

158-26  
OAL Dkt. No. EDU 21086-25  
Agency Dkt. No. 416-12/25

**New Jersey Commissioner of Education**  
**Final Decision**

C.D., on behalf of minor children, A.V. and O.V.,

Petitioner,

v.

Board of Education of the Borough of South  
River, Middlesex 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 children were not domiciled in South River during the 2025-2026 school year. The Commissioner further concurs with the ALJ's conclusion that the children were, therefore, not entitled to a free public education in South River during that time. *N.J.S.A. 18A:38-1(a)*.

Pursuant to *N.J.S.A. 18A:38-1(b)*, the Commissioner shall assess tuition against petitioner for the time period during which A.V. was ineligible to attend school in South River.<sup>1</sup> The Board is entitled to tuition reimbursement in the amount of \$3,260.88 for the period of ineligible

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<sup>1</sup> O.V., age 3, was removed from the preschool program in the district on or about November 13, 2025, while A.V. continued attending kindergarten in the district during the pendency of these proceedings.

attendance from November 13, 2025, through January 15, 2026 (\$90.58/day x 36 days). If A.V. continued to attend school in the district beyond January 15, 2026, then the Board is entitled to tuition reimbursement at the per diem rate of \$90.58 for each additional day of enrollment.

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 \$3,260.88 for tuition costs incurred when A.V. was ineligible to attend school in South River. If A.V. remained enrolled in the district beyond January 15, 2026, petitioner is liable to the Board for tuition costs at the per diem rate of \$90.58 for each additional day until A.V. is disenrolled.

IT IS SO ORDERED.<sup>2</sup>

  
COMMISSIONER OF EDUCATION

Date of Decision: May 6, 2026  
Date of Mailing: May 6, 2026

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<sup>2</sup> 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**

OAL DKT. NO. EDU 21086-25

AGENCY DKT. NO. 416-12/25

**C.D. ON BEHALF OF MINOR CHILDREN,  
A.V. AND O.V.,**

Petitioner,

v.

**BOARD OF EDUCATION OF THE BOROUGH  
OF SOUTH RIVER, MIDDLESEX COUNTY.**

Respondent.

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**C.D.**, petitioner, pro se

**Christopher B. Parton**, Esq., for respondent (Kenney, Gross, Kovats &  
Parton, attorneys)

Record Closed: January 15, 2026

Decided: February 25, 2026

BEFORE **JOAN M. BURKE**, ALJ:

**STATEMENT OF THE CASE**

Petitioner C.D. is the parent of A.V. and O.V. After a residency investigation, it was determined by respondent Board of Education of the Borough of South River (Board or district) that the two minor children are not domiciled in South River. O.V. is three

years old and attended the preschool program in the South River public school district. O.V. was removed from the program. A.V. is a kindergarten student, and he continues to attend school in the district. Petitioner challenge the Board of Education's residency determination. The District filed a counterclaim seeking payment of tuition for the number of days that A.V. attended school in the district when he was not eligible to attend the schools of the district.

### **PROCEDURAL HISTORY**

On November 12, 2025, respondent conducted a hearing and found that A.V. and O.V. were not domiciled in South River. On November 13, 2025, petitioner was notified. O.V. was removed from the preschool program while A.V. continued in his kindergarten class. On December 10, 2025, the Department of Education, Office of Controversies and Disputes, transmitted this case to the Office of Administrative Law (OAL) for hearing as to the resolution of petitioner's motion for emergency relief. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23. On December 19, 2025, the hearing for emergent relief was conducted, and an Order Denying Emergent Relief was subsequently filed on December 22, 2025.

A hearing was held on January 15, 2026, on the merits of the underlying petition, and the record closed then. Respondent made a motion for partial dismissal of O.V. from the petition as he is three years old and is not entitled to a free education pursuant to N.J.S.A. 18A:38-1.

### **FACTUAL DISCUSSION**

C.D. is the parent of A.V. She is married to T.V., but the couple is currently separated. For the 2025–2026 school year, A.V. was enrolled in kindergarten in the district. The Board completed a residency investigation and conducted a residency hearing on November 12, 2025. Respondent filed its notice of final determination of ineligibility on November 13, 2025, determining that A.V. did not reside in the school district. As a consequence, A.V.'s parents appealed the determination. The tuition rate

assessed for pre-K and kindergarten students for the 2025–2026 school year was \$90.58 per day.

The preceding statements are not in dispute as they are from the records and testimony of the parties and are hereby **FOUND** as **FACT**.

