

New Jersey Commissioner of Education

Final Decision

N.D., on behalf of minor children, N.D.-T., C.D.-T.,
and C.D.,

Petitioner,

v.

Board of Education of the Township of Union,
Union County,

Respondent.

Synopsis

Petitioner filed a pro se petition challenging the determination of the respondent Board that her minor children were not eligible to receive a free public education in respondent's school district during the 2023-2024 and 2024-2025 school years. The Board sought reimbursement of tuition from petitioner, asserting that petitioner was not domiciled within Union Township during the relevant time period. Petitioner failed to appear at the September 20, 2024 hearing in this matter; the hearing proceeded on an *ex parte* basis to allow the Board to present its evidence. The record closed on September 24, 2024, following the Board's certification of per diem tuition costs for the period of the ineligible attendance.

The ALJ found, *inter alia*, that: pursuant to N.J.S.A. 18A:38-1, public schools are free to any persons over five and under twenty five years of age who are domiciled within the school district; pursuant to N.J.A.C. 6A:22-6.2., if a student does not have a right to attend the school district, the Commissioner may assess tuition for the period of ineligible attendance; in this case, petitioner did not appear at the scheduled hearing in this matter and failed to prove that she was domiciled in Union Township during the time period in question. The ALJ concluded that since N.D. and her minor children were not domiciled within the District during the 2023–2024 and 2024-2025 school years, they are not entitled to a free public education there; accordingly, the ALJ granted the Board's counterclaim for tuition reimbursement, retroactive from September 5, 2023, to September 27, 2024, in the amount of \$29,564.32 for 2023-2024 for N.D.-T, C.D.-T., and C.D., and for the 2024-2025 school year in the amount of \$914.44 for C.D.-T. and C.D.

Upon review, the Commissioner concurred with the ALJ's findings and conclusions and adopted the Initial Decision of the OAL as the final decision in this matter, with modification to the ALJ's breakdown of tuition costs for the 2023-2024 school year. Petitioner owes the Board tuition in the total amount of \$30,478.76 for the 2023-2024 and 2024-2025 school years when her three children were ineligible to attend school in the District. The petition of appeal 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.

New Jersey Commissioner of Education
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and C.D.,

Petitioner,

v.

Board of Education of the Township of Union,
Union County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed and considered.¹

Upon review, the Commissioner concurs with the Administrative Law Judge's (ALJ) finding that petitioner was not domiciled in Union (District) during the 2023-2024 and 2024-2025 school years. The Commissioner further concurs with the ALJ's conclusion that N.D.-T, C.D.-T., and C.D., were therefore not entitled to a free public education in the District during that 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 children were ineligible to attend school in the District. Upon review, the Commissioner agrees with the ALJ that the Board is entitled to a tuition reimbursement

¹ Petitioner emailed the Office of Controversies and Disputes on October 17, 2024, indicating that her children now attend private school and contending that she does not owe the Board anything. Petitioner also attached a copy of a lease. Petitioner did not copy the Board or the ALJ on her email. To the extent that this submission could be considered exceptions, it is untimely and does not comply with the service requirements of *N.J.A.C. 1:1-18.4(a)*. Therefore, it was not considered.

of \$29,564.32 for the 2023-2024 school year. However, the Commissioner disagrees with the ALJ's breakdown of costs, which appears to contain minor typographical errors. The ALJ mistakenly lists the cost for N.D.-T. as \$9,926.83, but the correct amount is \$9,912.83. The ALJ correctly lists the cost for C.D.-T. as \$9,926.27. The ALJ mistakenly lists the cost for C.D. as \$9,925.22, but the correct amount is \$9,725.22.²

Regarding the 2024-2025 school year, the Commissioner concurs with the ALJ's finding that petitioner owes the Board \$914.44 for C.D.-T's and C.D.'s ineligible attendance. The Commissioner further concurs with the ALJ's finding that petitioner owes the District a total of \$30,478.76 for the ineligible enrollment of N.D.-T, C.D.-T, and C.D. during the 2023-2024 and 2024-2025 school years.

Accordingly, the Initial Decision is modified with respect to the breakdown of costs for the 2023-2024 school year, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.³


ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 4, 2024
Date of Mailing: November 6, 2024

² These amounts are based on the cost per student for Grade 12, Grade 7, and Grade 6 for the 2023-2024 school year listed in the District's Certification of Yolanda Koon, Business Administrator/Board Secretary for the District (R-4), for 110 days of ineligible attendance.

