



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDS 04252-26

AGENCY DKT. NO. 2026-40616

T.H. ON BEHALF OF T.H.,

Petitioners,

v.

EAST ORANGE BOARD OF EDUCATION,

Respondent.

T.H., parent on behalf of **T.H.**, petitioner, pro se

Kevin M. Cuddihy, Esq. for respondent (Scarinci & Hollenbeck, attorneys)

Record Closed: July 16, 2026

Decided: August 11, 2026

BEFORE **WILLIAM COURTNEY**, ALJ:

PROCEDURAL HISTORY AND STATEMENT OF THE CASE

Petitioner T.H. sent an undated letter to respondent East Orange Board of Education (“District”) sometime in the fall of 2025, stating that her son was experiencing difficulty focusing while in class and was also demonstrating behavioral challenges. She claimed that the Child Study Team (“CST”) did not evaluate her child or provide him with appropriate support and demanded an out-of-district placement. When the mediation she

requested was not successful, the dispute was transferred to the Office of Administrative Law on April 21, 2026, for a due process hearing.

A prehearing conference took place on April 27, 2026, at which a discovery end date of June 12, 2026, was set, and a follow-up status conference was scheduled for June 25, 2026. At the scheduled status conference, the district's request to file a motion for summary decision by July 10, 2026, was granted. Petitioner filed opposition to the filed motion on July 16, 2026, and respondent waived the right to a reply.

FACTUAL DISCUSSION AND FINDINGS OF FACT

I **FIND** the following as **FACT**:

1. T.H. (date of birth: September 4, 2015) is a rising fifth-grade student for the 2026–2027 school year who is eligible for special education and related services under the classification of “Other Health Impairment.”
2. T.H. previously attended the Roseville Community Charter School after petitioner unilaterally placed him at Roseville Community Charter School. A true and accurate copy of the most recent IEP from Roseville Community Charter School is attached hereto as Exhibit A.
3. During the 2025 calendar year, petitioner was displaced from her home in East Orange and began residing at the Apostle House Shelter in Newark, New Jersey.
4. On or about October 23, 2025, petitioner reenrolled T.H. in the District, pursuant to the McKinney-Vento Homeless Assistance Act (“McKinney-Vento”), which allows homeless children to attend school in the district of last residence. (Ex. B.)
5. On or about April 14, 2026, petitioner informed the District that she was no longer residing at the Apostle House Shelter and instead had executed a lease for an apartment at 746 Scotland Road in Orange, New Jersey. When asked whether it was permanent housing or a shelter, petitioner stated: “It’s my house.” (Exh. C.)

6. Despite establishing residency in Orange, T.H. continued attending the District through the remainder of the 2025–2026 school year.
7. On or about June 2, 2026, Dr. Kelly Blizzard, Director of Educational Support Services and Parent Relations for the District, sent petitioner a letter informing her that effective June 23, 2026 (the conclusion of the 2025–2026 school year for students), T.H. would no longer be eligible to attend school in the District under McKinney-Vento. The letter further stated, “[i]f your family is currently residing outside of the East Orange School District, you will be required to transfer your child(ren) to the school district in which you are legally domiciled.” (Exh. D.)
8. Dr. Blizzard further informed petitioner that in order for T.H. to remain enrolled in the District for the 2026–2027 school year, she was required to produce documentation to support that she resided within the geographic boundaries of the District, such as a lease agreement, utility bill, or mortgage statement. (*Id.*) Dr. Blizzard requested the documentation by June 5, 2026.
9. As of the date of the filing of this Motion for Summary Decision, petitioner has not provided any documentation indicating that she resides within the geographic boundaries of the District.
10. Petitioner has not provided any documentation disputing that she has established a domicile in Orange, New Jersey.

LEGAL ANALYSIS

Summary decision is appropriate where the papers and discovery, together with the affidavits, if any, show there is no genuine issue as to any material fact and that the moving party is entitled to prevail as a matter of law when the evidence is viewed in the light most favorable to the nonmoving party. N.J.A.C. 1:1-12.5(b). The primary consideration is “whether [the evidence] is so one-sided that one party must prevail as a matter of law.” Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520 (1995) (quoting Anderson v. Liberty Lobby, 447 U.S. 242 (1986)). Pursuant to N.J.A.C. 1:1-12.5(a), a party may move for dismissal upon all or any of the substantive issues in a contested case. The decision sought may be rendered 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. See N.J.A.C. 1:1-12.5(b).

An evidential hearing in a contested case is not needed if there are no disputed issues of fact. When a motion for dismissal is made and supported, an adverse party, in order to prevail, must, by responding affidavit, set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding. Frank v. Ivy Club, 120 N.J. 73, 99 (1990).

A contested matter can be summarily disposed of before an ALJ without a plenary hearing in instances where the undisputed material facts, as developed on motion or otherwise, indicate that a particular disposition is required as a matter of law. When an ALJ can reasonably review sufficient credible evidence present in the record, which logically leads to a conclusion of law, summary decision is appropriate.

In this case, there are no disputed facts supported by evidence. All documents referenced are true and accurate copies of original documents. Therefore, this matter is ripe for summary decision, and there is no necessity for an evidentiary hearing.

The Law is clear that any child between the ages of five and twenty years old is entitled to a free public education in the district in which he is a resident. N.J.S.A. 18A:38-1(a); N.J.A.C. 6A:22-3.1(a). A student is a resident of a school district if his parent or guardian has a permanent home in the district such that "the parent or guardian intends to return to it when absent and has no present intent of moving from it, notwithstanding the existence of homes or residences elsewhere." 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). When a student no longer resides within the geographic boundaries of the school district, there is no obligation for the district to provide a student with FAPE absent special circumstances, such as CHOICE students or students entitled to protections under the McKinney-Vento Act.

