

417-26
OAL Dkt. No. EDU 04812-26
Agency Dkt. No. 086-03-26

New Jersey Commissioner of Education
Final Decision

T.O.C., on behalf of minor child, D.O.C.,

Petitioner,

v.

Elizabeth Board of Education, Union 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 T.O.C. and her minor child, D.O.C., were not domiciled in Elizabeth during the 2025-2026 school year. The Commissioner further concurs with the ALJ's conclusion that D.O.C. was, therefore, not entitled to a free public education in Elizabeth 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 D.O.C. was ineligible to attend school in Elizabeth. The Elizabeth Board of Education (Board) is entitled to tuition reimbursement in the amount of \$10,443.90 for D.O.C.'s period of ineligible attendance from January 30, 2026 through the end of the 2025-2026 school year (\$112.30/day x 93 days).

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 \$10,443.90 for tuition costs incurred while D.O.C. was ineligible to attend school in Elizabeth.

IT IS SO ORDERED.¹



COMMISSIONER OF EDUCATION

Date of Decision: October 15, 2026
Date of Mailing: October 15, 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 04812-26

AGENCY DKT. NO. 086-03-26

T.O.C. ON BEHALF OF MINOR CHILD, D.O.C.,

Petitioner,

v.

**ELIZABETH BOARD OF EDUCATION, UNION
COUNTY,**

Respondent.

T.O.C., petitioner, pro se

Christina M. DiPalo, Esq., for respondent (La Corte, Bundy, Varady & Kinsella,
attorneys)

Record Closed: August 7, 2026

Decided: September 10, 2026

BEFORE, **MINDY GENSLER**, ALJ:

STATEMENT OF THE CASE

Petitioner, T.O.C., and her minor child, D.O.C., are domiciled in Union, New Jersey, but D.O.C. attends public school in Elizabeth. Is D.O.C. entitled to attend a public school in Elizabeth at no cost? No. A student is eligible to attend public school at no cost only in the district in which the student is domiciled. N.J.S.A. 18A:38-1(a).

PROCEDURAL HISTORY

On January 30, 2026, respondent, the Elizabeth Board of Education sent T.O.C. an Initial Determination of Ineligibility notifying her that it determined that her son, D.O.C., does not reside in Elizabeth and informing her that she could request a hearing before it. (R-1).

On February 13, 2026, the board of education sent T.O.C. a Final Notice of Ineligibility to T.O.C. notifying her that D.O.C. is ineligible to attend public school in Elizabeth at no cost, and that tuition will be assessed at \$112.30 per day. Ibid.

On March 9, 2026, T.O.C. filed an appeal with the Commissioner of Education.

On March 25, 2026, the Department of Education transmitted this case to the Office of Administrative Law (OAL) as a contested case under N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F-1 to-13.

On July 28, 2026, I held the hearing.

On August 7, 2026, the parties submitted closing summations, and I closed the record upon their receipt.

FINDINGS OF FACT

Based on the testimony the parties provided and my assessment of their credibility, together with the documents the parties submitted and my assessment of their sufficiency, I **FIND** the following as **FACT**:

T.O.C. lives with her two grown children and her fourteen-year-old son, D.O.C. in Union, New Jersey. For the 2025 to 2026 school year, D.O.C. attended eighth grade at the public school, Dr. Orlando Edreira Academy, in Elizabeth, New Jersey, and is registered to attend the public high school in Elizabeth for this upcoming year. T.O.C. owns the home she lives in at 1053 Bertram Avenue, Union, New Jersey, as well as a

home located at 122 Port Avenue, Elizabeth, New Jersey. T.O.C. used the Elizabeth address to register D.O.C. for school in Elizabeth. (P-6 and R-5) Six other students (in addition to D.O.C.) registered for school in Elizabeth using the 122 Port Avenue address. (R-7)

T.O.C.'s five-bedroom Union home had ample space for each of her children to have their own room, while her two-bedroom basement apartment in Elizabeth did not. T.O.C. testified that she stays at the basement apartment three nights per week with her three children staying in one bedroom and she in the other bedroom. T.O.C. did not provide any utility bills to establish that she lives in the Elizabeth apartment or that a first-floor tenant pays her utility bills there. Even if T.O.C. spends three nights a week in her Elizabeth apartment, the fact remains that T.O.C. and D.O.C. spend the majority of their nights in Union. Moreover, D.O.C.'s computer never pinged from the Elizabeth address, only from the Union home and D.O.C.'s school and never from the Elizabeth home, which belies the claim that D.O.C. spends three nights per week in the Elizabeth apartment. (R-1 and R-6)

In addition, photographs and surveillance done on various dates show that T.O.C. and D.O.C. were at the Union home on school days. More specifically, between January 28, 2026, and March 26, 2026, and from July 1, 2026, to July 20, 2026, photos show that T.O.C.'s cars, a Toyota Sienna and a RAV 4, were parked at her Union home address, either in the street or in the driveway. (R-2 and R-8) In addition, on March 24 and 26, 2026, Buteau witnessed D.O.C. entering the Sienna at T.O.C.'s Union home at 7:08 a.m. (R-1) Likewise, on June 16, 2026, Buteau observed T.O.C. and D.O.C. in the Sienna driving toward Elizabeth in the morning. (R-8) Based on Buteau's investigation, the BOE is seeking tuition reimbursement of \$112.30 a day from January 30, 2026, through June 18, 2026, for a total of ninety-three days based on the school calendar. (R-10)

Finally, T.O.C.'s tax bill, car insurance cards, homeowner's insurance, the deed to the Elizabeth property, and the water bill for the Elizabeth property establish only that she owned the Port Avenue property. (P-2 to P-6) In contrast, T.O.C. certified that she lived in Union when she changed her driver's license to her Union address in July 2025, registered both of her cars, the Toyota Rav4 and the Toyota Sienna, using her Union

address, and registered to vote using her Union address. (R-3 and R-4) As such, a preponderance of the evidence exists that T.O.C. and D.O.C. live in Union, not Elizabeth, during the time D.O.C. attended public school in Elizabeth.