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. EDU 08758-24

AGENCY DKT. NO. 136-5/24

N.D. ON BEHALF OF MINOR CHILDREN

N.D.-T., C.D.-T., AND C.D.,

Petitioner,

v.

BOARD OF EDUCATION OF THE TOWNSHIP

OF UNION, UNION COUNTY,

Respondent.

No appearance by N.D., petitioner, pro se

Sonica Dixon, Esq. for respondent (Taylor Law Group, LLC, attorneys)

Record Closed: September 23, 2024

Decided: September 27, 2024

BEFORE: **KIMBERLY K. HOLMES, ALJ:**

STATEMENT OF THE CASE

Petitioner, N.D. and her minor children, N.D.-T., C.D.-T., and C.D., live together but are not domiciled within the school district of Union, New Jersey. Is petitioner entitled to a free public-school education in Union? No. Under N.J.S.A. 18A:38-1(a) and N.J.S.A. 6A:22-6, public school shall be free to minors who are domiciled within the school district.

PROCEDURAL HISTORY

On April 25, 2024, the Board of Education of the Township of Union (Board) determined that petitioner's children, N.D.-T., C.D.-T. and C.D., were ineligible to attend the schools in Union because petitioner was not domiciled there.

On May 13, 2024, petitioner appealed the determination, and on June 18, 2024, the Board filed a counterclaim for tuition reimbursement.

On June 25, 2024, the Department of Education, Office of Controversies and Disputes, transmitted the case as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23.

On July 3, 2024, I was assigned this case and scheduled an initial prehearing conference for July 19, 2024.

On August 9, 2024, and August 14, 2024, I held two additional prehearing conferences at which time the parties agreed to exchange discovery by September 6, 2024, and appear for the hearing on September 20, 2024.

After the second prehearing conference, I scheduled the hearing and issued a prehearing order, dated August 14, 2024, which was sent by email and regular mail to the parties.

On September 20, 2024, N.D. failed to appear at 9:30 a.m. for the hearing. At my direction, my judicial assistant called petitioner, but her voicemail was full. My judicial assistant then emailed petitioner that the hearing would begin at 9:45 a.m. I waited until 10:00 a.m., but N.D. did not appear. Therefore, I held an ex-parte hearing and kept the record open until respondent submitted a certification concerning the per diem tuition rate for each of petitioner's minor children who attended school in Union during the 2023–2024 calendar year. On September 23, 2024, respondent submitted two certifications

concerning the per diem tuition rate for each of petitioner's children, and I closed the record.

FINDINGS OF FACT

Based on the evidence the Board submitted and having considered its sufficiency and the opportunity to assess the witness' credibility, I **FIND** the following as **FACTS**:

On December 14, 2023, a lessee, "B.N.", entered into a lease agreement with a lessor, "W.A." The lease was from January 1, 2024, to February 28, 2025, at 2519 Doris Avenue, Union, NJ. Petitioner was not listed on the lease. According to an email from W.A., the only tenant that was to be on the lease was "B.N. and her three minor children." (R-2.)

A water bill from New Jersey American Water, dated February 29, 2024, lists B.N., not N.D., as the customer at the 2519 Doris Avenue address in Union. (R-3a.)

A gas bill from Elizabethtown Gas, dated February 23, 2024, lists B.N., not N.D., as the customer at the exact address. (R-3b.)

A gas bill from PSE&G, dated January 17, 2024, lists B.N., not N.D., as the customer at that address. (R-3c.)

On April 29, 2024, W.A. confirmed in an email with respondent that N.D. was not a tenant under the lease and that B.N. would be in violation of the lease if "additional people mov[ed] into the house without [his] written approval." (R-2.) Indeed, W.A. did not alter the lease to include N.D. The lease contains only B.N.'s name as the tenant for the Union address.

The four documents N.D. submitted into evidence do not establish domicile. A registration renewal was presented. (P-1.) A telephone bill from Verizon, dated "May 6," does not include the year. (P-2.) A change of address from DMV, dated January 7, 2024, was given. (P-3.) A United States Postal Service change of address request lists an

effective date of January 14, 2024, was submitted. The old address was listed as 2717 Vauxhall Road, Union, New Jersey 07083-4152. (P-4.)

