate record whether the tuition amount awarded to the Board included any period after September 2015.

On remand, the ALJ found, *inter alia*, that: the sole matter for determination here is the narrow issue of tuition calculation from September 2015 to November 2015; a review of the findings from previous proceedings at the OAL related to this matter – including the transcript of a February 14, 2019 hearing in which the ALJ received evidence regarding W.Y. and D.Y.'s dates of attendance, and certifications from business administrators at the schools attended by the children which set forth the tuition calculations in detail – confirmed that the Board is not seeking tuition for the time period after D.Y. began to be homeschooled in September 2015. The ALJ concluded that there was no issue to be addressed here, as the Board does not seek tuition for the period from September to November 2015. Accordingly, the ALJ granted the Board's request for tuition reimbursement and ordered that petitioner pay the respondent \$30,720.36 for the time period in which her children were ineligible to attend North Arlington schools.

Upon review, the Commissioner, *inter alia*, concurred with the findings and conclusions of the ALJ, and directed petitioner to reimburse the Board in the amount of \$30,720.36 for tuition costs incurred during the time period for which D.Y. and W.Y. were ineligible to attend school in North Arlington.

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.

172-22

OAL Dkt. No. EDU 05271-17, 02504-22 (on remand)

Agency Dkt. No. 149-5/16

New Jersey Commissioner of Education

Final Decision

Y.Y., on behalf of minor children, W.Y. and
D.Y.,

Petitioner,

v.

Board of Education of the Borough of
North Arlington, Bergen County,

Respondent.


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

The Commissioner previously concluded that petitioner's minor children were ineligible to attend school in North Arlington beginning with the 2014-2015 school year and ordered petitioner to reimburse the Board in the amount of \$30,720.36 for tuition costs incurred during that time. *Y.Y., on behalf of minor children, W.Y. and D.Y. v. Board of Education of the Borough of North Arlington, Bergen Cty.*, Commissioner Decision No. 173-19R, decided July 8, 2019. On appeal, the Appellate Division affirmed the Commissioner's finding that the children were not domiciled in North Arlington. However, the Appellate Division remanded the matter to the Commissioner for factual findings regarding the calculation of tuition for the period from September 2015 to November 2015. The remand was prompted by the petitioner's argument on appeal that she disenrolled D.Y. from the district in September 2015 and began to homeschool D.Y., and the fact that it was not clear from the documents in the appellate record whether the tuition amount awarded to the Board included any period after September 2015.

The Commissioner remanded the matter to the OAL, where the Administrative Law Judge (ALJ) reviewed the findings from the previous proceedings at the OAL, including the transcript of the February 14, 2019 hearing in which the ALJ received evidence regarding the children's dates of attendance, and the certifications of the business administrators at the schools attended by the children, setting forth the tuition calculations in detail. The ALJ's review confirmed that the Board had not sought tuition for the time period after D.Y. began to be homeschooled. The Commissioner's own review of the record confirms that the eight days of tuition awarded for the 2015-2016 school year predate D.Y.'s homeschooling. Petitioner's arguments regarding the period of homeschooling are therefore irrelevant, as no tuition was awarded to the Board for that time period.

Accordingly, petitioner is directed to reimburse the Board in the amount of \$30,720.36¹ for tuition costs incurred during the time period for which D.Y. and W.Y. were ineligible to attend school in North Arlington.

IT IS SO ORDERED.²


ACTING COMMISSIONER OF EDUCATION

Date of Decision: July 13, 2022
Date of Mailing: July 13, 2022

¹ This amount was calculated based on the dates of attendance and per diem tuition costs outlined in *Y.Y., on behalf of minor children, W.Y. and D.Y. v. Board of Education of the Borough of North Arlington, Bergen Cty.*, Commissioner Decision No. 173-19R, decided July 8, 2019. In its decision, the Appellate Division noted that it was unable to determine whether the tuition assessment previously ordered by the Commissioner was sustainable. It appears that neither party provided the Appellate Division with the transcript of the February 14, 2019 hearing or the certifications of the business administrators. Should this matter be appealed again, the parties should note that the Department of Education is not required to provide a copy of the record to the Appellate Division. The parties are responsible for providing pertinent documents to the Appellate Division pursuant to *N.J.Ct.R. 2-6.1(a)*.

