

New Jersey Commissioner of Education
Final Decision

M.C., on behalf of minor child, O.C.,

Petitioner,

v.

Board of Education of the Township of Howell,
Monmouth 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 failed to sustain her burden of establishing that she and her child, O.C., were domiciled in the Howell school district. *M.C. o/b/o O.C. v. Bd. of Educ. of the Twp. of Howell*, Commissioner Decision No. 125-25R (Apr. 16, 2025). However, because the record lacked information regarding the number of days of O.C.'s ineligible attendance for the 2022-2023, 2023-2024, and 2024-2025 school years, and the per diem rate for the 2024-2025 school year, the Commissioner was unable to assess tuition pursuant to *N.J.S.A. 18A:38-1b*. Accordingly, the Commissioner remanded the matter to the OAL to further develop the record.

On remand, a hearing was held on January 28, 2026. On April 17, 2026, the Administrative Law Judge (ALJ) issued an Initial Decision finding that O.C.'s period of ineligible attendance for

the 2022-2023 school year totaled 181 school days with a per diem rate of \$77.36. The ALJ also found that O.C.'s period of ineligible attendance for the 2023-2024 school year totaled 180 school days with a per diem rate of \$87.64. Lastly, the ALJ found that O.C.'s period of ineligible attendance for the 2024-2025 school year totaled 103 school days with a per diem rate of \$87.64. The ALJ concluded that the Board is entitled to reimbursement from the petitioner in the amount of \$14,002.16 for the 2022-2023 school year, \$15,775.20 for the 2023-2024 school year, and \$9,026.92 for the 2024-2025 school year.

Upon review, the Commissioner concurs with the ALJ's findings and conclusions, for the reasons stated in the Initial Decision.

Accordingly, the Initial Decision on remand is adopted. Petitioner shall pay the Board \$38,804.28 for O.C.'s tuition costs incurred during the 2022-2023, 2023-2024, and 2024-2025 school years.

IT IS SO ORDERED.¹


COMMISSIONER OF EDUCATION

Date of Decision: July 13, 2026
Date of Mailing: July 14, 2026

¹ 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 06951-25

AGENCY DKT. NO. 209-7/24

ON REMAND (EDU 08980-24)

M.C. ON BEHALF OF O.C.,

Petitioners,

v.

**BOARD OF EDUCATION OF THE
TOWNSHIP OF HOWELL,**

Respondent.

M.C., pro se

Janice V. Arellano, Esq., for respondent (Cleary, Giacobbe, Alfieri & Jacobs, LLC,
attorneys)

Record Closed: March 23, 2026

Decided: April 17, 2026

BEFORE **TAMA B. HUGHES, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On or about July 1, 2024, M.C. (petitioner) filed a residency appeal, appealing the residency determination of the Howell Township Board of Education (“Board” or “respondent”), with the Department of Education, Office of Controversies and Disputes.

The Board answered the petitioner and filed a counterclaim demanding tuition repayment for the 2022/2023 school year and the 2023/2024 school year in the aggregate amount of \$29,837.85. The matter was transmitted to the Office of Administrative Law (OAL) on July 1, 2024, as an emergent application/expedited hearing. OAL Dkt. No. 08980-24 The emergent application was scheduled to be heard on July 10, 2024; however, on the return date, petitioner withdrew the emergent application.

The underlying matter was heard on August 1, 2024, with an Initial Decision rendered on January 30, 2025, dismissing petitioner's appeal and granting the Board's cross claim for tuition reimbursement for the 2022/2023 and 2023/2024 school years and tuition reimbursement for the 2024/2025 school year until the date of disenrollment. See Initial Decision, dated Jan. 30, 2025, which is fully incorporated herein.

By Order dated April 14, 2025, the Commissioner of Education adopted the Initial Decision dismissing petitioner's residency appeal; however, remanded the matter to the Office of Administrative Law for further proceedings to "develop the record regarding the number of days of O.C.'s period of ineligible attendance for the 2022–2023, 2023–2024, and 2024–2025 school years, and the per diem tuition rate for the 2024–2025 school year, so that the Commissioner may rule upon the Board's counterclaim and the tuition amount owed may be calculated." See New Jersey Comm'r of Educ. Final Decision, dated Apr. 14, 2025.

