

New Jersey Commissioner of Education
Final Decision

E.K., on behalf of minor child, D.C.K.,

Petitioner,

v.

Board of Education of the Borough of
Woodbine, Cape May 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.

Upon review, the Commissioner concurs with the Administrative Law Judge (ALJ) that petitioner and her minor child, D.C.K., were not domiciled in Woodbine during the 2024-2025 school year. The Commissioner further concurs with the ALJ's conclusion that D.C.K. was, therefore, not entitled to a free public education in Woodbine during that time.

Pursuant to *N.J.S.A. 18A:38-1(b)*, the Commissioner shall assess tuition against petitioner for the time period during which D.C.K. was ineligible to attend school in Woodbine. The Board is entitled to tuition reimbursement in the amount of \$21,673.80, for 180 days of ineligible attendance at a per diem cost of \$120.41.¹

¹ The tuition calculations are based upon information supplied in a certification by Dr. Pamela Shute, Director of Student Services.

Accordingly, the Initial Decision is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed. Petitioner is directed to reimburse the Board in the amount of \$21,673.80 for tuition costs incurred when D.C.K. was ineligible to attend school in Woodbine.

IT IS SO ORDERED.²



COMMISSIONER OF EDUCATION

Date of Decision: September 19, 2025
Date of Mailing: September 22, 2025

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

SUMMARY DECISION

OAL DKT. NO. EDU 03021-2025

AGENCY DKT. NO. 19-1/25

**E.K. ON BEHALF OF MINOR CHILD,
D.C.K.,**

Petitioner,

v.

**BOARD OF EDUCATION OF THE BOROUGH
OF WOODBINE, CAPE MAY COUNTY,**
Respondent.

E.K., on behalf of minor child, **D.C.K.**, petitioner, pro se

Michael P. Stanton, Esq., for respondent (McCrosson & Stanton, P.C., attorneys)

Record Closed: July 16, 2025

Decided: August 22, 2025

BEFORE **REBECCA C. LAFFERTY**, ALJ:

STATEMENT OF THE CASE

Petitioner, E.K., the mother of minor child, D.C.K., appeals the determination by the respondent, Board of Education of the Borough of Woodbine, Cape May County (respondent or Board), that D.C.K. was not domiciled within the Borough of Woodbine School District (District) and therefore he was not entitled to be enrolled at Middle

Township High School (MTHS) and that tuition reimbursement is required. Was D.C.K. domiciled within the District and therefore entitled to be enrolled in MTHS for purposes of receiving a thorough and efficient public education free of charge, pursuant to N.J.S.A. 18A:38-1, for the 2024-2025 school year? No, the petitioner has not met her burden of proving beyond a preponderance of the evidence that D.C.K. is domiciled within the District and therefore D.C.K. is not entitled to a free public education at MTHS, and the District is entitled to tuition reimbursement for the 2024-2025 school year.

PROCEDURAL HISTORY

By letter, dated January 3, 2025, the respondent notified the petitioner that D.C.K. was ineligible to continue to attend school within the District as he was no longer domiciled in the District. The petitioner filed a Pro Se Residency Appeal on or about January 20, 2025. The respondent filed an Answer on February 10, 2025. The Department of Education Office of Controversies and Disputes transmitted this matter to the Office of Administrative Law (OAL) where it was filed on February 13, 2025, as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

An initial prehearing conference was scheduled for February 26, 2025, for which the petitioner failed to appear. The prehearing conference was rescheduled for March 5, 2025, at which time two in-person hearing dates were scheduled for March 24, 2025, and March 28, 2025. A pre-hearing order was entered on March 7, 2025. See March 7, 2025 Prehearing Order.

This Tribunal received a request from the petitioner on Thursday, March 20, 2025, for an adjournment of the hearing dates. Respondent's counsel objected to the request made on the eve of Monday, March 24, 2025's hearing date. This Tribunal held a telephone conference on Friday, March 21, 2025, to determine the reasons for the petitioner's adjournment request. After questioning the petitioner regarding her reasons for the adjournment request and learning that she could not get time off from work until after April 21, 2025, the hearing was adjourned over the respondent's objection.

