

#127-16 (OAL Decision: Not yet available online)

J.S. ON BEHALF OF MINOR CHILD, A.S., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION  
OF MONROE, MIDDLESEX COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

SYNOPSIS

*Pro se* petitioner challenged the respondent Board’s determination that her child, A.S., was not entitled to a free public education in the Monroe Township schools. Petitioner asserted that she had a lease on an apartment in Monroe for the period from October 1, 2014 until September 30, 2015, and that she and A.S. lived there during that period. J.S. contended that she and A.S. subsequently moved in with her daughter in North Brunswick after her daughter was diagnosed with a serious medical condition. The Board maintained that a residency investigation was conducted after J.S. was continually picked up late from school by family members, and surveillance revealed that: the address provided to the school district was located in a 55 and older community; the apartment was largely unfurnished; and J.S. and A.S. routinely left for school in Monroe from an address in North Brunswick. The Board found that J.S. and A.S. have been – and continue to be – domiciled in North Brunswick, and A.S. was therefore not eligible to attend Monroe schools free of charge. The Board sought tuition reimbursement for the period of J.S.’s ineligible attendance.

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 unemancipated children is the domicile of their parent or guardian; in the instant case, the results of the Board’s residency investigation show that J.S. and her child were domiciled in North Brunswick during the time period in question; petitioner failed to demonstrate by a preponderance of the credible evidence that her child was entitled to a free public education in Monroe; pursuant to *N.J.S.A.* 18A:38-1(b)(2), a school board is entitled to recover tuition from a parent or guardian of a child found ineligible to attend school in its district; and the daily tuition cost in Monroe schools was \$68.91 for 2014-2015, and is \$80.69 for the 2015-2016 school year. Accordingly, the ALJ concluded that A.S. was not entitled to attend school in Monroe free of charge, and the Board is owed tuition for the period of the child’s ineligible attendance. The ALJ dismissed the petition with prejudice and ordered J.S. to reimburse the Board for tuition in the amount of \$18,706.47, plus an additional \$80.69 for each day that A.S. remains in Monroe’s high school after February 29, 2016.

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 Monroe during the period in question. Accordingly, the Initial Decision was adopted as the final decision in this matter and petitioner was directed to reimburse the Board in the amount of \$ 18,706.47. 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.

April 5, 2016

OAL DKT. NO. EDU 07256-15  
AGENCY DKT. NO. 92-4/15

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PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.<sup>1</sup> The parties did not file exceptions.

Upon such review, the Commissioner concurs with the Administrative Law Judge's (ALJ) finding that petitioner failed to sustain her burden of establishing that she was a domiciliary of Monroe Township from November 3, 2014 to the present. The Commissioner further concurs with the ALJ's conclusion that the minor child was, therefore, not entitled to a free public education in the District's schools during this time.

Pursuant to *N.J.S.A.* 18A:38-1b, the Commissioner shall assess tuition against petitioner for the time period during which the minor child was ineligible to attend school in Monroe Township. Therefore, the Board is entitled to tuition reimbursement in the amount of \$18,706.47 (\$68.91 per day for 145 days and \$80.69 per day for 108 days) for the time period from November 3, 2014 to February 29, 2016 – during which petitioner's minor child was ineligible to attend – plus \$80.69 for each day beyond February 29, 2016 that the minor child remains in Monroe Township's schools.

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<sup>1</sup> The Commissioner was not provided with a transcript of the February 16, 2016 hearing at the OAL.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter. Petitioner is directed to reimburse the Board in the amount of \$18,706.47 – plus \$80.69 for each day beyond February 29, 2016 that A.S. remains enrolled in the District’s schools – for tuition costs incurred during the time period that A.S. was ineligible to attend school in Monroe Township. The petition of appeal is hereby dismissed.

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

COMMISSIONER OF EDUCATION

Date of Decision: April 5, 2016

Date of Mailing: April 6, 2016

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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)*.