On or about June 17, 2025, petitioner filed a Motion for Reconsideration. This application was denied. See Comm'r's Order, dated Aug. 11, 2025. Thereafter, on or about August 28, 2025, petitioner filed an appeal of the Final Decision to the New Jersey Superior Court – Appellate Division.

An initial call was held on September 17, 2025, at which time a discovery deadline of October 30, 2025, was discussed, and hearing dates of January 28, 2026, and January 29, 2026, were scheduled.

On October 16, 2025, petitioner improperly filed a Motion to Stay Proceedings with the OAL. Petitioner subsequently corrected the filing and directed the application to the

Commissioner of Education.¹ It appears that the Board filed a Motion to Dismiss petitioner's appeal before the Appellate Division because all administrative remedies had not yet been exhausted. The application was granted on December 11, 2025. See App. Div. Order on Cross Motion, dated Dec. 11, 2025.

On December 11, 2025, petitioner filed a Motion to Compel Discovery. This application was denied. See Order Denying Motion to Compel Discovery, dated Jan. 14, 2026.

The hearing took place on January 28, 2026. The record remained open to allow the parties the opportunity to obtain transcripts and submit closing briefs. Upon receipt of the same, the record closed on March 23, 2026.

DISCUSSION

Ronald E. Sanasac Jr. (Sanasac), assistant superintendent for business administration/board secretary, for the Howell Township Board of Education, testified on behalf of the Board. He described his duties and responsibilities which, as he described them, were effectively everything that was non-educational, such as finance, transportation, business operations, and residency issues, to name a few. He is familiar with the per-pupil cost for the district and went through the process of how the Department of Education provides the district with a certified cost per pupil for tuition adjustment after the academic year is over. According to Sanasac, if there is a significant discrepancy between the district's estimated cost and the certified amount, the district can go back and bill for the differential. He also went through the audit process, which led to the issuance of the certified cost letter.

For the 2022/2023 school year, by letter dated March 5, 2024, the New Jersey Department of Education (DOE) issued the certified costs per pupil for the academic year of 2022/2023 for the district. (R-3.) For preschool/kindergarten, the tuition cost was \$13,924, and for grades one through five, the tuition cost was \$15,930. The per diem

¹ At this time, it is unclear whether the Commissioner of Education ruled on petitioner's Motion to Stay.

rate for that academic year for kindergarten, based upon 182 school days, was \$76.51.² On redirect, he revised the per diem rate based upon the mandatory 180-day schedule to be \$77.36. O.C. was enrolled in February 2022 to attend kindergarten, which she did for the entire 2022/2023 academic year, starting on September 6, 2022.³

For the 2023/2024 school year, by letter dated March 3, 2025, the DOE issued the certified costs per pupil for the academic year of 2023/2024 for the district. (R-4.) For grades one through five, the tuition cost was \$15,775. The per diem rate for that academic year, based upon 182 school days, was \$87.64. O.C. attended first grade for the entire 2022/2023 academic year.⁴

Sanasac went on to state that the district has not yet received the certified costs per pupil for the 2024/2025 school year. As such, until such information is released, the district utilizes the 2023/2024 tuition cost/per diem in determining the per diem cost for residency challenge reimbursement, which was \$87.64/day. O.C. was enrolled in second grade for 103 days until she was disenrolled on February 22, 2025.⁵ Later in his testimony, he stated that he was repeatedly advised that the parent did not want to disenroll O.C. prior to receiving notice of disenrollment in February 2025. He does not believe that truancy charges were pursued by the school, as this case was not a typical truancy.

Based upon O.C.'s attendance in the district's school as a non-resident, the Board determined that the district was owed approximately \$38,000.