### **TESTIMONY**

#### **For Petitioner**

C.D. is the mother of the minor child, A.V., who is in kindergarten at South River Public School. C.D. testified that she lives at two residences, the Stanton Street home and the Hillside Avenue home, both located in South River. Her father owns a home that is located at Cook Avenue in Old Bridge. C.D. testified that she stays at the Old Bridge home when the children are sick. She argues that the two times the investigator found them there, they had stayed over because the children were sick.

C.D. submitted a Homeowner Affidavit dated October 18, 2025, which she testified was emailed to the District. (P-1.) It includes a Wells Fargo bank statement with the address of Hillside Avenue and a Navy Federal Credit Union American Express Card statement, also with the address of Hillside Avenue. (See P-1.)

On cross-examination, C.D. was asked if she testified at the internal hearing held on November 12, 2025, and whether she testified that she lived in Old Bridge. C.D. testified that at the hearing, she told them she only stayed at the Old Bridge home “sometime,” and not “all the time.” C.D. was asked what address is on her driver’s license; it was noted to be the Old Bridge address, and the driver’s license was issued in February 2025. (P-1.) C.D. presented a video from her Ring doorbell, which allegedly showed her leaving the house at Stanton Street in the mornings. (P-2.) There was no indication or authentication that this was the Stanton Street home. The dates noted on the Ring video were December 7, 11, 15, 16, 17, 19, and 23 of 2025 and January 7, 8, and 9 of 2026. No video evidence noted the dates when the District investigated the matter and found

that the children were not residing in the school district. When asked about the dates of the investigative period, the petitioner said that the Ring video deletes dates after a certain time frame.

**T.V.** is the father of A.V. and O.V. and the husband of C.D. He testified that they are currently separated. He currently lives at the Stanton Street home. According to T.V., he has lived on Stanton Street in South River for over sixteen years, since he was ten. He argues that he does not know the person who the District received the anonymous tip from. None of his family members know of the anonymous person. He was concerned as to who the anonymous tipster was because the record stated he was a neighbor.

On cross-examination, T.V. was asked what address is on his driver's license. It was noted that his license was issued in May 2025, and the address was the Cook Avenue address in Old Bridge (Old Bridge or Cook Avenue).<sup>1</sup> When queried why his driver's license lists the Old Bridge address, he responded that he is a veteran and wanted to use a VA loan to purchase the Cook Avenue property as a rental. In order to do this, he had to list the Cook Avenue address on his driver's license. (P-1.) T.V. testified that they stayed over sometimes at the Old Bridge location, but this was only done on weekends.

### **For respondent**

**Joseph Shannon** (Shannon) is the director of security and threat assessment; and the supervisor of the residency program in the district. Shannon was involved to a certain extent in this matter. He was at the hearing conducted by the District on November 12, 2025, and identified the notice of determination. (R-2.) He testified that the annual tuition is \$16,305, and per diem pupil cost is \$90.58. Shannon is familiar with the investigation that was conducted. He testified that since November they continued to conduct spot checks at the Hillside Avenue and Stanton Street locations at all times of the day, and only once they saw the mother's vehicle at the Hillside Avenue home.

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<sup>1</sup> On T.V.'s driver's license the Cook Avenue address is located in South Amboy; on C.D.'s license the Cook Avenue address is located in Old Bridge. For consistency, the investigative report notes the township as Old Bridge, therefore the Cook Avenue home address will be referred to as in Old Bridge.

**Kasie Rosario** (Rosario) is a residency investigator with the district. Rosario conducts verification of residency in the district on a routine basis. On October 12, 2025, the District received an email stating that the children (A.V. and O.V.) lived in Old Bridge and not in South River. Rosario conducted seven surveillances of the three locations (Hillside Avenue, Stanton Street, and Cook Avenue). On October 14, 17, and 21, 2025, surveillance was conducted at the Hillside Avenue home at 10:00 a.m., 2:00 p.m., and 8:15 a.m., respectively. (R-1.) Neither the children nor parents were seen there. The mother drives a blue BMW SUV, and that was also not seen in the driveway. On October 14, 2025, surveillance was conducted at the Stanton Street home at 1:30 p.m., but neither the children nor parents were there. The children's uncle was there, but he neither confirmed nor denied whether the parents were home. (R-1.)

Surveillance was conducted twice at the Cook Avenue home. The surveillance was done on October 22, 2025, and October 24, 2025, at 8:07 a.m. and 7:15 a.m., respectively. (Id. at 2.) On both occasions, the mother was seen with both children leaving the home. (Ibid.) Rosario testified that she was present at the District hearing on November 12, 2025. She testified that both parents admitted that they lived at the Old Bridge address. Based on their testimony and her investigation, the District concluded that the parents did not live in the school district. On November 13, 2025, the District notified the parents that the students were not eligible to attend the schools of the district. (R-3.)

