

**New Jersey Commissioner of Education****Final Decision**

Board of Education of the Town of Princeton,  
Mercer County,

Petitioner,

v.

A.V. and R.C., on behalf of A.V.C. and D.V.C.,

Respondent.

**Synopsis**

The petitioning Board brought an action against respondents, the parents of minor children, A.V.C. and D.V.C., for reimbursement of tuition for a period of alleged ineligible attendance of their two children in the Princeton Township Public School District. The respondents contended that they were homeless, having been displaced from their Princeton home by storm damage from Hurricane Ida. The Board contends that petitioners lived in a fixed, regular, and adequate three-bedroom townhouse in Lawrenceville during the period in question, and could not be considered homeless; therefore, their children were ineligible to attend school in Princeton during the period in question. The Board filed a motion for summary decision which was not opposed by the respondents. A zoom hearing in the matter was held on July 15, 2024; neither respondents nor their counsel attended the hearing.

The ALJ found, *inter alia*, that: there are no material facts at issue in this case, and the matter is ripe for summary decision; the minor children were not domiciled within the Princeton School District while attending school there during the period from October 8, 2021 to December 10, 2022; neither were the children homeless during this period, as they resided with their mother in a leased townhouse in Lawrenceville that provided a fixed and regular nighttime residence for the family; respondents lived in Lawrenceville for 63 days during the 2022-2023 school year and were ineligible to attend school in Princeton during that time. Accordingly, the ALJ assessed tuition reimbursement in the amount of \$47,266.72.

Upon review, the Commissioner rejected the Initial Decision and remanded the matter to the OAL. In so doing, the Commissioner found that the respondents' exceptions indicate they did not know that their attorney was not filing on their behalf or appearing before the court in July. Accordingly, the matter was remanded to the OAL for further proceedings to provide respondents with an opportunity to oppose petitioner's motion for summary decision and to appear for oral argument.

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.

380-24R  
OAL Dkt. No. EDU 03265-23  
Agency Dkt. No. 71-3/23

**New Jersey Commissioner of Education**  
**Final Decision**

Board of Education of the Town of Princeton,  
Mercer County,

Petitioner,

v.

A.V. and R.C., on behalf of A.V.C. and D.V.C.,

Respondents.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), and the exceptions filed by the petitioner pursuant to *N.J.A.C. 1:1-18.4* have been reviewed and considered. The Princeton Board of Education (Board) did not file a reply to petitioner's exceptions.

The Board filed the petition in this matter, seeking reimbursement of tuition for a period of alleged ineligible attendance by respondents' children in Princeton schools. Petitioner filed a motion for summary decision. Respondents did not file opposition, nor did their attorney appear for oral argument. The Administrative Law Judge (ALJ) found that respondents lived in Lawrenceville for 63 days during the 2022-2023 school year and were ineligible to attend school in Princeton during that time. Accordingly, the ALJ assessed tuition reimbursement in the amount of \$47,266.72.

In their exceptions, respondents<sup>1</sup> indicate that they did not know that their attorney was not filing on their behalf or appearing before the court. They request that the case be remanded to the OAL so that they can respond to petitioner's motion.

Upon review, the Commissioner concludes that it is appropriate to remand this matter for further proceedings, including an opportunity for respondents to oppose petitioner's motion for summary decision and to appear for oral argument, consistent with any scheduling orders or other instructions given by the ALJ. If respondents wish to represent themselves moving forward, they should notify the OAL to communicate directly with them and to remove their attorney from all communications.

Accordingly, the Initial Decision is rejected, and this matter is remanded to the Office of Administrative Law for further proceedings.

IT IS SO ORDERED.



ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 10, 2024  
Date of Mailing: October 11, 2024

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<sup>1</sup> The exceptions were filed by respondents on their own behalf, not by their attorney.



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**SUMMARY DECISION**

OAL DKT. NO. EDU 03265-23

AGENCY DKT. NO. 71-3/23

**TOWN OF PRINCETON  
BOARD OF EDUCATION,  
MERCER COUNTY,**

Petitioner,

v.

**A.V. AND R.C. ON BEHALF OF  
A.C. AND D.V.C.,**

Respondents.

