

#14-16 (OAL Decision: Not yet available online)

BOARD OF EDUCATION OF THE	:	
BOROUGH OF HIGHLAND PARK,	:	
MIDDLESEX COUNTY,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
NEW JERSEY STATE DEPARTMENT	:	DECISION
OF EDUCATION, DIVISION OF	:	
ADMINISTRATION AND FINANCE, H.L.,	:	
H.L.(2), H.L.(3), BOARD OF EDUCATION	:	
OF THE TOWNSHIP OF WEST ORANGE,	:	
ESSEX COUNTY, AND	:	
BOARD OF EDUCATION OF THE	:	
TOWNSHIP OF SPARTA,	:	
SUSSEX COUNTY,	:	
	:	
RESPONDENTS.	:	

SYNOPSIS

The petitioner, Board of Education of Highland Park (Highland Park), contended that it is not financially responsible for H.L.’s educational program during the 2013-2014 and 2014-2015 school years, claiming that Highland Park is not H.L.’s “district of residence” pursuant to *N.J.S.A. 18A:7B-12(b)*. In 2011, H.L. – a multiply disabled classified student – was placed by the Department of Children and Families in a group home affiliated with Willowglen Academy. H.L. turned 21 years of age at the close of the 2014-2015 school year. Petitioner argued, *inter alia*, that either the Board of Education of Sparta (Sparta) – where Willowglen Academy’s business offices are located – or the Board of Education of West Orange (West Orange) – where H.L.’s adoptive parents (parents) formerly lived – is financially responsible for H.L.’s tuition. The petitioner filed a motion for summary decision; respondents West Orange and Sparta filed cross motions for summary decision. West Orange additionally filed a counterclaim for tuition reimbursement from either Highland Park or H.L.’s parents.

The ALJ found, *inter alia*, that: there are no material facts in dispute, and the matter is ripe for summary decision; when children are placed residentially by state agencies such as DCF, local school districts remain financially responsible for their educational services; pursuant to *N.J.S.A. 18A:7B-12(b)*, the district of residence for children who have been placed by State agencies in group homes is the present district of residence of the parent or guardian with whom the child lived prior to the most recent placement by a State agency; pursuant to *N.J.A.C. 6A:23A-19.2(a)(1)*, the district where H.L.’s parents resided as of October 16 in any given academic year is responsible for the tuition costs for a child placed by a state agency, which during 2013-2014 was Highland Park; there is no factual or legal basis for assigning responsibility to Sparta for H.L.’s tuition; financial responsibility cannot be assigned to West Orange under the theory that H.L. or her family were homeless; and H.L.’s parents cannot be held liable for their daughter’s educational costs. The ALJ concluded that Highland Park is responsible for tuition costs attached to H.L.’s placement at Willowglen for the 2013-2014 and 2014-2015 school years. Summary decision was granted to Sparta and Highland Park was ordered to reimburse West Orange for monies expended for H.L.’s education for the 2013-2014 school year.

Upon review, the Commissioner concurred with the findings and conclusions of the ALJ, and adopted the Initial Decision of the OAL as the final decision in this matter for the reasons expressed therein.

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.
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January 15, 2016

OAL DKT. NO. EDU 13316-14
AGENCY DKT. NO. 247-9/14

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BOROUGH OF HIGHLAND PARK,	:	
MIDDLESEX COUNTY,	:	
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SUSSEX COUNTY,	:	
	:	
RESPONDENTS.	:	

In this matter, petitioner challenges the Department’s determination that the Borough of Highland Park is H.L.’s district of residence pursuant to *N.J.S.A. 18A:7B-12b*¹ and, therefore, that petitioner is responsible for the cost of her educational program at Willowglen Academy.² The record and the November 30, 2015 Initial Decision of the Office of Administrative Law (OAL) have

¹ When the Department of Children and Families (DCF) places a child in a group home, that child’s local school district – or district of residence – is financially responsible for his or her educational program. (Initial Decision at 7) Pursuant to *N.J.S.A. 18A:7B-12b*, “The district of residence for children who are in residential State facilities, or who have been placed by State agencies in group homes, skill development homes, private schools or out-of-state facilities, shall be the present district of residence of the parent or guardian with whom the child lived prior to his most recent admission to a State facility or most recent placement by a State agency.”