On cross-examination, Sanasac acknowledged that student enrollment affects the district's funding. He was also aware of the districts' reporting requirements to the DOE. He agreed that student enrollment figures are used to calculate and receive state aid, certain federal funding, and district budgeting planning. He further agreed that if a student

² Sanasac stated that by law, children must attend 180 school days; however, the district builds in two extra days for inclement weather.

³ During the academic year of 2022/2023, O.C. was absent fifteen days. (R-6.)

⁴ During the academic year of 2023/2024, O.C. was absent eight and a half days. (R-7.)

⁵ During the academic year until the date of disenrollment, O.C. was absent every day for a total of 103 days. (R-8.)

is not enrolled or attending school in the district, the district is not entitled to receive funding for that student.

When questioned about the dates of O.C.'s enrollment in the district and whether the district received funding for that year, Sanasac stated that O.C. was enrolled for the 2022/2023 academic year, the 2023/2024 academic year, and part of the 2024/2025 academic year, and that the district received State funding for the years in question based upon the student enrollment calculations.

He was aware that there was communication between the Board attorney and petitioner's counsel regarding M.C.'s decision for O.C. to be homeschooled during the pendency of the residency appeal. He was also aware of the Board's response that O.C. was still permitted to attend the Howell schools and that O.C. was not qualified for home instruction. (P-1; P-2.) Later in his testimony, he discussed the difference between homeschool and home instruction – the latter based upon medical necessity and the former requiring disenrollment from the district. He disagreed with the statement that the district was placed on notice that O.C. would not be attending the school district for the 2024/2025 academic year. When asked whether O.C. attended school in the 2024/2025 school year, he at first stated that he wasn't sure but subsequently stated that he believed that to be true.

He also acknowledged that despite the fact that O.C. was not physically attending school or receiving services/programs at home from Howell, the district continued to receive funding, adding, however, that O.C. was listed as enrolled when the school funding calculation was submitted. He agreed that there was neither an adjustment to the numbers as a result of M.C.'s decision not to have her daughter attend school nor did the school refund any portion of the funds received for O.C. for the 2024/2025 school year from the State. He went on to state that there is no process or mechanism to correct the calculations that are submitted as of October 15th of each school year. Likewise, there is no mechanism to add students who enroll in school after October 15th. With regard to federal funding, he did not believe that the district received funding for O.C.'s attendance, as she did not meet the criteria.

In going through the number of school days for all of the years in question, Sanasac stated that 182 days were the scheduled school days for the 2022/2023 and 2023/2024 school years and 103 days for the 2024/2025 school year. He could not say for certain if the 182 days were correct because it depended on whether snow days were taken.

When asked if disenrollment documents were provided to M.C., Sanasac stated that M.C. went through the process of disenrollment on February 22, 2025, describing how student records are sent if the receiving school is in-State versus out-of-State. He further stated that in September 2024, M.C. was informed that absent disenrollment, O.C.'s absences would be counted. M.C. chose not to disenroll O.C. at that time, and the school was not going to unilaterally disenroll O.C. absent parental consent.⁶ He went on to discuss the differences between homeschooling and home instruction. At all times, O.C. was enrolled and had a seat in the school as stated in the letter until February 22, 2025, when the school received notice to disenroll O.C., and a transfer card was produced. This was after a decision had been rendered in the underlying matter, and it was necessary to disenroll to stop the tuition clock. He did not believe the notice to disenroll or transfer information was provided to the Board's attorney.

Upon questioning, Sanasac agreed that it was not until April 2023 that the Board started questioning whether O.C. actually resided in the Howell district.

