

New Jersey Commissioner of Education
Final Decision

D.D., on behalf of minor children, H.H. and I.B.,

Petitioner,

v.

Elizabeth Board of Education, Union County,

Respondent.

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

Upon review, the Commissioner concurs with the Administrative Law Judge that petitioner's minor children were entitled to attend school at the Elizabeth Public Schools during the entirety of the 2025-2026 school year because petitioner and her minor children are domiciled within the school district. *N.J.S.A. 18A:38-1(a); N.J.A.C. 6A:22-3.1(a)*.

Accordingly, the Initial Decision is adopted as the final decision in this matter for the reasons stated therein, and the petition of appeal is hereby granted. Respondent's counterclaim for tuition reimbursement is denied.

IT IS SO ORDERED.¹



COMMISSIONER OF EDUCATION

Date of Decision: August 26, 2026
Date of Mailing: August 26, 2026

¹ 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 02698-26

AGENCY DKT. NO. 046-02-26

D.D. ON BEHALF OF MINOR CHILDREN, H.H. and I.B.,

Petitioner,

v.

ELIZABETH BOARD OF EDUCATION

UNION COUNTY,

Respondent.

D.D., petitioner, pro se

Christina M. DiPalo, Esq., for respondent (LaCorte, Bundy, Varady and Kinsella)

Record Closed: June 27, 2026

Decided: July 16, 2026

BEFORE, **GERARD HUGHES**, ALJ:

STATEMENT OF THE CASE

Petitioner, D.D., and her children, H.H. and I.B., are domiciled in Elizabeth, New Jersey, where they live with D.D.'s aunt in her aunt's apartment. Are H.H. and I.B. entitled to attend public school in Elizabeth for free? Yes. A child is entitled to attend public school for free in the school district in which the child is domiciled. N.J.S.A. 18A:38-1(a).

PROCEDURAL HISTORY

On December 10, 2025, the Elizabeth School District (the district) issued notices of initial determinations of ineligibility to D.D., alleging that she did not reside in Elizabeth and requiring her to remove her children from their schools or request a hearing before respondent, the Elizabeth School Board (the board), to contest the initial determinations.

On December 16, 2025, D.D. emailed the district that she was residing with her aunt at Mravlag Manor in Elizabeth until she could find an affordable apartment.

On February 5, 2026, the board issued notices of final ineligibility, concluding that D.D. did not reside in Elizabeth.

On February 10, 2026, D.D. appealed the board's final determination of ineligibility. On February 13, 2026, the board filed an answer to D.D.'s appeal. On February 18, 2026, the Department of Education, Office of Controversies and Disputes, transmitted the case to Office of Administrative Law under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the office, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On June 15, 2026, I held the hearing.

On June 24, 2026, the board submitted its written summation; on June 27, 2026, D.D. submitted her written summation; and on that date, I closed the record.

DISCUSSION AND FINDINGS OF FACT

D.D. has two children, H.H. and I.B., who have attended Elizabeth public schools since age three. H.H. is a 17-year-old girl who recently completed her junior year of high school, and I.B. is an eight-year-old boy who recently completed the second grade.

D.D. used to reside at an apartment on Court Street in Elizabeth. She registered both her children in the district under this address. D.D. testified that, in February 2025, after living at that address for around eight years, she left the apartment because of mold. D.D. stated that she could not find an affordable apartment, so she and her children moved in with the aunt of her child's father at the Mravlag Manor public housing complex in Elizabeth. D.D. considers herself to be "homeless with shelter," although she acknowledged that she never reported to the district that she was homeless. D.D. also did not inform the district that she moved to Mravlag Manor at the time she vacated the apartment on Court Street.

On September 9, 2025, after the district sent mail to D.D. that was returned as undeliverable, it assigned Investigator William Buteau to conduct a residency investigation. Buteau has been an investigator for the district's legal department for around eight years after working as a detective for the Elizabeth Police Department for 31 years. Buteau testified that the first step of his investigation was for staff to run software that pinged the children's district-issued laptops to determine where they were being used. From June 2025 through June 2026, I.B. used his laptop almost exclusively at school, while using it one day at Mravlag Manor in Elizabeth. From February 2026 through June 2026, H.H. used her computer mostly at school, but also on 14 days at an address on East Edgar Road in Linden. Buteau determined through a public records check that D.D. owned a Honda Accord that had been registered at the same Linden address since August 3, 2025.

On December 10, 2025, at around 6:45 a.m., Buteau conducted surveillance of the Linden address. He observed D.D.'s Honda Accord parked there. Buteau testified that he did not remain at the address for long after spotting the vehicle because the address is located at a busy intersection without safe parking.

Later that same day, the district sent notices to D.D. informing her that H.H. and I.B. were not entitled to attend school in the district based on a determination that they did not live in Elizabeth. On December 16, 2025, D.D. emailed the district that she was residing with her aunt at Mravlag Manor in Elizabeth until she could find her own apartment in town because she was going through a hardship. In support of this email

message, D.D. attached a residency verification form for H.H. and I.B., which stated that they lived at Mravlag Manor in Elizabeth. D.D. also attached a signed and notarized statement from her aunt, who did not testify at the hearing because she had to work according to D.D. In the notarized statement, D.D.'s aunt asserts that she was providing shelter for D.D., H.H., and I.B. because they were homeless. Also, in support of her email message that she resides in Elizabeth, D.D. attached a copy of her driver's license, which lists Court Street in Elizabeth as her address.

In December 2026, after receiving this email, Buteau went to Mravlag Manor and spoke with office staff who told him that D.D. was not listed on the lease.