Respondent's counsel immediately requested permission to file a motion for summary decision which was granted. On that same date, this Tribunal sent an email to the parties confirming the briefing schedule for the motion for summary decision.

The respondent filed its motion for summary decision on April 4, 2025. The petitioner's opposition to the motion for summary decision was due on April 21, 2025. On April 21, 2025, this Tribunal received an email from the petitioner in response to the respondent's motion for summary decision. Another telephone conference was scheduled for April 24, 2025, which the petitioner did not attend. Instead of rescheduling the telephone conference, this Tribunal sent an email to the parties outlining specific documentation that each party was to provide by May 2, 2025. See April 24, 2025 Tribunal email. Specifically, the petitioner was directed to N.J.A.C. 6A:22-3.4(a) for examples of acceptable documentation to prove residency. See April 24, 2025 Tribunal email.

On April 29, 2025, this Tribunal received incomplete documents from the respondent and counsel was advised to submit the required information in the form of a certification or affidavit by the appropriate individual from the District. The respondent provided the appropriate certification with exhibits on that same date.

On May 2, 2025, the petitioner sent partial/incomplete snapshots of documents via email. The petitioner was advised by this Tribunal that complete copies of the actual documents, not snapshots, were required as the snapshots were incomplete, blurry and/or otherwise hard to read, and did not include dates. The petitioner was advised that the documents needed to be postmarked by Friday, May 9, 2025. The petitioner mailed hard copies of the snapshots, only, which were received on May 12, 2025. The record was closed on May 12, 2025. The record was reopened for additional information from the respondent and closed again on July 16, 2025.

DISCUSSION AND FINDINGS OF FACT

After having considered the evidence presented, I **FIND** the following as **FACT**:

E.K. is the mother of D.C.K., a minor child who attended MTHS for the 2024-2025 school year. The Board has a send-receive relationship with MTHS where the Board sends students who reside in Woodbine to attend MTHS. See Certification of Adrienne Breitinger.

D.C.K. first applied to MTHS as a school choice student for the 2024-2025 school year. See Certification of Dr. Pamela Shute, dated March 27, 2025. The address listed on his choice application was XXX W. Buttercup Road, Wildwood Crest, New Jersey (Wildwood address). See Certification of Dr. Pamela Shute (March 27, 2025) and Exhibit A. Wildwood Crest is not located within the District. D.C.K. was accepted to MTHS as a school choice student, but his application was later denied. See Certification of Dr. Pamela Shute (March 27, 2025) and Exhibit B. After D.C.K.'s choice application was denied, E.K., on behalf of D.C.K., submitted an enrollment package for MTHS as a Woodbine resident residing at XXX Jefferson Avenue, Woodbine, New Jersey (Woodbine address). See Certification of Adrienne Breitinger and Exhibit C. As part of the enrollment package, E.K. submitted her driver's license that showed an address of XXX W. Buttercup Road, Wildwood Crest, New Jersey, a copy of a South Jersey Gas Discontinuance Notice, dated July 8, 2024, issued to J.C. at XXX Jefferson Avenue, Woodbine, New Jersey, and an undated, unnotarized, handwritten note signed by J.C. stating that E.K. rents from her at the Woodbine address. See Certification of Adrienne Breitinger and Exhibit C.

Neither E.K. nor J.C. are listed as the owners of the, Woodbine address in the official tax records. (Exhibit D.) Joseph Sykes (Sykes), Director of School Security, conducted a residency investigation as to D.C.K. See Certification of Joseph Sykes and Exhibit E. On November 18, 2024, November 19, 2024, November 20, 2024, November 21, 2024, November 22, 2024, November 26, 2024, and December 5, 2024, Sykes

observed D.C.K. exiting a residence located at the Wildwood Crest address and being driven to MTHS. (Exhibit E.) Based on his observations, his conclusion was that D.C.K. resided at the Wildwood Crest address. See Certification of Joseph Sykes and Exhibit E.