Sanasac was called back to the stand after M.C. testified to further clarify the number of school days in each of the years in question and the per diem rate for each year. For the 2022/2023 academic year, there were 181 days, which included one snow day. The per diem rate for that year was \$76.93 for a total of \$13,924.33. For the 2023/2024 academic year, there were 180 school days. The per diem rate for that year was \$87.64 for a total of \$15,775. For the 2024/2025 academic year, O.C. was enrolled

⁶ Sanasac testified that the district has in the past unilaterally disenrolled students when they know for certain that the child will not be returning to the district, such as when the child moves out of state or when the new school fails to request the records. In such a case, disenrollment would take place with notice to the parent.

for a total of 103 days. The per diem rate for that year was \$87.64 for a total of \$9,026.92. In sum, the total amount of tuition was \$38,726.45.⁷

M.C. was called to testify by the Board. She enrolled O.C. in the Howell Township school district in December 2021, with her daughter starting in the district the following September 2022. At no time did she disenroll O.C. from the district. She submitted documents through her lawyer in 2024 stating O.C. would not return to school until the residency issue had been resolved. According to M.C., O.C. does not attend the Howell Township schools, and she refused to disclose where her daughter was currently attending school.

When her daughter attended school in the district, she (M.C.) had access to the school system/portal – Genesis, which would allow her to see O.C.'s records – attendance, report cards, teachers' names, etc. M.C. went through O.C.'s teachers for the 2022/2023 and 2023/2024 school years and the school that she attended. She did not know who O.C.'s teachers were in the 2024/2025 academic year. She had no reason to log into the Genesis system in 2024/2025 because the school had already been placed on notice that O.C. would not be attending. In review of her daughter's enrollment history, she noted that it was inaccurate. (R-9.) Her daughter never attended extended school year (ESY), and the dates were wrong.

When questioned why she did not allow O.C. to physically attend school in the district in the 2024/2025 academic year, despite the fact that she was still enrolled, M.C. stated that she was not comfortable sending her daughter to school. She did not want her to get questioned or feel inferior, particularly since her daughter had been improperly questioned before. She is pursuing the appeal because she does not want anyone to question her daughter or her residency, and she also wants to protect her daughter from attending a school where she is not welcome.

⁷ M.C. pointed out that the per diem rate for the 2024/2025 academic year had not yet been set. Therefore, the per diem rate used, which was the 2023/2024 per diem rate, was most likely inaccurate and could be lower based on historical numbers.

When questioned why she did not feel that her daughter was welcome, M.C. stated that it came from the top, starting with the superintendent confronting her and arguing with her about her residency and also finding out that her daughter had been put in front of counselors and questioned about where she lived. To her, that was unwelcoming.

She is quite familiar with the district's obligation to ensure that students who attend school within the district reside in the district. She was also cognizant of the Commissioner's determination and the parameters of the remand. She isn't challenging the number of days in the school year or her daughter's absences each year she was enrolled. For the 2024/2025 academic year, her daughter never physically attended school.

She also disputes the per diem rates for each year of enrollment. The documents were not signed, and she doesn't agree that they were the actual figures. Even the numbers that the commissioner cited on the remand were different.

When questioned about what she believed the proper numbers to be, M.C. stated that she attempted to get the information from the school; however, they refused to provide the documentation on the basis that it was beyond the scope of the remand. She then filed a Motion to Compel Discovery, which was also denied as being beyond the scope of the remand. As such, the only documents that she has seen are the ones that the Board presented for the hearing. It is her belief that the issue in this case boils down to how schools are funded. It comes down to wanting to charge a New Jersey resident for an education that she already paid for. It comes down to local, State and Federal funding, to which she has already contributed as a Howell resident. Charging a student for out-of-district costs also plays into the equation. She does not believe she owes the Howell district any money. She is a resident of Howell and pays taxes.

She acknowledged that once the litigation was done, O.C. would return to the school district. At all times, it has been her intent for her child to remain in the school district. However, given all that has occurred, after she prevails in her appeal, she will re-enroll her daughter in the district for high school, not in the elementary school. M.C. went on to state that she did not disenroll her daughter in September 2024, nor did she send

her to school. She did not disenroll her daughter in February 2025. Citing Sanasac's testimony, M.C. stated that the district doesn't go after families of students who don't show up because they have moved to another state. If you don't go to the school, you don't go to the school.

