

#468-11

T.H., on behalf of minor children,	:	
S.K., S.H. and S.H.,	:	
	:	
PETITIONERS,	:	COMMISSIONER OF EDUCATION
	:	
V.	:	
	:	DECISION
BOARD OF EDUCATION OF THE	:	
CITY OF BURLINGTON,	:	
BURLINGTON COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

Petitioner filed a pro-se residency appeal contesting the October 2010 determination of the respondent Board that her children, S.K., S.H., and S.H., do not reside in the City of Burlington and were not eligible for a free public education in the Burlington school district for the 2009-2010 and 2010-2011 school years. The respondent Board contended that T.H. and her children reside in the City of Beverly, and filed a counterclaim for tuition.

The ALJ found: that petitioner testified that her children were enrolled and educated in the Burlington City school district during the 2009-2010 and 2010-2011 school years; petitioner acknowledged that during those two school years, she and her children resided at an address in Beverly; and petitioner also acknowledged that the tuition for all three children for the relevant school years was accurately calculated at \$131,922. Based on petitioner’s testimony and admissions regarding her residency in Beverly, the ALJ issued an order that petitioner is liable to respondent for the tuition of her three children for the two school years in question in the amount of \$131,922, and dismissed the petition. Further, on the same day, the ALJ issued an “Initial Decision Settlement” in which he approved an agreement between the parties that the Burlington City school district would not seek enforcement of the ALJ’s order unless petitioner sought to reenroll her children in the Burlington School District.

Upon a full and independent review of the record, the Commissioner found that, beginning with the 2009-2010 school year and continuing until September 9, 2011, petitioner and her children resided in Beverly and were not eligible to receive a free public education in Burlington City schools; and the “Initial Decision Settlement” included in the record is neither accompanied by a resolution of the respondent Board nor signed by counsel for the Board. Accordingly, the Commissioner rejected the settlement agreement, dismissed the petition, and ordered that the petitioner is liable for tuition in the amount of \$131,922.

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.

October 31, 2011

OAL DKT. NO. EDU 13213-10
AGENCY DKT. NO. 626-11/10

T.H., on behalf of minor children, S.K., S.H. and S.H.,	:	
	:	
PETITIONERS,	:	COMMISSIONER OF EDUCATION
	:	
V.	:	
	:	DECISION
BOARD OF EDUCATION OF THE CITY OF BURLINGTON, BURLINGTON COUNTY,	:	
	:	
RESPONDENT.	:	

Petitioner, T.H., appealed from an October 2010 determination by the respondent Burlington City Board of Education that her children had been ineligible to receive a free public education in respondent’s district during the 2009-2010 school year and continued to be ineligible during the 2010-2011 school year. Upon review of the record the Deputy Commissioner, to whom this matter has been delegated pursuant to *N.J.S.A. 18A:4-33*, finds that – beginning with the 2009-2010 school year and continuing to September 9, 2011 – petitioner and her children resided in the City of Beverly, Burlington County. Consequently, the children were not eligible to receive a free public education in Burlington.

Included in the record of this controversy is an “Initial Decision Settlement” – issued on September 9, 2011. This initial decision approves a settlement wherein the parties agreed that, if petitioner transferred her children to the Beverly School District, respondent would not enforce a September 9, 2011 order of the OAL assessing tuition fees. Enforcement of said order would be sought, however, if petitioner attempted to reenroll her children in respondent’s district without residing therein.

Petitioner executed the settlement. The Commissioner remands the settlement to the OAL for supplementation of respondent's execution of same – either by a resolution of the Board of Education or by the signature of counsel for the Board.

IT IS SO ORDERED.¹

DEPUTY COMMISSIONER OF EDUCATION

Date of Decision: October 31, 2011

Date of Mailing: November 1, 2011

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)*