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**Brett E.J. Gorman, Esq.**, for petitioner (Gorman, D'Anella & Morlock, attorneys)

**Richard J. Kaplow, Esq.**, for respondents

Record Closed: July 18, 2024

Decided: September 3, 2024

BEFORE **CARL V. BUCK III**, ALJ:

## **STATEMENT OF THE CASE**

Town of Princeton Board of Education (Princeton or Board or petitioner) brought an action against A.V. and R.C.<sup>1</sup> (A.V. or respondents), the parents of minor children, A.V.C. and D.V.C., for reimbursement of tuition for a period of alleged ineligible attendance of their two children in the Princeton Township Public School District (District)<sup>2</sup>. Respondents dispute the Board's claim. The Board brought an action against the parents for reimbursement of tuition for a period during which A.C. and D.V.C. were not domiciled within the District and that tuition reimbursement is required. The respondents allege that they, and the minor children, were displaced by damage to their residence. This damage was incurred as a result of Hurricane Ida. At issue is whether A.C. and D.V.C. were entitled to be enrolled in the District for purposes of receiving a thorough and efficient public education free of charge for the period in question, pursuant to N.J.S.A. 18A:38-1.

## **PROCEDURAL HISTORY**

By letter, dated October 8, 2021, respondents informed the District that they had been rendered homeless by damage caused by Hurricane Ida and their children would need to be picked up and dropped off at an address in Lawrenceville, NJ (P-7). On November 15, 2022, the Executive County Superintendent sent the finding that the family is not homeless and has not been for more than a year to the District and respondents along with information on how to appeal the decision (R-1). Thereafter on December 10, 2022, the respondents secured a lease for a residence in Princeton which placed the family back in the District (P-2).

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<sup>1</sup> A.V. is the mother and R.C. is the father. R.C. did not participate in initial matters and on two occasions made inquiries to the Tribunal as to the status of this matter.

<sup>2</sup> This action was filed by the Board subsequent to two actions filed by the parents captioned: A.V. and R.C. on behalf of A.V. v. Princeton Public Schools Board of Education (OAL Dkt. No. EDS 03637-22) and A.V. and R.C. on behalf of D.V.C. v. Princeton Public Schools Board of Education (OAL Dkt. No. EDS 03638-22).

Respondents did not file a challenge to that finding.

Several telephone conferences were conducted and a briefing schedule for a motion for summary decision was set. The petitioner filed a motion for summary decision on June 14, 2024. Respondents did not file opposition to the summary decision motion at the time it was due nor was anything sent up to the date of the July 15, 2024, oral argument on the motion.

### **FACTUAL DISCUSSIONS AND FINDINGS**

The majority of the facts are not in dispute, and I **FIND** the following as **FACT**:

1. On October 8, 2021, the respondents informed the District that they had been rendered homeless by damage to their home in Princeton Boro which was caused by Hurricane Ida. As a result of this damage the children will need to be picked up and dropped off at 1---5 E--- R--- Drive in Lawrenceville, NJ (P-7).
2. On November 11, 2021, the District began transporting A.V.C. and D.V.C. from Lawrenceville to Princeton (P-7).
3. On October 25, 2022, the District wrote to respondents informing them that they are not homeless under the definition of homelessness and asking them to enroll in the Lawrenceville school district for the term commencing January 2023. This letter also informed respondents how to proceed if they disagreed with this determination stating, "If you dispute this determination, pursuant to N.J.A.C. §6A:17-2.7(a), please immediately notify the executive county superintendent (ECS), Daryl Minus-Vincent, at the Mercer County Office of Education, 1075 Old Trenton Road, Trenton, NJ 08690 or you can notify Micki Crisafulli who will notify Mr. Minus-Vincent on your behalf." (R-6).