In testifying on her own behalf, M.C. went through the history of the case from O.C.'s enrollment in the district to when the district raised the domicile issue and the subsequent legal proceedings.

She went on to state that in August 2024, her attorney placed the district on notice that O.C. would not be attending school until the matter had been fully litigated. It is her belief that children should not be charged for not going to school, pointing to her own business and stating that she cannot charge for children if they don't attend her preschool. She again cited Sanasac's testimony that the school does not go after families who have left the state but failed to disenroll their child. Regardless of whether her daughter attended school in the district, there was going to be a teacher in the classroom. Formal disenrollment is nothing but paperwork that is put in place to legally protect the district. As it pertains to this case, saying that O.C. was enrolled in the 2024/2025 academic year when the district was on notice that her daughter was not going to attend school during the pendency of the litigation should not be counted as "ineligible days" in calculating tuition costs.

FINDINGS OF UNDISPUTED FACTS

In addition to the findings of fact in the underlying Initial Decision, which are fully incorporated herein, I further **FIND as FACT** that:

In or around December 2021, M.C. enrolled O.C. to attend kindergarten in the Howell school district for the academic year of 2022/2023. At the time of enrollment, M.C. and O.C. were not residents of the township. Thereafter, commencing on September 6, 2022, O.C. attended kindergarten at the Adelphia school for the full academic year of 2022/2023.

The district's certified cost per pupil for the 2022/2023 academic year for a preschool/K student was \$13,924. (R-3.) While I found Sanasac a credible witness, I question the accuracy of his per diem calculations for this academic year, given his vacillating answers on what numbers the district used to determine the per diem rate. Instead, based upon a 180-day divisor, I **FIND** that the per diem rate for this year was \$77.36 ($\$13,924 \div 180 = \77.36 (rounding up)). See N.J.S.A. 18A:38-1(b)(1). There were 181 school days during this academic year – the cost of which equates to \$14,002.16 ($\$77.36 \times 181 = \$14,002.16$) per student.

O.C. attended first grade at the Adelphia school for the full academic year of 2023/2024. There were 180 school days during this academic year. The district's certified annual cost per pupil for grades 1–5 was \$15,775 which equates to a per diem rate of \$87.64. ($\$15,775 \div 180 = \87.64 (rounded up)). (R-4.) Total cost of tuition for this academic year was \$15,775.20 ($87.64 \times 180 = 15,775.20$).

At the time of the hearing, the certified cost per pupil for the academic year 2024/2025 had not been released by the Department of Education. Such information is not released until the following academic year (2026) in February/March. As such, the district used the per diem rate from the prior academic year (2023/2024), of \$87.64 in calculating tuition for this academic year.

O.C. was enrolled to attend second grade at the Ardena for the academic year of 2024/2025. (R-9.) School commenced on September 9, 2024. (R-8.) O.C. was disenrolled on February 22, 2025. There were 103 school days from the date of commencement to disenrollment. While O.C. was enrolled to attend school, M.C. chose not to send her. Total cost of O.C. ineligible enrollment until the date of disenrollment was \$9,026.92 ($\$87.64 \times 103 = \$9,026.92$).

On September 9, 2024, petitioner's attorney sent a letter to the Board attorney stating that until the residency issue has been adjudicated, O.C. will be homeschooled by M.C. The letter further stated that "if there is any other information you may need to confirm the home school arrangements or if [O.C.'s] assigned teacher wants to provide work for her to do in the meantime, please respond." (P-1.)

By letter, dated September 11, 2024, the Board's attorney responded, stating:

Please note, during the pendency of this litigation, O.C. is still permitted to enroll in Howell and attend school at Ardena, however, "homeschooling" is an alternative/out of district placement, therefore she would have to be de-enrolled if your client wishes to "homeschool" O.C. If not de-enrolled, any absences would be counted towards truancy.

The minor child does not have a temporary or chronic health condition in order to qualify for home instruction per N.J.A.C. 6A:16-10.1. Accordingly, materials cannot be sent home by her teachers.

