

M.F. AND P.J.F., on behalf of minor children, :
:
PETITIONERS, :
:
V. : COMMISSIONER OF EDUCATION
:
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF HOPE, WARREN COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioners, parents of three children attending respondent Board of Education's school, challenged the determination of respondent that their children are not domiciled in the District, and thus are not entitled to a free public education in the District's school. Respondent filed a counterclaim for tuition reimbursement for the alleged period of ineligibility.

Prior to the hearing of the case, the ALJ denied petitioners' motion to add the Knowlton School District as a party. Petitioners had sought to add the district to establish that one of its employees told them to enroll their children in respondent's District, and to elicit testimony as to the district wherein petitioners' house is located. After petitioners presented their case at the hearing of this matter, respondent moved to dismiss the petition. The ALJ granted respondent's motion, concluding that the evidence presented compelled a determination that petitioners failed to demonstrate that their children are domiciled in respondent's District, and rejected their assertion that the equitable doctrines of estoppel and laches compel a decision in favor of petitioners. The ALJ also determined that respondent is entitled to tuition for the entire period petitioners' three children attended its school, rejecting petitioners' contentions that they did not intend to defraud respondent and that respondent had "slept on its rights" and thus, is not entitled to reimbursement of tuition. The ALJ concluded that the total amount of tuition owed is \$135,662.

The Commissioner affirmed the ALJ's determination that petitioners' children are not entitled to a free public education from respondent, agreeing that the evidence demonstrates that the children are not domiciled in respondent's District. The Commissioner also affirmed the ALJ's denial of petitioners' application to add the Knowlton School District as a party. Finally, the Commissioner modified the ALJ's determination as to the amount of tuition owed respondent by petitioners. The Commissioner concluded that equitable considerations preclude respondent from obtaining reimbursement of tuition for the period prior to April 20, 1999, when respondent notified petitioners that their children were not domiciled in the District. The Commissioner thus ordered that tuition be reimbursed for the period from April 20, 1999 through the 1999-2000 school year.

July 31, 2000

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. Petitioners’ exceptions were submitted in accordance with *N.J.A.C.* 1:1-18.4, and were considered by the Commissioner in rendering his decision.¹

In their exceptions, petitioners request that the case be “reopened,” and the Board of Education of Knowlton made a party, claiming judicial error by the Administrative Law Judge (ALJ) who denied a motion to amend their pleadings to include Knowlton as a party. Knowlton’s participation is germane to the case, petitioners argue, since it was a Knowlton School District secretary who informed M.F. that her children belonged in the Hope School District, and also informed M.F. that she would be subject to tuition charges for her stepchildren (who had previously attended school in Knowlton) if she persisted in trying to enroll her children in the Knowlton School District. Petitioners further argue that Knowlton’s participation is necessary to obtain information regarding the change of placement of a monument that possibly redistricted the Knowlton and Hope Townships. (Petitioners’ Exceptions at 1-2)

Petitioners also aver that their due process rights were violated because they were assessed tuition for the entire time all their children were enrolled in Hope Township’s School,

¹ Respondent submitted a letter stating that it did not except to the Initial Decision.

despite the District's lack of notice for nine years that the children did not belong in the Hope School District. (*Id.* at 3) Alleging that there was no intent to defraud the School District, petitioners contend that in cases of disputed domicile, parents have been held liable for tuition only after they became aware that they were in the incorrect district. Petitioners cite in support thereof: *Lee v. Board of Education of the Township of Holmdel, Monmouth County*, EDU 164-97 (October 23, 1997), adopted by the Commissioner of Education December 8, 1997 (Decision No. 633-97), *aff'd* State Board June 2, 1999; *L.B. v. Board of Education of the Township of Teaneck, Bergen County*, EDU 5472-97 (August 7, 1998), adopted by the Commissioner of Education September 24, 1998 (Decision No. 416-98), *aff'd* State Board January 6, 1999; and *Board of Education of the Hunterdon Regional School District v. E. F. and G.F.*, EDU 6247-98 (December 21, 1999), adopted by the Commissioner of Education February 3, 2000 (Decision No. 49-00), *aff'd* State Board June 7, 2000. Petitioners submit that they should, at most, only be liable for tuition for the 1999-2000 school year. (Petitioners' Exceptions at 4)

Initially, the Commissioner agrees with the ALJ that inclusion of the Knowlton School District as a party is not necessary for a fair determination in this matter. Petitioners seek to include Knowlton because: 1) they allege that they relied on information provided to them by the secretary to the superintendent of the Knowlton Schools in enrolling their children in the Hope Township School;² and 2) petitioners allege that the townships *may* have been redistricted. The Commissioner notes that respondent does not dispute petitioners' assertion that a secretary in the Knowlton District advised M.F. that her children should be enrolled in the Hope Township school system.³ Also, Richard J. Motyka, the tax assessor for *both* the Township of Hope and the Township of Knowlton, certified that any redistricting of the townships is reflected on the current tax maps. *See* October 4, 1999 Amended Certification of

² Petitioners did not seek, by subpoena or otherwise, to have the secretary testify on their behalf.

³ Respondent, however, does challenge the secretary's authority to bind the District. (Respondent's Brief in Support of Motion for Summary Judgment at 5)

Richard Motyka at para. 1 and 12. According to the tax maps, less than two-tenths of one acre of petitioner's property is located in Hope Township, and the remaining 9.586 acres of petitioner's property and all improvements are located in Knowlton Township. (*Id.* at para. 5 and 6) Mr. Motyka also certified that, from 1992 to present, all property taxes on petitioners' property have been paid to Knowlton Township. (*Id.* at para. 8) Accordingly, as stated above, there is no dispute as to the content of the secretary's comments, and Mr. Motyka's certification answers the question of the effect of any redistricting. It is, therefore, not necessary to include Knowlton as a third party for resolution of the factual issues raised by petitioners.⁴

Upon his careful and independent review of this matter, the Commissioner concurs with the Administrative Law Judge's conclusion that petitioners have failed to prove that they are domiciled in respondent's District, so as to permit their minor children to attend school free of charge pursuant to *N.J.S.A.* 18A:38-1.