4. On November 4, 2022, the respondents emailed the ECS, with Board members copied, stating that their home in Princeton was rendered uninhabitable and they were homeless. At this time respondent A.V. was living in a three-bedroom townhouse with her two children “As such, I continue to be a Princeton taxpayer, and my special needs children will continue to attend their school in Princeton, NJ. They also love their fantastic and caring teachers, case manager, and principal. It is beyond appalling that Ms. Crisafulli, the director of special services, would send a letter seeking my children with multiple needs and diagnoses, two of which are autism and anxiety, to be removed from the district mid-year. Especially the timing of which is right before a settlement hearing regarding a previous legal matter.” (R-5).
5. On November 7, 2022, the District wrote to ECS explaining the facts that were revealed on its investigation of respondents’ residency (R-4).
6. On November 15, 2022, the ECS sent to the District and the respondents their finding that the family is not homeless and has not been for more than a year. This included information on how to appeal the decision stating “The family has secured a housing lease in a neighboring town and has been residing there for more than a year. (N.J.A.C. 6A:17-2.2). The family is in a fixed, regular, and adequate nighttime residence. (42 U.S. Code § 11302). This determination may be appealed to the Commissioner of Education, pursuant to N.J.A.C. 6A:17-2.7, Disputes and Appeals.” (R-1).
7. On December 10, 2022. the respondents were able to secure a lease for residence in Princeton which began on December 10, 2022. Based on this action, the District did not seek to remove respondents’ children from the District (R-2).
8. On February 28, 2023, the District wrote to respondents requesting tuition

reimbursement for the time that respondents' children were attending the District while residing in a fixed, regular, and adequate three-bedroom townhouse in Lawrenceville (R-3).

9. On or about April 1, 2023, the District filed Bd. of Educ. of the Town of Princeton, Mercer Cnty. v. A.V. and R.C. obo A.V.C. and D.V.C., Agency Ref. No 71-3/23 to recover tuition.
10. As of May 25, 2024, no appeal of the November 15, 2022, ECS decision was filed with ECS or the District.
11. As of May 25, 2024, it has been 559 days and 379 business days since the ECS decision.
12. As of the date of the hearing respondents filed no written information to the Court refuting the position of the District.
13. Oral argument on the motion for summary decision was scheduled for July 15, 2024, at 4:00 p.m.
14. On the date of the hearing counsel for respondents did not appear for the scheduled zoom hearing. I personally sent an email to counsel for respondents at 4:07 p.m. stating that I was waiting for him to appear.
  - a. At 4:20 p.m. I received the following message:

On behalf of Mr. Kaplow:  
Mr. Kaplow is at the doctors.  
Thank you.  
Leslie Peckham  
Paralegal to Richard J. Kaplow, Esq.
  - b. At 4:27 p.m. I received the following message from a judicial assistant:



Petitioner (Ms. V.) just called to advise that her attorney (Mr. Kaplow) called to advise her that he was still at the doctors and not making the hearing today at 4:00 p.m.

15. I did not hear from him on that date, nor did I hear from him within several days after the scheduled hearing as to why he did not appear.

16. At no time subsequent to the hearing date did I receive any correspondence or documents regarding respondents' position on the motion.

It is unchallenged that during the 2022-2023 school year, A.V.C. and D.V.C. were attending Princeton Public Schools and living in Lawrenceville for a total of sixty-three ineligible days between September 6 (the first day of school) and December 10, 2022 (the day the lease in Princeton began). Tuition for elementary students is \$22,570 per student which is just over \$125.38 per day. For each student, Princeton Public Schools is owed \$7,898.94 in tuition for a total of \$15,797.88 for the 2022- 2023 school year. Additionally, A.V.C. and D.V.C. were attending Princeton Public Schools for a total of 146 ineligible days from October 28, 2021 (the day respondents informed the District they were living in Lawrenceville and would need transportation) to June 20, 2022 (the last day of school). During the 2021-2022 school year, tuition for elementary students was \$19,400 per year or approximately \$107.77/day. For each student, Princeton Public Schools is owed 15,734.42 for a total of \$31,468.84 for the 2021-2022 school year. Altogether, the total amount due and owing is 47,266.72.

Additionally, I **FIND** as fact that A.V.C. and D.V.C. were not residents within the purview of the Princeton Boro Board of Education between the period October 8, 2021 to December 10, 2022.

I further **FIND** as fact that the tuition rate for the District is detailed above resulting in a total amount due and owing of \$47,266.72.

## **LEGAL ANALYSIS AND CONCLUSIONS**

A motion for summary decision shall be granted “if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” N.J.A.C. 1:1-12.5(b).

A determination whether a genuine issue of material fact exists that precludes summary decision requires the judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party. Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 540 (1995). The “judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” Id. (citing Anderson v. Liberty Lobby, 477 U.S. 242, 249 (1986)). When the evidence “is so one-sided that one party must prevail as a matter of law,” the trial court should not hesitate to grant summary judgment. Liberty Lobby, 477 U.S. at 252. The evidence in this case is one-sided as counsel for respondents deemed not to submit any documentation challenging petitioner’s position nor to appear at oral argument on the motion. As such I **CONCLUDE** that this matter is ripe for summary decision.