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. EDU 02504-22

AGENCY DKT. NO. 149-5/16

Y.Y. ON BEHALF OF D.Y.,

Petitioner,

v.

**BOARD OF EDUCATION OF THE
BOROUGH OF NORTH ARLINGTON,
BERGEN COUNTY,**

Respondent.

(ON REMAND EDU 05271-17)

Y.Y., petitioner, pro se

Eric Harrison, Esq. for respondent (Methfessel & Werbel, P.C.)

Record Closed: May 11, 2022

Decided: May 31, 2022

BEFORE **JOANN LASALA CANDIDO**, ALAJ:

Petitioner, Y.Y. appealed the decision of respondent, Board of Education of the Borough of North Arlington, (Board) imposing tuition costs for her two children, W.Y. and D.Y., for attending school in North Arlington (District) where they were not domiciled. By way of background, Judge Gerson issued an Initial Decision under OAL

Docket Number EDU-09260-2016 whereby he determined, by Summary Decision, the children were not domiciled in North Arlington. The Commissioner of Education remanded the matter to Judge Gerson to have a hearing. Judge Gerson heard the matter on remand on July 7, 2017. OAL Docket Number EDU-05241-17. On May 8, 2018, Judge Gerson concluded that the children were not domiciled in North Arlington, but rather lived with their father in Kearney, New Jersey. Judge Gerson did not issue a Decision addressing the tuition cost for D.Y. or W.Y. for the school years 2014-2015 to that present time. The Commissioner remanded the matter again to calculate tuition owed for the two children and supplement the record if applicable.

On February 14, 2019, Judge Gerson held an in-person hearing to determine the tuition costs for both students attending school in North Arlington while domiciled elsewhere and relied upon the Certifications of John Susino, Business Administrator and Board Secretary for the Bergen County Technical and Special School Districts where W.Y. attended and the Certification of Kathleen Marano, Business Administrator for the North Arlington School District who calculated tuition owed for both children. Judge Gerson issued an Initial Decision on May 23, 2019, finding tuition owed to the District by petitioner for both children was \$30,720.47. Kathleen Marano calculated the tuition based upon a daily rate of \$60.24 for grade 5 during the 2014-15 school year and the daily tuition rate for D.Y. for grade 6 during the 2015-16 school year was \$68.28. On July 8, 2019, the Commissioner adopted Judge Gerson's Initial Decision and rounded out the tuition to be \$30,720.36. Petitioner appealed the Commissioner's Final Decision to the Appellate Division.

The Appellate Division agreed with the domicile determination but remanded for the narrow issue of tuition calculation from September 2015 to November 2015. The Appellate Division also stated that the February 14, 2019 transcript was not attached nor were the Certifications of Susino and Marano.

I held a telephone conference with petitioner and the Board's attorney of record and it was confirmed that tuition was not sought by the District from September to November 2015. The transcript of the February 14, 2019 hearing is attached hereto as well as the Certifications of John Susino and Kathleen Marano.

Having had the opportunity to review the ALJ's findings concerning the amount of tuition for each of the two children as well as the transcript and Certifications attached, I **CONCLUDE** that there is no issue to be addressed since the District was not seeking tuition from September to November 2015. Accordingly, this matter is dismissed, and respondent's tuition sought is granted in the amount set forth above.

Based upon the foregoing, it is hereby **ORDERED** that Petitioner is directed to reimburse the Board in the amount of \$30,720.36 for tuition costs incurred during the time that W.Y. and D.Y. were ineligible to attend school in North Arlington. Accordingly, the petition of appeal is hereby **DISMISSED** with prejudice.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



May 31, 2022

DATE

JOANN LASALA CANDIDO, ALAJ

Date Received at Agency:

May 31, 2022

Date Mailed to Parties:

May 31, 2022

ljb