

#305-16 (OAL Decision: http://njlaw.rutgers.edu/collections/oal/html/initial/edu01221-16_1.html)

S.F., ON BEHALF OF MINOR CHILD, S.H., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF PISCATAWAY, MIDDLESEX COUNTY,
: :
RESPONDENT.
_____ :

SYNOPSIS

Pro se petitioner filed an appeal of the respondent Board's determination that her child, S.H., was not entitled to a free public education in Piscataway Township schools. Petitioner asserted that she and her children live in Piscataway with S.F.'s father and family, and that S.H. occasionally stays overnight with her biological father in Bound Brook. The Board contended that a residency investigation had shown that S.F. and her children were domiciled in Bound Brook from March 2015 forward. Accordingly, the Board counterclaimed for tuition for the period of S.H.'s ineligible attendance in Piscataway schools.

The ALJ found, *inter alia*, that: pursuant to N.J.S.A. 18A:38-1(a), public schools are required to provide a free education to individuals aged 5 to 20 years who are domiciled within the school district; the domicile of unemancipated children is the domicile of their parent or guardian; in the instant case, the results of the Board's residency investigation show that S.F. and her children were domiciled in Bound Brook during the time period in question; petitioner failed to demonstrate by a preponderance of the credible evidence that her child was entitled to a free public education in Piscataway; pursuant to N.J.S.A. 18A:38-1(b), a school board is entitled to recover tuition from a parent or guardian of a child found ineligible to attend school in its district; and the respondent Board is entitled to back tuition in the amount of \$11,842.71 for the period from March 12, 2015 to April 1, 2016 and, thereafter, an additional \$61.19 for each day that S.F. remains in Piscataway schools.

Upon review of the record and the Initial Decision, the Commissioner concurred with the ALJ that petitioner failed to sustain her burden of establishing that she was a domiciliary of Piscataway during the period in question. Accordingly, the Initial Decision was adopted as the final decision in this matter and petitioner was directed to reimburse the Board in the amount of \$11,842.71, plus \$61.19 for each day beyond April 1, 2016 that S.F. remains enrolled in Piscataway schools. The petition was 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.

OAL DKT. NO. EDU 01221-16
AGENCY DKT. NO. 377-12/15

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon such review, the Commissioner concurs with the Administrative Law Judge's (ALJ) finding that petitioner failed to sustain her burden of establishing that she was a domiciliary of Piscataway from March 12, 2015 to the present. The Commissioner further concurs with the ALJ's conclusion that the minor child was, therefore, not entitled to a free public education in the District's schools during this time.

Pursuant to *N.J.S.A. 18A:38-1b*, the Commissioner shall assess tuition against petitioner for the time period during which the minor child was ineligible to attend school in Piscataway. Therefore, the Board is entitled to tuition reimbursement in the amount of \$11,842.71 (\$56.05 per day for 65 days and \$61.19 per day for 134 days) for the time period from March 12, 2015 to April 1, 2016 – during which petitioner's minor child was ineligible to attend – plus \$61.19 for each day beyond April 1, 2016 that the minor child remains in Piscataway's schools.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter. Petitioner is directed to reimburse the Board in the amount of \$11,842.71 – plus \$61.19 for each day beyond April 1, 2016 that S.H. remains enrolled in the District’s schools – for tuition costs incurred during the time period that S.H. was ineligible to attend school in Piscataway. The petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: August 22, 2016

Date of Mailing: August 22, 2016

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).