² In June 2011, the Department of Children and Families placed H.L. – who is classified as “multiply disabled” – at a group home affiliated with Willowglen Academy, a private residential facility approved by the New Jersey State Department of Education for the provision of education and post-secondary services to both school-aged students and adults with disabilities. From that point forward, H.L. attended school at the Willowglen Academy. (Initial Decision at 4)

been reviewed, as have petitioner's exceptions – filed pursuant to *N.J.A.C.* 1:1-18.4 – and the Department's reply thereto.³

In its exceptions, petitioner argues that the Administrative Law Judge (ALJ) erred when determining H.L.'s district of residence to be Highland Park for the 2013-2014 and 2014-2015 school years⁴ by failing to address the "impact" of: 1) certifications submitted by H.L.'s parents⁵ and 2) H.L.'s exercise of her rights as an adult student under the Individuals with Disabilities Education Act (IDEA). In reply, the Department asserts that the ALJ considered those issues and rightfully dismissed them as irrelevant. Upon review of the parties' submissions, the Commissioner finds that both of petitioner's contentions – which were adequately addressed by the ALJ in her comprehensive Initial Decision – are without merit.

As to petitioner's first point, the documentation submitted by H.L.'s parents, in which they "callously disavowed any involvement in her life", does not warrant a legal determination that their daughter – "who has never in her life lived independently" – is emancipated. (Initial Decision at 11) As noted by the ALJ, "There is no fixed age when emancipation occurs." *Dolce v. Dolce*, 383 *N.J. Super.* 11, 17 (App. Div. 2006). (Initial Decision at 11) H.L. does not become emancipated under the law simply by reaching the age of 18. Furthermore, H.L.'s parents' claim that she will not ever live with them again lends no support whatsoever to petitioner's contention that H.L. is emancipated, or petitioner's contention that its district should not be held responsible for H.L.'s

³ Respondents Board of Education of the Township of West Orange, Board of Education of the Township of Sparta, H.L., H.L.(2), and H.L.(3) did not submit exceptions or replies. Since H.L. and her parents share the same first and last initials, the ALJ utilized H.L.(2) and H.L.(3) in the Initial Decision to identify H.L.'s parents. To ensure consistency, the same nomenclature is used herein.

⁴ H.L.'s parents have resided in Highland Park since November 2012. Between 1999 and November 2012, they resided in West Orange. Prior to H.L.'s various residential placements (and hospitalization) in supervised settings due to her special needs, she lived with her parents. (Initial Decision at 4)

⁵ Although H.L.(2) and H.L.(3) refer to themselves as H.L.'s "adoptive" parents, they will be referred to herein as her parents.

tuition at Willowglen.⁶ Similarly, as to petitioner's second point, H.L.'s exercise of her rights under IDEA through participation in her individualized education program (IEP) meetings has absolutely no bearing upon the determination of her district of residence pursuant to *N.J.S.A.* 18A:7B-12b. Moreover, as emphasized by the ALJ, students with disabilities are entitled to a free, appropriate public education between the ages of three and 21 under both state and federal law. (Initial Decision at 12) Neither H.L. nor her parents are responsible for the tuition costs incurred at Willowglen; petitioner's attempt to avoid its financial obligation in this regard is without merit.

Accordingly, for the reasons expressed therein, the Initial Decision of the OAL is adopted as the final decision in this matter. Respondent Sparta's motion for summary decision is granted, and the claims against Sparta are hereby dismissed. Petitioner's motion for summary decision is hereby denied. Respondent West Orange's motion for summary decision is granted, in part. Petitioner is hereby ordered to reimburse West Orange for all monies it expended for H.L.'s educational program during the 2013-2014 school year. Petitioner is further declared responsible for tuition costs attached to H.L.'s educational program at Willowglen for the 2014-2015 school year. West Orange's cross-claim against H.L.'s parents is hereby dismissed.

IT IS SO ORDERED.⁷

COMMISSIONER OF EDUCATION

Date of Decision: January 15, 2016

Date of Mailing: January 15, 2016

⁶ Contrary to petitioner's assertions, *N.J.A.C.* 6A:23A-19.3(a)(7) is inapplicable here since – although she is over 18 years old – H.L. has never lived independently, nor is she legally emancipated. (Initial Decision at 9-11) Indeed, the record contains admissions by H.L.(2) and H.L.(3) that “H.L. did not live on her own before her initial placement at Willowglen Academy on June 9, 2011.”

⁷ 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) and applicable Appellate Division rules.