

#83-12 (OAL Decision: Not yet available online)

V.A. AND J.A. ON BEHALF OF THEIR :
MINOR CHILDREN :

PETITIONER, :

V. :

COMMISSIONER OF EDUCATION :

BOARD OF EDUCATION OF THE :
TOWNSHIP OF SOUTH HACKENSACK, :
BERGEN COUNTY, :

DECISION

RESPONDENT. :

_____ :

SYNOPSIS

Petitioners – who admit to being domiciled in Hackensack – appealed the determination of the respondent Board that their minor children are not entitled to a free public education in the South Hackensack school district. Petitioners contended that – in addition to the Hackensack house they currently reside in – they own a property that straddles the border between Hackensack and South Hackensack, pay taxes to both municipalities, and should be allowed to have their children educated in South Hackensack schools. The respondent Board filed a motion for summary decision.

The ALJ found that: there are no material facts in dispute, and the matter is ripe for summary decision; petitioners are domiciled in Hackensack, not South Hackensack – even if they eventually intend to live in their South Hackensack house; petitioners’ children have never attended school in respondent’s district; and petitioners’ children are not entitled to a free public education in South Hackensack schools pursuant to *N.J.S.A. 18A:38-1*. Accordingly, the ALJ concluded that South Hackensack is not obligated to educate petitioners’ children, and granted respondent’s motion for summary decision.

Upon a full and independent review, the Commissioner concurred with the findings and conclusion of the ALJ. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this case, and the petition was dismissed.

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.

March 5, 2012

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	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE TOWNSHIP OF SOUTH HACKENSACK, BERGEN COUNTY,	:	DECISION
	:	
RESPONDENT.	:	
_____	:	

The Commissioner has reviewed the record of this matter and the Initial Decision of the Office of Administrative Law (OAL) on the Board’s motion for summary decision. No exceptions were filed by either party as provided by *N.J.A.C.* 1:1-18.4.

Upon his considered review of the record, the Commissioner concurs with the Administrative Law Judge (ALJ) that this matter is ripe for summary decision as there are no genuine issues of material fact to resolve. For the reasons convincingly presented in the ALJ’s decision, the Commissioner agrees that petitioners are not domiciled in South Hackensack simply because they pay taxes there. Instead, the record clearly shows that the petitioners actually reside in the City of Hackensack and are also domiciled there. As such, their children are entitled to a free public education within the Hackensack school district, pursuant to *N.J.S.A.* 18A:38-1, until such time as the family may move to the other property in South Hackensack, as their plan for the future seems to indicate.

Accordingly, summary disposition is granted to respondent, and the appeal of petitioner is hereby dismissed.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 5, 2012

Date of Mailing: March 6, 2012

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).