### **FINDINGS OF FACT**

For testimony to be believed, it must not only come from the mouth of a credible witness, but it also has to be credible in itself. It must elicit evidence that is from such common experience and observation that it can be approved as proper under the circumstances. See Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961). A credibility determination requires an overall assessment of the witness's story in light of its rationality, internal consistency, and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). Also, "[t]he interest, motive, bias, or prejudice of a witness may affect his

credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony.” State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted).

A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958).

After hearing the testimony and reviewing the evidence, I make the following findings of fact:

For the 2025–2026 school year, the minor child, A.V., was enrolled in kindergarten in the school district. After receiving an anonymous complaint, the Board completed a residency investigation and conducted a residency hearing on November 12, 2025. At the conclusion of the Board’s hearing, it was determined that the students were not domiciled in South River and were not entitled to free public education in the district. The tuition rate of reimbursement as filed with the State for the 2025–2026 school year was \$90.58 per day.

I found the testimony of respondent’s witnesses credible and persuasive. Investigator Rosario did not embellish her investigative findings and in fact conceded the point that the mother’s car was seen once at the Hillside location on one of their spot checks.

Conversely, the petitioner’s testimony was not credible in the manner in which it was given. Both petitioner and her husband’s testimony assisted the respondent in proving the facts of the case by a preponderance of the evidence. The father was issued his driver’s license in May 2025. He testified that he has lived at the Stanton Street home since he was ten years old. However, his driver’s license had the Old Bridge address on it. When asked about the Old Bridge address listed on his driver’s license, he stated that he wanted to use a VA loan to obtain the property as a rental and was informed by the VA that he had to list the address of the property on his license. I did not find this answer

to be credible. In addition, the mother testified that the children stay over when they are sick at the Old Bridge home, while the father testified that they only stayed over on weekends.

The petitioner presented a Ring doorbell video from December 2025 to January 9, 2026, which only showed the mother leaving each morning, and there was no indication or verification of the address that she was leaving from; T.V. stated that it was the Stanton Street home. Neither mother and children nor father was seen on the video entering the home. I find the video to be self-serving and I give no weight to it.

I therefore **FIND** that the parents and minor children were domiciled outside the district in Old Bridge. Accordingly, I **FIND** that A.V. became ineligible to attend school in the district for the period he is enrolled in the district for the 2025–2026 school year. The respondent filed a counterclaim seeking tuition for the days A.V. was ineligible and attended school in the district in the 2025–2026 school year. At the date of the hearing, I **FOUND** that the cost was determined to be \$3,260.88 for thirty-six school days from November 13, 2025, through January 15, 2026, during the school year.

### **CONCLUSIONS OF LAW**

At issue is whether A.V. was entitled to a free education under N.J.S.A. 18A:38-1, which provides that public schools shall be free to persons over five and under twenty years of age who are “domiciled within the school district.” See V.R. ex rel. A.R. v. Hamburg Bd. of Educ., 2 N.J.A.R. 283, 287 (1980), aff’d, State Bd., 1981 S.L.D. 1533, rev’d on other grounds sub nom. Rabinowitz v. N.J. State Bd. of Educ., 550 F. Supp. 481 (D.N.J. 1982) (New Jersey requires local domicile, as opposed to mere residence, in order for a student to receive a free education).

A person who meets age requirements and is domiciled within a school district may attend its public schools free of charge. N.J.S.A. 18A:38-1(a). A person may have many residences but only one domicile. Somerville Bd. of Educ. v. Manville Bd. of Educ., 332 N.J. Super. 6, 12 (App. Div. 2000), aff’d, 167 N.J. 55 (2001). A child’s domicile is normally that of his or her parents. Ibid. The domicile of a person is the place where he

has his true, fixed, permanent home and principal establishment, and to which whenever he is absent, he has the intention of returning, and from which he has no present intention of moving. In re Unanue, 255 N.J. Super. 362, 374 (Law Div. 1991), aff'd, 311 N.J. Super. 589 (App. Div.), certif. denied, 157 N.J. 541 (1998), cert. denied, 526 U.S. 1051 (1999).

The acts, statements, and conduct of the individual, as viewed in the light of all the circumstances, determine a person's true intent. Collins v. Yancey, 55 N.J. Super. 514, 521 (Law Div. 1959). The parent has the burden of proof by a preponderance of the evidence. N.J.S.A. 18A:38-1(b)(2).