Notwithstanding the finding that petitioners were not domiciled in respondent's District during the relevant period so as to entitle their children to attend school in that District free of charge, the record does not support a finding that petitioners understood prior to notification by the Board on April 20, 1999⁵ that their children were not enrolled in the appropriate school district. Respondent does not allege, nor is there anything in the record to suggest, that petitioners failed to provide the information requested when enrolling their children in respondent's school or that they provided erroneous information to the District upon enrolling their children in respondent's school. It is undisputed that M.F. attempted to enroll her oldest

⁴ Petitioners sought no relief against Knowlton in their proposed Amended Petition. Rather, they sought only to establish the above factual assertions. Therefore, there is no need to determine whether Knowlton may be joined as a party for purposes of assessing liability against it.

⁵ The Chief School Administrator for the Hope Township School District notified petitioners by letter of March 29, 1999 that there was a question as to whether petitioners were domiciled in Hope Township. The Board, subsequently, held a hearing on the issue of petitioners' residency at its regularly scheduled meeting on April 13, 1999. By letter of April 20, 1999, petitioners were notified of the Board's determination that petitioners and their children were residents of Knowlton, and thus not entitled to a free education in the Hope Township School. (Answer and Counter-Petition, Exhibit B)

child, K.F., in the Knowlton School District, whereupon the secretary to the superintendent informed her that K.F. must be enrolled in respondent's District or M.F. would be subject to tuition charges.⁶ While it may not have been prudent for M.F. to have relied on the information provided by a secretary in the Knowlton School District, M.F. reasonably assumed that the information was accurate.⁷ The ALJ concluded that M.F. deliberately concealed information from respondent by failing to mention her effort to enroll K.F. in the Knowlton Schools, by failing to mention that her step-children had attended the regional high school consistent with domicile in Knowlton, and by failing to note that she paid taxes to Knowlton. The Commissioner disagrees. The record does not reveal any intent on the part of petitioners to withhold this information or that respondent ever requested such information.

While a claimant's perception of domicile cannot override legal and geographical realities, the Commissioner finds that it would be inequitable to assess tuition against petitioners prior to April 20, 1999 under the particular facts of this matter, where petitioners domicile is situated on land which overlaps municipal boundaries, where petitioners reasonably relied on respondent's acceptance of their children as students for the previous nine years, and where there is no evidence in the record indicating that petitioners knew they were not domiciled in respondent's district prior to notice from the District. The Commissioner, therefore, concludes that fundamental fairness dictates that respondent be estopped from collecting tuition from petitioners for the period of ineligible attendance prior to April 20, 1999. *See East Orange v. Bd. of Water Com'rs., etc.*, 41 N.J. 6, 19 (1963) (“***equitable principles of estoppel may be applied against public bodies where the interests of ‘justice, morality and common fairness’ dictate that

⁶ M.F. testified that when she informed the secretary that her taxes were paid to Knowlton, the secretary told M.F. that a portion of her taxes were paid to the Hope schools. (Initial Decision at 5)

⁷ M.F. certified that the secretary left the room to check with a Knowlton administrator, and returned to confirm that M.F.'s children belonged in respondent's schools. (M.F.'s Certification at para. 7)

course.”); *State, Dept. of Envir. Protection v. Stavola*, 103 N.J. 425, 436 n.2 (1986) (“Any administrative agency in determining how best to effectuate public policy is also limited by applying principles of fundamental fairness.”); *H.M. and L.M. v. Board of Education of the Township of Freehold, Monmouth County*, decided by the State Board April 2, 1997; *Akbar Zadran v. Board of Education of the Township of Belleville, Essex County*, decided by the State Board of Education April 1, 1998; *Board of Education of the Borough of Fort Lee v. Kintos*, Docket #A-4944-93T5 (App. Div. October 13, 1995); and *Lee, supra*.

Accordingly, the Commissioner adopts the ALJ’s conclusion that petitioners have failed to prove that they are domiciled in respondent’s District, so as to permit their minor children to attend school free of charge pursuant to *N.J.S.A. 18A:38-1* for the reasons expressed therein. As noted above, however, the Commissioner modifies the ALJ’s decision with respect to reimbursement of tuition, and petitioners are hereby ordered to reimburse respondent for tuition costs for the period of their children’s ineligible attendance following their notification by respondent on April 20, 1999. Therefore, for the period of ineligible attendance from April 21, 1999 until the end of the 1998-1999 school year, such tuition shall be computed on the basis of 1/180 of the tuition rate of \$7,000 per child, multiplied by the number of remaining days in the school year. *See N.J.S.A. 18A:38-1b(2)*. For the period of ineligible attendance for the 1999-2000 school year, petitioners shall be assessed tuition for K.F. in the amount of \$5,700, J.F. in the amount of \$5250 and B.F. in the amount of \$5,250.⁸

IT IS SO ORDERED.⁹

COMMISSIONER OF EDUCATION

Date of Decision: July 31, 2000

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⁸ In support of its counterclaim, respondent submitted a tuition calculation for each year for each child. (Exhibit, R-3) Petitioners do not contest the tuition rates set forth therein.

⁹ This decision, as the Commissioner’s final determination, 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.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.