

31-00

G.E.A., on behalf of minor child, J.G.A.,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE CITY OF	:	DECISION ON REMAND
ATLANTIC CITY, ATLANTIC COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

Petitioning parent contested the Board’s residency determination. The Board sought the appropriate amount of tuition due and owing for the time petitioner’s son attended its schools illegally. The ALJ previously concluded that, as a matter of law, petitioner was not a bona fide resident of the City of Atlantic City from October 1997 through June 1998, petitioner’s son was not entitled to a free public education at Atlantic City High School during that period and the Board was due the educational cost for the education provided J.G.A. from October 1997 through June 1998. The petition was dismissed. The Commissioner concurred with the ALJ that petitioner was responsible for the tuition payment to the Board for J.G.A.’s educational expense for the period J.G.A. was a nonresident pupil in the Board’s school but remanded the matter to OAL for calculation of the tuition due.

On remand the ALJ determined that petitioner owed respondent \$9,149.40 for 153 days of ineligible attendance at Atlantic City High School during the 1997-98 school year. The Commissioner adopted the recommended decision of the ALJ for the reasons expressed therein, noting that petitioner’s exceptions contest the finding of petitioner’s son’s ineligibility for a free education at Atlantic City High School, a threshold issue which remand of the matter for tuition calculation did not serve to reopen.

January 18, 2000

OAL DKT. NOS. EDU 2004-99 and EDU 4297-98 (On Remand)
AGENCY DKT. NO. 77-3/98

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The record and Initial Decision on Remand issued by the Office of Administrative Law (OAL) have been reviewed. Petitioner's exceptions were timely filed pursuant to *N.J.A.C. 1:1-18.4*.

This matter was remanded to the OAL for the sole purpose of determining the specific amount of tuition owing to respondent as a result of the Commissioner's decision, issued on March 10, 1999, in which it was determined that petitioner was not domiciled in Atlantic City from October 1997 through June 1998, thus making his son ineligible to attend Atlantic City High School free of charge. In his exceptions, petitioner does not set forth any specific exceptions to the amount of tuition the Administrative Law Judge (ALJ) determined was owing in this matter; rather, petitioner pleads that the Commissioner not assess him tuition costs due to a myriad of circumstances and adversities which, in petitioner's view, militate against such assessment.

While petitioner eloquently states his position, it must be emphasized that the *only* issue on remand which may properly be before the Commissioner at this time is the amount of tuition owed because, as indicated above, a final decision on the threshold issue of petitioner's son's ineligibility for a free education at Atlantic City High School was already reached by the Commissioner in March 1999. Remanding of the matter for tuition calculation did not serve to reopen that threshold issue.

Accordingly, the ALJ's recommended decision ordering that petitioner reimburse respondent the amount of \$9,149.40 for 153 days of ineligible attendance at Atlantic City High School during the 1997-1998 school year is adopted by the Commissioner for the reasons set forth in the Initial Decision on Remand.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

January 18, 2000

* This decision, as the Commissioner's final determination in the instant matter, 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. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.