

# 453-12 (OAL Decision: Not yet available online)

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 appealed the respondent Board of Education of the City of Burlington’s October 2010 determination that petitioner and her children did not reside in Burlington and were not eligible for a free public education in the Burlington City School District for the 2009-2010 and 2010-2011 school years. Petitioner asserted in her appeal that she and her family were homeless. In December 2011, petitioner presented acceptable proof of residency in the City of Burlington, and the Board dropped its challenge of petitioner’s residency status. The Board of Education of the City of Burlington (Burlington) filed a letter requesting that the matter be dismissed as moot.

The ALJ found that Burlington’s motion to dismiss was essentially a motion for summary judgment; there are no issues of material fact remaining between the parties, and the matter is ripe for summary decision. The ALJ concluded that no contested case exists between the parties, and the matter is moot. Accordingly, he dismissed the petition.

Upon full and careful consideration, the Commissioner concurred with the ALJ that the matter is appropriately dismissed as moot. In so concluding, the Commissioner referenced the July 12, 2012 letter from counsel for the Board of Education of the City of Burlington requesting that the matter be dismissed, as well as another letter in the file – dated January 23, 2012 – which indicated that the matter of tuition payments for the period from September 2011 to November 2012 had been settled between the Beverly City and Burlington City Boards of Education, and as such there is no existing dispute between the two Boards of Education. Accordingly, the petition was dismissed as moot.

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.

November 27, 2012

OAL DKT. NO. EDU 12093-11  
AGENCY DKT. NO. 298-10/11

T.H., on behalf of minor children, S.K., S.H., and S.H.,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE CITY OF BURLINGTON AND BOARD OF EDUCATION OF THE CITY OF BEVERLY, BURLINGTON COUNTY,	:	DECISION
	:	
RESPONDENTS.	:	

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon full consideration, the Commissioner concurs with the Administrative Law Judge (ALJ) that this matter is appropriately dismissed as moot. In so concluding the Commissioner notes that the record contains a letter, dated July 12, 2012, from counsel for the Board of Education of Burlington City to the ALJ which reports:

On December 6, 2011, the Petitioner presented a one-year rental lease for property located at 570 York Street, Burlington, New Jersey for the period beginning November 16, 2011 and ending November 16, 2012. The Burlington City Board of Education conducted due diligence and determined that Petitioner does reside at 570 York Street, Burlington, New Jersey. The Burlington City Board of Education no longer challenges the residency status of the Petitioner and, as such, this matter is resolved. In light of the above, we request that this matter be dismissed as moot.<sup>1</sup>

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<sup>1</sup> It is also noted that a prior letter, dated January 23, 2012, from Burlington City Board of Education counsel to the ALJ stated “[i]t is our understanding the Beverly City Board of Education has reimbursed the Burlington City Board of Education for tuition payments for the period from September 2011 to November 2011. As such, there is no existing dispute between the Beverly City and Burlington City Boards of Education.”

Accordingly, the recommended decision of the OAL is adopted and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: November 27, 2012

Date of Mailing: November 30, 2012

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<sup>2</sup> 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*).