Through this letter, it is clear that M.C. was placed on notice that she was required to disenroll her daughter if she chose to "homeschool" her. If she failed to disenroll O.C., O.C. would be deemed truant because she was still enrolled as a student in the district.

What is unclear, based upon the testimony presented, is who or what triggered O.C.'s disenrollment, as each party's version is different. Having said that, M.C. was adamant in her testimony that she intended to have O.C. remain in the district once she prevailed on the residency issue. What is equally clear is that M.C. was placed on notice that O.C. would remain enrolled in the school district until she was formally disenrolled.

From the date of enrollment to the date of disenrollment, the tuition cost for O.C.'s attendance in the Howell Township school district was \$38,804.28.

LEGAL ANALYSIS

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); K.K.-M. v. Bd. of Educ. of City of Gloucester City, 463 N.J. Super. 24, 31 (App. Div. 2020). 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 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.”). Thus, a child would routinely attend school in the district where his or her parents live. The petitioner has the burden of proof in a determination of residency eligibility. N.J.S.A. 18A:38-1(b)(2). 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 Commissioner in this matter concurred with my Initial Decision that petitioner failed to meet her burden of proof establishing domicile within the district and dismissed her appeal. See New Jersey Comm’r of Educ. Final Decision, dated Apr. 14, 2025. With regard to the Board’s cross claim for tuition reimbursement, the Commissioner remanded the matter back to the OAL to “develop the record regarding the number of days of O.C.’s period of ineligible attendance for the 2022–2023, 2023–2024 and 2024–2025 school years, and the per diem tuition rate for the 2024–2025 school year.” Id.

In her closing brief, petitioner raises several arguments, some of which go beyond the scope of the remand. More specifically, petitioner contends that: “Tuition may only be assessed for proven days of ineligible attendance; O.C. was not ineligible until adjudication; Respondent’s per diem calculations are speculative and internally inconsistent; Howell received public funding tied to O.C.’s Enrollment; The tuition assessed here violates the New Jersey Constitution’s guarantee of a free public education; The tuition demand raises equal protection concerns; Preservation of constitutional claims.” (Pet’r’s Br. at 39.) The relief sought is: “A finding of zero days of ineligible attendance for 2025–2026; Adjustment of tuition calculation to reflect adjudicated ineligibility only; Dismissal or substantial reduction of respondent’s counterclaim; Recognition of preserved constitutional objections; and Respondent’s tuition demand must be dismissed or substantially reduced.” (Pet’r’s Br. at 40.)

Citing N.J.S.A. 18A:38-1(b), respondent contends that they are well within their rights to seek reimbursement from the petitioner for the time period that O.C. was ineligible to attend school in Howell. The initial residency appeal was filed on May 25, 2023; however, a settlement agreement was reached wherein the Board agreed to continue O.C.'s enrollment for the following school year (2023/2024) with the understanding that if it was later adjudicated that O.C. was not domiciled in Howell, that petitioner would owe tuition to the Board for O.C.'s ineligible attendance. On April 14, 2025, the Commissioner determined that O.C. had not been domiciled in Howell for the years in question and remanded the matter solely to determine tuition costs. Respondent further contends that they have provided the per diem rates for each academic year in question and that the petition has failed to provide any evidence to dispute the rates.

For the reasons set forth more fully below, I concur with the respondent.

Petitioner asserts that she should not be responsible for payment of tuition for the 2024/2025 school year because her daughter did not attend school, no instruction occurred, and no services were delivered. As such, no attendance, no compensable period.

N.J.S.A. 18A:38-1 states in pertinent part that:

No child shall be denied admission during the pendency of the proceedings before the commissioner. In the event the child is currently enrolled in the district, the student shall not be removed from school during the 21-day period in which the resident may contest the board's decision nor during the pendency of the proceedings before the commissioner. [emphasis added]

N.J.A.C. 6A:22-6.3(a) provides that:

Tuition assessed pursuant to this section shall be calculated on a per-student basis for the period of a student's ineligible enrollment, up to one year, by applicable grade/program category and consistent with the provisions of N.J.A.C.

