

W.G., on behalf of minor children, C.G. and L.G., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE CITY : DECISION
OF VINELAND, CUMBERLAND COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner filed a *Pro Se* Residency Appeal challenging the Board’s residency determination that his children, C.G. and L.G. are not eligible for a free education in the City of Vineland Public Schools. Prior to the hearing in this matter, the respondent Board filed a Motion to Dismiss based on petitioner’s failure to file his appeal within 21 days of the date of determination by the Board to exclude petitioner’s children from its schools.

The ALJ found that: the petitioner failed to contest the respondent Board’s residency determination within 21 days as provided in N.J.S.A. 18A:38-1; petitioner’s failure to follow statutory prescription now prohibits him from seeking further remedies; and the facts of the matter clearly demonstrate that C.G. and L.G. do not currently reside within the district. The ALJ concluded, therefore, that the petition should be dismissed.

Upon careful and independent review of the record, the Commissioner concurs with the ALJ that the respondent Board’s Motion to Dismiss for untimeliness is appropriately granted, and further concurs that, even assuming petitioner had perfected his appeal by filing the requisite motion, he has not sustained his burden of demonstrating that his children are domiciled in the City of Vineland. Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter, and the petition is dismissed.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

March 13, 2006

OAL DKT. NO. EDU 8922-05
AGENCY DKT. NO. 295-10/05

W.G., on behalf of minor children, C.G. and L.G., :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE CITY : DECISION
 OF VINELAND, CUMBERLAND COUNTY, :
 :
 RESPONDENT. :
 _____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner's exceptions, filed on February 21, 2006 in response to an Initial Decision mailed to the parties on February 2, 2006, were untimely pursuant to *N.J.A.C.* 1:1-18.4 and, therefore, are not considered herein.

Upon review, the Commissioner concurs with the Administrative Law Judge (ALJ), that the Board's Motion to Dismiss for untimeliness of the petition is appropriately granted. Moreover, even assuming, *arguendo*, that petitioner had perfected his appeal with the requisite Motion for Emergent Relief, the Commissioner further concurs with the ALJ that petitioner has not sustained his burden of demonstrating that his children are domiciliaries of Vineland so as to entitle them to a free public education in the District's schools.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 13, 2006

Date of Mailing: March 13, 2006

* This decision may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*