CONCLUSIONS OF LAW

Public schools are free to students over five and under twenty years of age who are domiciled within the school district. N.J.S.A. 18A:38-1(a). A student is domiciled in the school district where the parent or guardian is domiciled. N.J.A.C. 6A:22-3.1(a)(1). 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). The domicile of an unemancipated child is that of his or her parent, custodian, or guardian. P.B.K. o/b/o minor child E.Y. v. Board of Ed. of Tenafly, 343 N.J. Super. 419, 427 (App. Div. 2001).

If a school district finds that a parent or guardian of a child who is attending school in the district is not domiciled in the district, the superintendent or administrative principal may apply to the board of education for the removal of the child. N.J.S.A. 18A:38-1(b)(2). The parent is entitled to a hearing before the board, and if in the judgment of the board, the parent is not domiciled within the district, the board may order the transfer or removal of a child from school. Ibid. A parent can contest the board's decision before the Commissioner within twenty-one days of the date of the decision and is entitled to a hearing. Ibid. If it is ultimately determined that a student is not domiciled within the district, the school district is entitled to tuition reimbursement. N.J.S.A. 18A:38-1; N.J.A.C. 6A:22-6.2(a).

When a person arguably has more than one residence, the factors to determine domicile are the physical characteristics of each place; the time spent and the things done in each place; and whether or not there was any intention, when absent, to return to that address. Mercadente v. City of Patterson, 11 N.J. Super. 35, 39-40 (Ch. Div. 1970), *aff'd*, 58 N.J. 112 (1971).

While T.O.C. owns a home in both Elizabeth and Union, T.O.C. and D.O.C. are domiciled in Union. Applying the factors in Mercadente, T.O.C.'s Union home had ample space for each of her children to have their own room, while her two-bedroom basement apartment in Elizabeth did not. In addition, T.O.C.'s own testimony states that she only spent three nights a week in Elizabeth, which means that T.O.C. resided in Union the majority of the week. As such, the factors noted above in Mercadente all support the finding that T.O.C. and D.O.C. are domiciled in Union.

T.O.C contends that she and D.O.C. were domiciled in Elizabeth based on her tax bill, car insurance cards, homeowner's insurance, the deed to the Elizabeth property, and the water bill for the Elizabeth property. (P-2 to P-6). While these documents support the fact that T.O.C. owned a property in Elizabeth, they do not support the claim that T.O.C and D.O.C. lived there. Even if one believes that T.O.C. and D.O.C. stayed at the Elizabeth property three days a week, T.O.C.'s own testimony establishes that she is domiciled in Union since she stays in Union the majority of week.

In her closing brief, T.O.C. argues that prohibiting D.O.C. from attending Elizabeth high school would have detrimental effects. T.O.C. also alleges that D.O.C. would substantially benefit academically, socially, and personally if permitted to attend high school in Elizabeth. While this may be true, T.O.C. does not provide any support that T.O.C. and D.O.C. live in Elizabeth and thus, entitled to attend public school at no cost.

In addition, the documentary evidence establishes that T.O.C. and D.O.C. live in Union. T.O.C.'s changed her license to her Union address, and she registered both her cars to her Union address. Similarly, the photos show that T.O.C. and D.O.C. live at the Union home. Moreover, the lack of any pings from D.O.C.'s computer from T.O.C.'s Elizabeth address refute T.O.C.'s claims that her and her son resided in Elizabeth.

Therefore, I **CONCLUDE** that T.O.C. and D.O.C. were not domiciled in Elizabeth from January 30, 2026, until the end of the school year and that Elizabeth is entitled to reimbursement for tuition from T.O.C., in the amount of \$112.30 per day for the ninety-three days D.O.C. attended school in Elizabeth for a total of \$10,443.90.

ORDER

I **ORDER** that T.O.C owes Elizabeth \$10,443.90 in tuition for the time D.O.C. attended public school in Elizabeth.

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.

September 10, 2026

DATE



MINDY GENSLER, ALJ

Date Received at Agency:

September 10, 2026

Date Mailed to Parties:

September 10, 2026

cc

APPENDIX

Witnesses

For petitioner:

T.O.C.

For respondent:

William Buteau, Investigator at Elizabeth BOE

Exhibits

For petitioner:

- P-1 Residency Verification Form dated February 10, 2026
- P-2 Tax Bill from Elizabeth
- P-3 State Farm Car Insurance Card
- P-4 State Farm Homeowner's insurance
- P-5 Water and Sewer Bill
- P-6 Deed to 122 Port Avenue, Elizabeth

For respondent:

- R-1 Residency Investigation File
- R-2 Photographs
- R-3 Accurint search
- R-4 Voter Registration
- R-5 1053 Bertram Terr, Union Tax search and Deed
- R-6 Computer Pings
- R-7 Active Students residing at 122 Port Avenue, Elizabeth
- R-8 Supplemental Investigation Memos & Photos
- R-9 Admission Policy
- R-10 2025-2026 School Calendar