

#262-15 (OAL Decision: Not yet available online)

J.J., on behalf of minor child, J.A.J., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF WASHINGTON,
GLOUCESTER COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner – a resident of the Township of Washington – filed a *pro se* residency appeal challenging the respondent Board’s determination that she was not the legal guardian of J.A.J., and therefore J.A.J. was not entitled to a free public education in the Board’s school district. Petitioner provided the Board with a sworn statement from her daughter, signed on January 5, 2014, which gave guardianship and care of J.A.J. to petitioner, who is J.A.J.’s maternal grandmother. In February 2014, the Board notified petitioner that she needed to file court/custody paperwork proving that she had legal custody of J.A.J. Petitioner contended that in order to gain legal custody of her granddaughter, she was required to travel to South Carolina to file the appropriate paperwork, and she made the trip to do so as soon as it was logistically possible – in June 2014, after school ended for the year. The Board asserted that J.A.J. was not legally domiciled in its district during the 2013-2014 school year, and filed a motion for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue, and this matter is ripe for summary decision on the issue of domicile; the evidence shows that petitioner did not obtain a court order giving her custody of J.A.J. for the 2013-2014 school year until August 2014, and did not allege that J.A.J. came to live with her as a result of hardship; pursuant to *N.J.S.A.* 18A:38-1, the affidavit from J.A.J.’s mother did not give petitioner custody, though that was the intent; although petitioner made earlier efforts to obtain a custody order, she was unable to make the necessary trip to South Carolina until after school ended in June 2014; she did, however, make the trip immediately after the end of the school year, and did make a good-faith effort to obtain custody. The ALJ determined that the portion of the Board’s motion for summary decision pertaining to domicile must be granted, but factual issues existed regarding the assessment of tuition, and therefore that portion of the motion was denied. Accordingly, the ALJ concluded that special circumstances warrant an equitable determination waiving the recovery of tuition from January to June 2014.

Upon review of the record and the Initial Decision, the Commissioner concurred with the ALJ’s findings and conclusions. Accordingly, the Initial Decision was adopted as the final decision in this matter.

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.

August 7, 2015

OAL DKT. NO. EDU 4708-14
AGENCY DKT. NO. 43-2/14

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

Upon such review, the Commissioner concurs with the Administrative Law Judge (ALJ) that J.A.J. was not domiciled in the district until her grandmother, J.J., obtained an Order of Temporary Custody from South Carolina in August 2014. The Commissioner, however, is also in accord with the ALJ's determination – for the reasons stated in the Initial Decision – that the special circumstances in this case warrant an equitable determination waiving the recovery of tuition from January through June 2014.

Accordingly, the recommended decision of the ALJ is adopted for the reasons expressed therein.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: August 7, 2015

Date of Mailing: August 7, 2015

* This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).