The issue in this appeal is whether A.V.C. and D.V.C. had been domiciled in the District during the period October 8, 2021 to December 10, 2022, and, if not, is tuition owed to petitioner for education expenses for that period?

Public schools are required to provide a free education to individuals between the ages of five and twenty years in certain circumstances, including individuals who are domiciled within the school district. N.J.S.A. 18A:38-1(a). Domicile has been defined as the place where a person has his true, fixed, permanent home and principal establishment, and to which whenever he is absent, he has the intention of returning.

State v. Benny, 20 N.J. 238, 250 (1955). N.J.A.C. 6A:22-3.1(a)(1) provides: “A student is domiciled in the school district when he or she is the child of a parent or guardian whose domicile is located within the school district.” See also P.B.K. ex rel. minor child E.Y. v. Bd. of Educ. of Tenafly, 343 N.J. Super. 419, 427 (App. Div. 2001). Thus, a child would routinely attend school in the district where his or her parents live. The petitioner has the burden of proof in a determination of residency eligibility. N.J.S.A. 18A:38-1(b)(2). When a child is found to be ineligible to attend a school in its district, a school board is entitled to recover tuition from the parent or guardian of the child found ineligible to attend within the district. N.J.S.A. 18A:38-1(b)(2).

A review of the record and undisputed (as unchallenged) facts reveals that A.V.C. and D.V.C. :

1. Were not domiciled within the District or living with a parent or guardian whose domicile was located within the District (while attending school there) during the period October 8, 2021 to December 10, 2022;
2. Were not eligible for a free education in the District during that period;
3. Were not eligible to attend the District pursuant to N.J.S.A. 18A:38-1(b)(1); and
4. Were not eligible for a free education in the District because they were not homeless having produced a lease for a residence in Lawrenceville.

Accordingly, respondents owe the District reimbursement of tuition for the period from October 8, 2021 to December 10, 2022.

Thus, it is unchallenged that respondents’ family was domiciled outside of the District in Lawrenceville from October 8, 2021 to December 10, 2022. Accordingly, I **CONCLUDE** that the petitioner is entitled to summary decision and that A.V.C. and D.V.C.

were not entitled to attend school in the District and receive a free public education there pursuant to N.J.S.A. 18A:38-1(a) for the period October 8, 2021 to December 10, 2022.

I further **CONCLUDE** that because A.V.C. and D.V.C. were not entitled to receive a free public education in the District for the period October 8, 2021 to December 10, 2022, the petitioner is entitled to tuition reimbursement from respondents resulting in a total amount owed of \$47,266.72. Therefore, I **CONCLUDE** that petitioner is entitled to summary decision on its motion for summary decision for tuition reimbursement from respondents for the cost of providing an education to A.V.C. and D.V.C. at the daily per pupil rate of \$125.38 per day in the 2022-2023 school year and \$107.77 in the 2021-2022 school year. For each student, Princeton Public Schools is owed 15,734.42 for a total of \$31,468.84 for the 2021-2022 school year and the Board is owed \$7,898.94 in tuition for a total of \$15,797.88 for the 2022- 2023 school year. Altogether, the total amount due and owing is 47,266.72.

### **ORDER**

Based upon the foregoing, it is hereby **ORDERED** that petitioner's motion for summary decision is **GRANTED**.

It is further **ORDERED** that the total amount due and owing to petitioner by respondents is \$47,266.72 representing payment for educational services rendered from October 8, 2021 to December 10, 2022.

I hereby **FILE** this initial decision with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Acting Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days and unless

such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to [ControversiesDisputesFilings@doe.nj.gov](mailto:ControversiesDisputesFilings@doe.nj.gov) or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.



September 3, 2024

DATE

CARL V. BUCK, ALJ

Date Received at Agency:

Date Mailed to Parties:

CVB/mph/tat

**APPENDIX**

**EXHIBITS**

**For petitioner**

Notice of Motion for Summary Decision; Petitioner's Statement of Material Facts in Support of Motion for Summary Decision; Petitioner's Brief in Support of Motion for Summary Decision; and attached Exhibits

Correspondence from respondents' counsel, dated June 14, 2024

**For respondents**

None