For the 2023-2024 school year, the cost per student for Grade 12 was \$16,221, for Grade 6 it was \$16,243, and for Grade 5 it was \$15,914. (R-4.)

2023-2024 School Year – Breakdown of Costs

N.D.-T. started school on January 1, 2024, and was improperly registered in the district for 110 days with a total tuition cost of \$9,926.83.

C.D.-T. started school on January 1, 2024, and was improperly registered in the district for 110 days with a total tuition cost of \$9,926.27.

C.D. started school on January 1, 2024, and was improperly registered in the district for 110 days with a total tuition cost of \$9,925.22.

Based on a 180-day school year, the total tuition reimbursement cost of the three minor children of N.D. was \$29,564.32 for 2023-2024. (R-4.)

For the 2024-2025 school year, the cost per student for Grade 6 and Grade 7 (C.D.-T. and C.D. respectively) is \$16,460 with a per diem rate of \$91.44. (R-5.)

2024-2025 School Year – Breakdown of Costs

C.D.-T started school on September 5, 2024, and was improperly registered in the district for five days with a total tuition cost of \$457.22.

C.D. started school on September 5, 2024, and was improperly registered in the district for five days with a total tuition cost of \$457.22.

Based on a 180-day school year, the total tuition reimbursement cost of the two minor children of N.D. is \$914.44 for 2024-2025. (R-5.)

The total tuition reimbursement owed by N.D. to the Board for the 2023–2024 and 2024-2025 school years is **\$30,478.76**.

Given the discussion of the facts, I **FIND** that N.D. is not domiciled in Union and tuition reimbursement is owed to the Board.

CONCLUSIONS OF LAW

Public school shall be free to a minor who is domiciled within the school district, N.J.S.A. 18A:38-1(a); New Jersey has consistently held that the domicile of the child follows the domicile of the parent, Shim v. Rutgers, 191 N.J. 374, 399 (2007). Moreover, if a student does not have a right to attend the school district, the Commissioner may assess tuition. N.J.A.C. 6A:22-6.2.

In this case, N.D.-T., C.D.-T., and C.D. were not domiciled in Union because their mother, N.D., was not domiciled in Union.

N.J.A.C. 6A:22-6.2(a) authorizes the Commissioner of Education to assess tuition for non-resident students prorated” to the time of the student’s ineligible attendance in the school district.” Since N.D. and minor children, N.D.-T., C.D.-T. and C.D., were not domiciled within the Union School District during the 2023–2024 and 2024-2025 school years, I **CONCLUDE** that they are not entitled to a free public education there. I also **CONCLUDE** that the Board is entitled to tuition reimbursement, retroactive from September 5, 2023, to September 27, 2024, in the amounts of \$29,564.32 for 2023-2024 for N.D.-T, C.D.-T., and C.D., and \$914.44 for 2024-2025 for C.D.-T., and C.D., respectively.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that N.D. owes the Board \$29,564.32 for 2023-2024 for the period of N.D.-T., C.D.-T. and C.D.’s ineligibility from September 5, 2023, through the scheduled hearing date of September 27, 2024;

and \$914.44 for C.D.-T., and C.D for the school days attended beyond the hearing date, for the remainder of the 2024-25 school year.

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 under 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 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 27, 2024

DATE



KIMBERLY K. HOLMES, ALJ

Date Received at Agency:

September 27, 2024

Date Mailed to Parties:

September 27, 2024

lsr

APPENDIX

WITNESSES

For Petitioner:

None

For Respondent:

Bernadette Watson, Executive Administrative Assistant

EXHIBITS

For Petitioner:

- P-1 Registration renewal
- P-2 Verizon telephone bill from Verizon, dated "May 6" without the actual year
- P-3 DMV change of address form, dated January 7, 2024
- P-4 United States Postal Service change of address, dated of January 14, 2024

For Respondent:

- R-1 Rental Lease Agreement between B.N. and W.A., dated December 14, 2023
- R-2 Emails between W.A. and the Board, dated August 29, 2024
- R-3 Utility bills of B.N. for the Union address
- R-3a New Jersey American Water bill, dated February 29, 2024, with B.N. as the customer at the 2519 Doris Avenue address in Union
- R-3b Elizabethtown Gas bill, dated February 23, 2024, with B.N. as the customer at the exact address
- R-3c PSE&G was for a credit, dated January 17, 2024, with B.N. as the customer at that address
- R-4 Certification 2023-2024
- R-5 Certification 2024-2025