By email from this Tribunal, dated April 24, 2025, the petitioner was directed to provide the Tribunal with her documentary proofs of residency and was advised to review N.J.A.C. 6A:22-3.4(a) for examples of acceptable documentation to prove residency. On May 2, 2025, E.K. submitted partial screenshots of documents that were either undated, blurry, or incomplete. Specifically, E.K. provided the following by email:

- an undated online address change;
- a notice of violation with an incomplete date;
- certified mail envelope from MTHS to E.K. at XXX Jefferson Avenue, Woodbine, New Jersey;
- first page of a correspondence regarding an annual IEP meeting from MTHS to E.K. at XXX Jefferson Avenue, Woodbine, New Jersey, dated January 27, 2025; and
- one page of a residential lease renewal, dated July 1, 2024, listing E.K. and D.C.K. as occupants.

E.K. was given the additional opportunity to provide full and complete copies of the documents to this Tribunal, but on May 12, 2025, E.K. only provided hard copies of the following:

- partial photograph of an undated envelope from respondent addressed to E.K. at XXX Jefferson Avenue, Woodbine, New Jersey;
- first page of a correspondence regarding an annual IEP meeting from MTHS to E.K. at XXX Jefferson Avenue, Woodbine, New Jersey, dated January 27, 2025; and

- one page of a residential lease renewal, dated July 1, 2024, listing E.K. and D.C.K. as occupants (not notarized).

None of the documents provided by E.K. demonstrate D.C.K.'s residency at the Woodbine address during the 2024-2025 school year.

Therefore, I **FIND** as **FACT** that D.C.K. did not reside at XXX Jefferson Avenue, Woodbine, New Jersey while enrolled in the District for the entirety of the 2024-2025 school year. See Certifications of Pamela Shute, dated April 29, 2025, and July 14, 2025, with attachments.

I further **FIND** as **FACT** that there were one-hundred and eighty school days for the 2024-2025 school year (see Certifications of Dr. Pamela Shute, dated April 29, 2025, and July 14, 2025, with attachments); the daily per pupil tuition rate for the District for the 2024-2025 school year was \$120.41 (see Certification of Dr. Pamela Shute); and the total amount of tuition for the 2024-2025 school year is \$21,673.80¹.

DISCUSSION AND CONCLUSIONS OF LAW

A motion for summary decision shall be granted “if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” N.J.A.C. 1:1-12.5(b).

A determination whether a genuine issue of material fact exists that precludes summary decision requires the judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party. Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 540 (1995).

¹ Dr. Shute's Certification, dated April 29, 2025, states that the annual cost to attend MTHS is \$21,675, however, this Tribunal did an independent calculation from the information provided in Dr. Shute's two Certifications and determined that the actual cost is \$21,673.80 (\$120.41 x 180 days).

The “judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” Id. (citing Anderson v. Liberty Lobby, 477 U.S. 242, 249 (1986)). When the evidence “is so one-sided that one party must prevail as a matter of law,” the trial court should not hesitate to grant summary judgment. Liberty Lobby, 477 U.S. at 252. I **CONCLUDE** that this matter is ripe for summary decision.

The issue in this appeal is whether D.C.K. was domiciled in the District during the 2024–2025 school year.

Public schools are required to provide a free education to individuals between the ages of five and twenty years in certain circumstances, including individuals who are domiciled within the school district. N.J.S.A. 18A:38-1(a). Domicile has been defined as the place where a person has his true, fixed, permanent home and principal establishment, and to which whenever he is absent, he has the intention of returning. State v. Benny, 20 N.J. 238, 250 (1955). N.J.A.C. 6A:22-3.1(a)(1) provides: “A student is domiciled in the school district when he or she is the child of a parent or guardian whose domicile is located within the school district.” See also P.B.K. ex rel. minor child E.Y. v. Bd. of Educ. of Tenafly, 343 N.J. Super. 419, 427 (App. Div. 2001). Thus, a child would routinely attend school in the district where his or her parents live.