6A:23A-17.1. The individual student's record of daily attendance shall not affect the calculation.

In accordance with law, throughout the pendency of this matter, O.C. was entitled to and did in fact remain enrolled in the Howell school district until her formal disenrollment on February 22, 2025. By letter, dated September 11, 2024, petitioner was reminded that O.C. was still enrolled in the district and that if she wished to homeschool O.C., then she would have to disenroll her because O.C. did not qualify for home instruction.

As set forth above, by law, the district was required to continue to educate O.C. during the pendency of this matter and had to be prepared to do so until O.C. was formally disenrolled. It was petitioner's choice to keep O.C. at home. As such, each day that O.C. was enrolled in the district during the 2024/2025 academic year must be counted in determining the tuition amount due for the period of ineligibility until the date of disenrollment.

In sifting through petitioner's second argument that O.C. was not ineligible until adjudication, such an argument lacks merit as there has been a final adjudication on the issue of domicile, and that by law, the district is entitled to seek retroactive reimbursement for the cost of educating O.C. for the number of days of ineligible attendance – which includes during the pendency of this appeal. See N.J.S.A. 18A:38-1(b)(1). While petitioner argues that the district itself was unsure whether the issue of domicile was still in question – citing to Sanasac's testimony and the fact that by law, her child was entitled to a free public education, such argument takes Sanasac's testimony out of context and ignores the law which mandates that the district must continue to educate O.C. during the pendency of an appeal. Again, what remains at this juncture is the respondent's cross-claim seeking tuition reimbursement and the calculation of the same.

As it relates to petitioner's third argument - that the per diem calculations by the respondent are speculative and internally inconsistent, to an extent, I agree. In his original certification dated July 8, 2024, Sanasac stated that the daily tuition rate was \$72.93 for 2022/2023 and \$91.92 for 2023/2024. See OAL Dkt. No. 08980-24, Janice Arellano, Esq. Letter Br., dated July 9, 2024 – Cert. of Ronald Sanasac. During his testimony in this

matter, this number changed several times with Sanasac vacillating on the divisor – i.e., 180 days, 181 days, and 182 days. In all instances, while his divisor varied, the certified number per student did not. When questioned about the discrepancy in the per diem numbers, Sanasac stated that he felt it was fairer to use the 182-day year as opposed to the 180-day year. It is clear that Sanasac could not say with absolute certainty what the per diem rate was for the 2022/2023 academic year.

What Sanasac knowledgeably and credibly testified to was how the cost per student is developed by the district and certified by the State, that for the 2022/2023 academic year, the certified cost per student was \$13,924, and for the 2023/2024 academic year, it was \$15,775. It is further undisputed that O.C. attended the entire school year in the district for both academic years in question. It is also undisputed that O.C. was enrolled for 103 days for the 2024/2025 academic year. Additionally, the certified cost per student was not available at the time of the hearing; therefore, Sanasac relied upon the prior year's certified cost, which I believe was appropriate.

While Sanasac may have been unclear on the correct equation used in determining the per diem rate, particularly for the 2022/2023 academic year, N.J.S.A. 18A:38-1(b)(1) provides guidance stating in relevant part:

If in the judgment of the commissioner the evidence does not support the claim of the parent or guardian, the commissioner shall assess the parent or guardian tuition for the student prorated to the time of the student's ineligible attendance in the schools of the district. Tuition shall be computed on the basis of 1/180 of the total annual per pupil cost to the local district multiplied by the number of days of ineligible attendance.

As noted above, the sole issue on appeal is the determination of the number of days that O.C. was ineligible to attend the Howell Township school district for the 2022–2023, 2023–2024, and 2024–2025 school years, and the per diem tuition rate for the 2024–2025 school year so that the commissioner could rule upon the Board's counterclaim regarding the tuition amount that may be owed.