Under McKinney-Vento, homeless children are defined as “individuals who lack a fixed, regular and adequate nighttime residence,” which includes “children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason.” 42 U.S.C.A. § 11434a(2)(B)(i). Similarly, under state law, homeless children are defined as “child[ren] or youth who lack a fixed, regular and adequate residence pursuant to N.J.S.A. 18A:7B-12 and N.J.A.C. 6A:17-2.2,” which includes children living in the “residence of relatives or friends where the homeless child resides out of necessity because the child’s or youth’s family lacks a regular or permanent residence of its own.” N.J.A.C. 6A:17-1.2; N.J.A.C. 6A:17-2.2(a)(3). “[D]omicile attaches immediately if a student’s dwelling is found to be fixed, regular and adequate.” Bd. of Educ. of Twp. of Egg Harbor v. Bd. of Educ. of Mainland Reg. Sch. Dist., Commissioner Decision No. 555-10 (Dec. 30, 2010), at 4 (citing N.J.S.A. 18A:17B-12(c)). When a child becomes homeless, the school district in which the child resided before becoming homeless remains responsible for the cost of the child’s education, including when the child is temporarily living and attending school in another school district. N.J.A.C. 6A:17-2.3; N.J.S.A. 18A:7B-12. However, that obligation ordinarily terminates once the parent establishes a permanent residence. N.J.A.C. 6A:17-2.3(c). Exceptions to this include when a previously homeless child becomes permanently housed during the academic year, at which point the district shall continue the student’s enrollment through the academic year. N.J.A.C. 6A:17-2.5(h).

T.H. is no longer displaced and has maintained a permanent residence in Orange, New Jersey since April 2026, a fact that petitioner has admitted and does not dispute. Although both petitioner and the student established permanent residency outside of the District’s geographic boundaries, the District appropriately continued the student’s enrollment and attendance in the District program for the remainder of the 2025–2026 school year, pursuant to N.J.A.C. 6A:17-2.5(h). This temporary continuation of enrollment, however, does not alter the fact that T.H. is now a resident of Orange and no longer resides within the District. As a result, the District is no longer the local educational agency responsible for implementing, monitoring, or revising T.H.’s IEP, nor does it have any authority to make determinations regarding the student’s current or future educational programming.

Responsibility for T.H.'s education has now shifted to the Orange Public Schools, T.H.'s district of residence. Accordingly, petitioner is required to enroll T.H. in Orange Public Schools, and upon enrollment, Orange Public Schools will become the district responsible for convening a transfer IEP meeting and developing a new educational program for T.H. in its schools. Any requests concerning the student's program, placement, and related services must therefore be directed to Orange Public Schools, as the District is no longer T.H.'s LEA and lacks any legal authority to implement or modify T.H.'s educational program and placement. Accordingly, the issues raised against the District are now moot, as there is no effective relief that can be awarded against a school district that no longer has responsibility for or authority over the student's education, placement, or IEP implementation.

Respondent also argues that petitioner's request for an out-of-district placement for T.H. must also be dismissed because the Petition fails to name Orange Public Schools as an indispensable party. Whether a party is indispensable is fact-sensitive. Int'l Bd. of Elec. Workers Local 400 v. Borough of Tinton Falls, 468 N.J. Super. 214, 225–26 (App. Div. 2021).

As a general proposition. . . a party is not truly indispensable unless he has an interest inevitably involved in the subject matter before the court and a judgment cannot justly be made between the litigants without either adjudging or necessarily affecting the absentee's interests. [Id.]

I **AGREE** that Orange Public Schools is an indispensable party because they are, as of the end of the 2025/2026 school year, the LEA responsible for T.H.'s IEP program and placement. Any potential relief to be provided by this Court, such as compensatory education or an out-of-district placement, would require Orange Public Schools' involvement. By failing to include Orange Public Schools in the instant Petition, petitioner has failed to name an indispensable party, and as such, the Petition should be dismissed.

CONCLUSION

Based on all the foregoing, the Petition for Due Process should be dismissed in its entirety.

ORDER

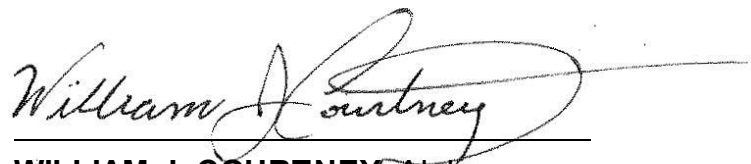
IT IS on this 11th day of August 2026 **ORDERED** that:

1. Respondent's motion for summary decision is **GRANTED**.
2. Petitioner's Petition for Due Process is **DISMISSED**.
3. Petitioner shall enroll her minor child T.H. in the Orange School System for the 2026-27 school year.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2026) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. § 300.516 (2026). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education.

August 11, 2026

DATE



WILLIAM J. COURTNEY, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

WJC/db

APPENDIX

List of Moving Papers

For petitioner:

Petitioner's email letter of opposition dated July 16, 2026

For respondent:

July 10, 2026 Brief in Support of Respondent's Motion for Summary Decision

Exhibits

For petitioner:

None

For respondent:

Exhibit A – Most recent IEP from Roseville Charter School.

Exhibit B – October 23, 2025, registration enrolling T.H. into the East Orange School District.

Exhibit C – April 14, 2026 correspondence informing District that she is residing in Orange, New Jersey.

Exhibit D – June 2, 2026 letter from the District advising petitioner that as of June 23, 2026, T.H. could no longer attend school within the District under the McKinney-Vento Act.