In a determination of residency eligibility, the petitioner has the burden of proof by a preponderance of the evidence. N.J.S.A. 18A:38-1(b)(2). N.J.A.C. 6A:22-3.4 provides as follows with regard to documentation of residency:

(a) A district board of education shall accept a combination of any of the following or similar forms of documentation from persons attempting to demonstrate a student's eligibility for enrollment in the school district:

1. Property tax bills; deeds; contracts of sale; leases; mortgages; signed letters from

landlords; and other evidence of property ownership, tenancy, or residency;

2. Voter registrations; licenses; permits; financial account information; utility bills; delivery receipts; and other evidence of personal attachment to a particular location;

3. Court orders; State agency agreements; and other evidence of court or agency placements or directives;

4. Receipts; bills; cancelled checks; insurance claims or payments; and other evidence of expenditures demonstrating personal attachment to a particular location or to support the student;

5. Medical reports; counselor or social worker assessments; employment documents; unemployment claims; benefit statements; and other evidence of circumstances demonstrating family or economic hardship, or temporary residency;

6. Affidavits, certifications, and sworn attestations pertaining to statutory criteria for school attendance from the parent, guardian, person keeping an "affidavit student," adult student, person(s) with whom a family is living, or others, as appropriate;

7. Documents pertaining to military status and assignment; and

8. Any other business record or document issued by a governmental entity.

(b) A district board of education may accept forms of documentation not listed at (a) above, and shall not exclude from consideration any documentation or information presented by an applicant.

(c) A district board of education shall consider the totality of information and documentation offered by an applicant, and shall not deny enrollment based on failure to provide a

particular form or subset of documents without regard to other evidence presented.

. . .

When a child is found to be ineligible to attend a school in its district, a school board is entitled to recover tuition from the parent or guardian of the child found ineligible to attend within the district. N.J.S.A. 18A:38-1(b)(2).

The petitioner asserts that she and her son, D.C.K., reside at the Woodbine address with J.C., D.C.K.'s paternal grandmother. The petitioner further asserts that she does not want D.C.K. to take the bus to school because he gets confused easily with directions. Additionally, the petitioner offers an explanation for why D.C.K. is seen leaving a residence in Wildwood Crest in the mornings before school – she works as a phlebotomist and due to her early work schedule, she drives D.C.K. to a home located in Wildwood Crest where either her sister or daughter will then drive D.C.K. to MTHS in the mornings.

The respondent asserts that the petitioner and D.C.K. do not reside in Woodbine (within the District), that they in fact reside in Wildwood Crest, and therefore D.C.K. is not entitled to attend MTHS.

A review of the record and documents provided by both parties reveals that the petitioner and D.C.K. were not domiciled within the District while D.C.K. attended MTHS for the 2024-2025 school year. While N.J.A.C. 6A:22-3.4 provides examples of the types of acceptable documentation to establish residency, nothing comparable was submitted by the petitioner. The petitioner had multiple opportunities to provide any documentation to demonstrate residency at the Woodbine address during the relevant time period. In response to multiple requests from this Tribunal, the documents provided by the petitioner were undated, blurry, incomplete, or otherwise did not show evidence of residency within the District during the relevant time period.