For academic year 2022/2023, I **CONCLUDE** that the per diem rate per student was \$77.36. There were 181 school days during this academic year. O.C. was enrolled and attended school in the district for the entire year. Therefore, tuition for the year was \$14,002.16.

For academic year 2023/2024, I **CONCLUDE** that the per diem rate per student was \$87.64. There were 180 school days during this academic year. O.C. was enrolled and attended school in the district for the entire year. Tuition for the year was \$15,775.20.

For the academic year 2024/2025, I **CONCLUDE** that it was appropriate for the district to use the per diem rate of \$87.64 because the certified per-pupil cost for that academic year had not yet been released. While O.C. did not attend school, she remained enrolled until February 22, 2025, for a total of 103 school days. Tuition for this time period was \$9,026.92.

Petitioner's remaining arguments, which revolve around unjust enrichment by the district, violation of the New Jersey Constitution's guarantee of a free public education, and equal protection arguments, among other things, either lack merit and/or are beyond the scope of this remand.

While the issue of domicile has already been decided, given some of the arguments raised by the petitioner, which include the fact that she is a taxpayer in the Township of Howell and has already contributed to the funding of the public school system, it must be reiterated that, by law, children must attend school in their district of domicile. N.J.S.A. 18A:38-1. There are a myriad of reasons behind this requirement, which include, among other things: Ensuring that taxpayer monies support only the children who reside in the district; school district accountability; student stability; and access to services.

With the above in mind, as set forth above, a school board is entitled to recover tuition from a parent or guardian of a child found ineligible to attend a school in its district. O.C. was not entitled to a free public education in the Howell Township School District

because she did not meet the residency requirements for the academic years of 2022/2023, 2023/2024, and part of 2024/2025.

Based upon the foregoing, I **CONCLUDE** that for the academic year of 2022/2023, O.C.'s period of ineligible attendance was 181 days and that the respondent is entitled to reimbursement from the petitioner in the amount of \$14,002.16. For the academic year of 2023/2024, O.C.'s period of ineligible attendance was 180 days, and that respondent is entitled to reimbursement from the petitioner in the amount of \$15,775.20. For the academic year of 2024/2025, O.C.'s period of ineligible attendance was 103 days, and that respondent is entitled to reimbursement from the petitioner in the amount of \$9,026.92.

ORDER

It is hereby **ORDERED** that M.C. shall be responsible for tuition reimbursement to Howell Township in the aggregate amount of \$38,804.28 broken down as follows: for the academic year of 2022/2023, tuition in the amount of \$14,002.16; For the academic year of 2023/2024, tuition in the amount of \$15,775.20; For the academic year of 2024/2025, tuition in the amount of \$9,026.92.

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.

April 17, 2026

DATE



TAMA B. HUGHES, ALJ

Date Received at Agency:

Date Mailed to Parties:

TBH/dc

APPENDIX

EXHIBITS

For petitioner:

- P-1 Letter from Richard Kaplow to Janice Arellano, dated September 9, 2024
- P-2 Letter from Janice Arellano to Richard Kaplow, dated September 11, 2024
- P-3 Letter from Janice Arellano to the Honorable Tama B. Hughes, ALJ
- P-4 Letter from Richard Kaplow to the Honorable Tama B. Hughes, ALJ

For respondent:

- R-3 March 5, 2024, letter from NJ DOE to Board Secretary/School Business Administrator for Howell Township re: 2022-23 per pupil costs – tuition
- R-4 March 6, 2023, letter from NJ DOE to Board Secretary/School Business Administrator for Howell Township re: 2023-24 per pupil costs – tuition
- R-5 Proposed rates for 2024-25 per pupil costs – tuition/per diem
- R-6 O.C.'s attendance sheet for 2022-23 academic year
- R-7 O.C.'s attendance sheet for 2023-24 academic year
- R-8 O.C.'s attendance sheet for 2024-25 academic year
- R-9 Enrollment History and School Calendars

*The nonsequential numbering of respondent's exhibits reflects the fact that numerous pre-marked exhibits were neither identified nor offered into evidence.