

#351-08 (OAL Decision: Not yet available on-line)

M.B., on behalf of minor children, E.B. and Y.B., :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF HILLSIDE,
UNION COUNTY, :

RESPONDENT. :

SYNOPSIS

Petitioner contested respondent's determination that her sons, E.B. and Y.B., are ineligible to attend school in respondent's district, claiming that she was domiciled in the district until it became necessary for her to move to out of her apartment in Hillside in October 2007 and into her mother's home in Newark in order to provide care for her mother, who was sick. Petitioner later moved back to an apartment in Hillside, beginning May 2008. The Board counterclaimed for tuition reimbursement for the period of E.B. and Y.B.'s ineligible attendance.

The ALJ found that: petitioner intended to abandon her domicile in Hillside and make her home in Newark at least indefinitely; it is undisputed that E.B. and Y.B. are now, once again, domiciled in respondent's school district; a counterclaim for tuition reimbursement may be granted when there is a period of ineligible attendance in a public school pursuant to *N.J.S.A. 18A:38-1(b)(2)*; petitioner and her children lived in Newark from November 23, 2007 to May 7, 2008; therefore, tuition is due to respondent Board for the period of ineligible attendance of E.B. and Y.B. in the amount of \$12,414.

Upon a full and independent review of this matter, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter. E.B. and Y.B. are deemed entitled to a free education in Hillside so long as there is no change in petitioner's circumstances that would alter such entitlement; petitioner is directed to pay the Board tuition in the amount of \$12,414 for the period of ineligible attendance from November 23, 2007 to May 7, 2008.

<p>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.</p>

August 21, 2008

OAL DKT. NO. EDU 3351-08
AGENCY DKT. NO. 49-2/08

M.B., on behalf of minor children, E.B. and Y.B., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF HILLSIDE,
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RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties filed no exceptions to the Initial Decision.

Upon such review, the Commissioner concurs with the findings and conclusions of the Administrative Law Judge (ALJ) that as of May 8, 2008, petitioner is a domiciliary of Hillside, thereby entitling her children to a free public education in the District's schools. The Commissioner further agrees that because petitioner admittedly gave up her apartment in Hillside and moved to her mother's home in Newark beginning November 23, 2007, and did not again reside in Hillside until May 8, 2008, her children were not entitled to a free public education in Hillside's schools during this period.

Accordingly, the recommended decision of the OAL is adopted for the reasons expressed therein. Petitioner is hereby directed to pay the Board tuition – in the amount of \$12,414 – for the ineligible attendance of E.B. and Y.B. in the Board's schools for the period November 23, 2007 to May 7, 2008. Beginning May 8, 2008, however, as domiciliaries of the

District these children are deemed entitled to a free education in Hillside so long as there is no change in petitioner's circumstances that would alter such entitlement.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: August 21, 2008

Date of Mailing: August 21, 2008

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.