First, the petitioner provided a partial screenshot of an alleged confirmation of an online address change. This document is undated, does not indicate with what entity or agency the change of address is with to determine its authenticity, and does not indicate whether the change is temporary or permanent. Therefore, this document does not establish proof of D.C.K.'s residency for the 2024-2025 school year. Second, a partial photograph of some sort of notice or violation with the petitioner's name at the Woodbine address has an incomplete date and, therefore, also does not establish proof of residency during the relevant time period. Next, a partial photograph of a certified mail envelope from MTHS to the petitioner at the Woodbine address with no visible postmark is not sufficient to establish proof of residency during the relevant time period. The petitioner also provided a photograph of the first page of a correspondence regarding an annual IEP meeting from MTHS addressed to the petitioner at the Woodbine address dated January 27, 2025, which does not on its own without some other corroborative documentation, establish residency during the relevant time period. Lastly, the petitioner provided a partial photograph of one page of a residential lease renewal which shows a date of July 1, 2024, in the header of the page. The page lists the petitioner and D.C.K. as occupants and is signed by J.C. The names are handwritten on the page, and it is not notarized or otherwise authenticated. Despite the petitioner being advised by the Tribunal to provide full copies of supporting documents, the full copy of the lease was not provided in order to put this page in context.

Furthermore, when D.C.K. was initially enrolled in MTHS, the petitioner provided a driver's license which listed the Wildwood Crest address, a copy of a utility bill from South Jersey Gas, dated July 8, 2024, addressed to J.C. at the Woodbine address, and undated and unnotarized handwritten statement from J.C. stating that the petitioner resides with J.C. at the Woodbine address. (See Exhibit C.) None of these documents show proof of the petitioner and D.C.K.'s residency at the Woodbine address during the relevant time period.

Based on all the foregoing, I **CONCLUDE** that the petitioner has not met her burden of proof and the respondent is entitled to summary decision that D.C.K. was not

domiciled within the District and is not entitled to attend school in the District and receive a free public education there pursuant to N.J.S.A. 18A:38-1(a) for the 2024-2025 school year.

I further **CONCLUDE** that because D.C.K. was not entitled to receive a free public education in the District for the 2024-2025 school year, the respondent is entitled to tuition reimbursement from the petitioner. The school year is 180 days and the daily per pupil tuition rate for the District for the 2024-2025 school year is \$120.41. Therefore, I **CONCLUDE** that respondent is entitled to tuition reimbursement from the petitioner in the amount of \$21,673.80.

ORDER

Based upon the foregoing, it is hereby **ORDERED** that respondent's motion for summary decision is **GRANTED** and petitioner's appeal is hereby **DISMISSED**.

It is further **ORDERED** that the petitioner reimburse the respondent for the cost of tuition for D.C.K. for the 2024-2025 school year, 180 days, in the total amount of \$21,673.80.

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**. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.



August 22, 2025

DATE

REBECCA C. LAFFERTY, ALJ

Date Received at Agency:

Date Mailed to Parties:

RCL/tat

APPENDIX

EXHIBITS

For petitioner

Email opposing respondent's motion for summary decision, dated April 21, 2024

Email, dated May 2, 2024, with partial screenshots of:

- an undated online address change
- a notice of violation with an incomplete date
- certified mail envelope from MTHS to E.K. at XXX Jefferson Avenue, Woodbine, New Jersey
- first page of a correspondence regarding an annual IEP meeting from MTHS to E.K. at XXX Jefferson Avenue, Woodbine, New Jersey, dated January 27, 2025
- one page of a residential lease renewal, dated July 1, 2024, listing E.K. and D.C.K. as occupants (not notarized)

Documents received May 12, 2025:

- partial photograph of an undated envelope from respondent addressed to E.K. at XXX Jefferson Avenue, Woodbine, New Jersey
- first page of a correspondence regarding an annual IEP meeting from MTHS to E.K. at XXX Jefferson Avenue, Woodbine, New Jersey, dated January 27, 2025
- one page of a residential lease renewal, dated July 1, 2024, listing E.K. and D.C.K. as occupants (not notarized)

For respondent

Notice of Motion for Summary Decision; Respondent's Statement of Material Facts and Brief in Support of Motion for Summary Decision with attached Exhibits A – G; Certification of Adrienne Breitingner; Certification of Dr. Pamela Shute, dated March 27, 2025; Certification of Joseph Sykes; Certification of Dr. Pamela Shute, dated April 29, 2025 with attachments; and Certification of Dr. Pamela Shute, dated July 14, 2025 with attachment