The investigation in this matter identified the petitioner with her children leaving the Old Bridge home. At no time during the investigation prior to the November 12, 2025 hearing was either parent found or seen at either of the homes located in South River. Since the November 12, 2025 hearing, various spot checks were done, and only once the petitioner's vehicle was seen at one of the two homes in South River and that was the Hillside home. Petitioner's driver's license issued in February 2025 lists Old Bridge as her residence. T.V.'s driver's license that was issued in May 2025 lists his residence as the Old Bridge address. I therefore **CONCLUDE** that the petitioner resides outside of the district. The record reflects that A.V. resides with his parent outside of the district and attended school within the district starting November 13, 2025. Accordingly, I **CONCLUDE** that A.V. was not entitled to a free public education in the district. The Board cross-petitioned to be reimbursed for tuition for the period of A.V.'s ineligible enrollment at the Borough of South River School District. When the evidence does not support the claims of the resident, the Commissioner of Education is authorized to assess tuition pursuant to N.J.A.C. 6A:22-6.2(a), which provides as follows:

If an appeal to the Commissioner is filed by the parent, guardian, adult student, or school district resident keeping an "affidavit" student and the petitioner does not sustain the burden of demonstrating the student's right to attend the school district, or the petitioner withdraws the appeal, fails to prosecute, or abandons the appeal by any means other than settlement agreeing to waive or reduce tuition, the Commissioner may assess tuition for the period during which the hearing and decision on appeal were pending, and for up to one year of a student's ineligible attendance in a school

district prior to the appeal's filing and including the 21-day period to file an appeal.

N.J.S.A. 18A:38-1(b) likewise requires that tuition be calculated on the basis of 1/180 of the total annual per-pupil cost to the district multiplied by the number of days of ineligible attendance.

In accordance with N.J.A.C. 1:1-14.4(d), I have accepted the proofs from the Board relating to its tuition claim. The Board's proofs are convincing, and its calculations are consistent with the requirements of N.J.S.A. 18A:38-1(b) and N.J.A.C. 6A:22-6.2(a). Therefore, I **CONCLUDE** that the Board has demonstrated entitlement to tuition reimbursement for thirty-six days of school attendance for A.V. for the period from November 13, 2025, through January 15, 2026, in the amount of \$3,260.88 (\$90.58 X 36). I further **CONCLUDE** that the Board is also entitled to tuition reimbursement for the amount of school days from January 15, 2026, through the date when A.V. is disenrolled at \$90.58 for each day.

Respondent, in its answer to the petition, files a Motion for Partial Dismissal as to O.V., who is three years old and was removed from the preschool program. The respondent argues that "the Petition of Appeal is not valid for lack of subject matter jurisdiction and the express provisions of the New Jersey Constitution, N.J.S.A. 18A:38 and N.J.A.C. 6A:22." (Respondent Answer to Petition at 4.)

In its Order Denying Emergent Relief in this matter, this tribunal stated:

Each school district is obligated to provide a thorough and efficient education system to all children residing in its school district. N.J. Const. art. VIII, § 4, ¶ 1. To carry out this policy, local boards of education have discretionary authority under N.J.S.A. 18A:11-1(c). The boards adopt rules for the management of the district's public schools and act in a manner to ensure the lawful and proper conduct of the district's public schools. This Board cites the applicable policy, which states that "[p]ublic school shall be free to the following persons over five and under 20 years of age . . . ." N.J.S.A. 18A:38-1. O.V. is only three years old, and thus is

not at the age where the district is obligated to provide him with free public education.

[See Order on Emergent Relief, Docket # EDU 21086-25, at 6.]

I therefore **CONCLUDE** that respondent's Motion for Partial Dismissal as it pertains to O.V. should be granted.

### **ORDER**

It is therefore **ORDERED** that the District's determination that A.V. was ineligible to attend school while domiciled outside the district is hereby **AFFIRMED**. It is further **ORDERED** that petitioner pay respondent, Board of Education of the Borough of South River, Middlesex County, tuition in the total amount of \$3,260.88 for A.V.'s unauthorized attendance in the district's schools from November 13, 2025, through January 15, 2026 (thirty-six school days). It is further **ORDERED** that petitioner shall pay for the amount of school days from January 15, 2026, through the date when A.V. is disenrolled at \$90.58 per day.

Respondent's Motion for Partial Dismissal as it pertains to O.V., who is three years old and is not entitled to public education and is not domiciled in the district, is **GRANTED**. Petitioner's appeal is **DISMISSED**.

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](mailto: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.

February 25, 2026  
DATE



\_\_\_\_\_  
**JOAN M. BURKE, ALJ**

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

**APPENDIX**

**Witnesses**

For petitioner

C.D.

T.V.

For respondent

Joseph Shannon, Director of Security

Kasie Rosario, Residency Officer

**Exhibits**

For petitioner

P-1 C.D. Driver's License; T.V. Driver's License; Homeowner Affidavit

P-2 Ring Doorbell Video

For respondent

R-1 Residency Report/Investigation

R-2 Notice of Determination of Ineligibility

R-3 Final Notice of Ineligibility