

#266-15 (OAL Decision: Not yet available online)

A.H., ON BEHALF OF MINOR CHILD, B.H.G., :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION  
TOWNSHIP OF WEST ORANGE,  
ESSEX COUNTY, :

RESPONDENT. :

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SYNOPSIS

Petitioner challenged the respondent Board’s determination that her child, B.H.G., was not entitled to a free public education in the Township of West Orange schools during the second half of the 2014-2015 school year. Petitioner asserted that although she had recently signed a residential lease in another school district, her family had owned property and paid taxes in West Orange for twenty years; B.H.G. had attended West Orange schools for seven years, and was a graduating senior; therefore, in the interest of fairness, B.H.G should be allowed to graduate and finish the year with her friends and teachers. The Board contended that the results of a residency investigation showed that petitioner was not domiciled in West Orange, and that she was therefore liable for tuition reimbursement for the period from January 16 through June 19, 2015.

The ALJ found, *inter alia*, that: pursuant to *N.J.S.A. 18A:38-1(a)*, public schools are required to provide a free education to individuals aged 5 to 20 years who are domiciled within the school district; the domicile of an unemancipated child is that of her parent or guardian; although there is a so-called “senior rule” whereby a parent of a graduating senior could petition the Superintendent for a waiver to remain in the district through graduation, the Board’s residency investigator testified that B.H.G. was classified as a detained junior; A.H. testified that she had moved to an apartment in Newark in January 2015 due to family issues, but asserted that B.H.G. remained at A.H.’s mother’s home in West Orange except on weekends until March 2015, when she moved to Newark with A.H. full-time; L.H. – A.H.’s mother – testified that B.H.G. had lived with her mother at L.H.’s house in West Orange until A.H. moved to Newark, and occasionally stayed with L.H. in West Orange after January 2015. As it is uncontested that A.H. moved to Newark in January 2015, the ALJ concluded that the determination of the Board that A.H. was not domiciled in West Orange during a portion of the 2014-2015 school year should be upheld and the petition should be dismissed pursuant to *N.J.A.C. 1:1-14.4*. Further, the Board is entitled to reimbursement for tuition for the period of A.H.’s ineligible attendance in the amount of \$10,366.72.

Upon review of the record and the Initial Decision, the Commissioner found that petitioner failed to sustain her burden of establishing that she was a domiciliary of West Orange during the period in question. Accordingly, the Initial Decision was adopted as the final decision in this matter and the petitioner was dismissed. Petitioner was directed to reimburse the Board in the amount of \$10,366.72.

<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>
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August 11, 2015

OAL DKT. NO. EDU 6653-15  
AGENCY DKT. NO. 100-5/15

A.H., ON BEHALF OF MINOR CHILD, B.H.G., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
TOWNSHIP OF WEST ORANGE,  
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The record of this matter<sup>1</sup> and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon such review, the Commissioner finds that petitioner failed to sustain her burden of establishing that she was a domiciliary of West Orange Township between January 16, 2015 and June 19, 2015. In fact, A.H. testified that she moved to Newark as of January 2015 “due to an influx of family issues.” (Initial Decision at 2) Although A.H. further testified that B.H.G. remained in West Orange during the week – at A.H.’s mother’s home – until March 2015, A.H.’s mother testified that B.H.G. only stayed with her “occasionally” after A.H. moved out. (Initial Decision at 3) As a result, B.H.G. was not eligible to receive a free public education in West Orange during the time period in question. Therefore, the Board is entitled to tuition reimbursement in the amount of \$10,366.72 (\$92.56 per day for 112 days) – pursuant to *N.J.S.A. 18A:38-1b* – as detailed in the Initial Decision.

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<sup>1</sup> The record did not include transcripts from the hearing, which occurred at the OAL on June 29, 2015.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter. The petition of appeal is hereby dismissed. Petitioner is directed to reimburse the Board in the amount of \$10,366.72 for tuition costs incurred during the time period that B.H.G. was ineligible to attend school in West Orange.

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

COMMISSIONER OF EDUCATION

Date of Decision: August 11, 2015

Date of Mailing: August 11, 2015

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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*).