On June 11, 2026, at around 5:00 p.m., Buteau again conducted surveillance of the Linden address. Buteau testified that he saw D.D.'s Honda Accord there. He further testified that he observed D.D. and another woman in medical scrubs outside the house, along with two children he thought were H.H. and I.B. Buteau also provided photographs he took that day. D.D., however, testified that the photographs show D.D. and a coworker, along with H.H. and the coworker's child, not I.B.

D.D. testified that she works but does not live at the Linden address. D.D. stated that she works at the Linden address as a home health aide for a client, who is also a family friend. D.D. explained that she works as a full-time medical assistant at Trinitas on weekdays and then works at the Linden address until around midnight. D.D. further explained that she also sometimes works at the Linden address on weekends and mornings and occasionally stays overnight. D.D. also explained that her daughter sometimes helps her at the Linden address and does schoolwork there on her laptop. D.D. stated that her children sometimes sleep over at the Linden address when she works late. Regardless, D.D. maintained that she and her children reside with her aunt at Mravlag Manor in Elizabeth.

D.D. now lists Mravlag Manor as her address with the State Motor Vehicle Commission and on her voter registration. This is as of April 13, 2026. D.D. also uses the address for her bank accounts with Wells Fargo. D.D. is aware that she and her

children are not on a lease at Mravlag Manor but does not know whether that is a legal or Mravlag Manor requirement.

I found D.D. credible. She reliably explained her and her children's frequent presence at the Linden address. I believe that D.D. works a second job as a home health aide for a client at this location and that H.H. often accompanies her to work and completes schoolwork there. I also believe that, given the long hours D.D. works between her two jobs, she and her children sometimes spend the night at the Linden address. This dynamic explains why H.H. used her laptop at this location on several occasions and why Buteau observed D.D.'s car at the location on the two days he visited. It also explains why D.D. and H.H. were present at the location during Buteau's second visit. While D.D. registered her car at the Linden address after she moved out of the Court Street apartment, this is understandable given that D.D. was in a period of transition while searching for an affordable apartment and had a work connection to the Linden address. Moreover, D.D. has since registered her vehicle and registered to vote at the Mravlag Manor address and used the address for banking purposes, which further supports her testimony that she resides there. The notarized statement from D.D.'s aunt that she is providing shelter for D.D. and her children because they are homeless also supports D.D.'s sworn testimony. I also find it notable that the one occasion I.B. used his laptop out of school was at Mravlag Manor. I believe that D.D. spends significant time at the Linden address for work, but she and her family reside at Mravlag Manor in Elizabeth even though she is not on the lease.

Given this discussion of the facts, I **FIND** that D.D. and her children, H.H. and I.B., resided in an apartment on Court Street in Elizabeth for around eight years until February 2025. D.D. registered both children in the district under this address. After vacating this apartment, D.D. and her children moved in with the aunt of her child's father at an apartment in the Mravlag Manor public housing complex in Elizabeth. D.D. is not on the lease for this apartment. D.D. works as a home health aide for a client, who is also a family friend, at a house on Edgar Street in Linden. She provides these services during the week after her other full-time job as a medical assistant at Trinitas. D.D. also occasionally works at the Linden address on weekends. Her daughter, H.H., sometimes assists with the home health care or does schoolwork at the Linden House. D.D. and her

children also occasionally spend the night at the address. The family, however, lives with D.D.'s aunt at the Mravlag Manor public housing complex in Elizabeth. This finding is further supported by the other evidence that D.D. provided at the hearing, namely her motor vehicle registration, voter registration, banking statement, and a notarized and signed statement from her aunt.

H.H.'s tuition rate is \$115.96 per day, and I.B.'s tuition rate is \$117.53 per day. Since the district issued the notices of initial determination of ineligibility on December 10, 2025, until the last day of school on June 25, 2026, there were 116 school days at Elizabeth public school days. As a result, H.H. has accrued \$13,451.36, and I.B. has accrued \$13,633.48 in tuition costs for the alleged period of ineligibility. D.D. does not, however, owe these amounts to the district because she lives in the district.

DISCUSSION AND CONCLUSIONS OF LAW

Any person between five and 20 years of age is entitled to attend public school for free in the school district in which the person is domiciled. N.J.S.A. 18A:38-1(a). A student's domicile is the school district where the student's parent or guardian is domiciled. N.J.A.C. 6A:22-3.1. A "domicile" is "the place where a person has his or her true, fixed, permanent home and principal establishment, and to which whenever [the person] is absent, he [or she] has an intention of returning." D.L. v. Board of Educ. of Princeton Regional School Dist., 366 N.J. Super. 269, 273 (App. Div. 2004)(internal citations omitted). While a person may have several places of abode, the person may only have one domicile at a time. Id. (citing Collins v. Yancey, 55 N.J. Super. 514, 520-21 (Law Div. 1959)). Further, a person is eligible to attend public school even if residing temporarily in a school district. N.J.S.A. 18A:38-1(d).

A student's eligibility to attend school in a district does not depend on compliance with local housing ordinances or the terms of a lease. N.J.A.C. 6A:22-3.3. Nor may a district condition enrollment on receipt of documentation related to compliance with conditions of tenancy. N.J.A.C. 6A:22-3.4(d)(3). A district is required to accept as proof of domicile documentation such as voter registrations, licenses, financial account information, and affidavits from a person with whom a family is living. N.J.A.C. 6A:22-

3.4(a). Moreover, a district must consider the totality of information provided by an applicant and may not deny enrollment based on a failure to provide particular documentation without regard to other evidence presented. N.J.A.C. 6A:22-3.4(d).

If a school district finds that the parent of a child who is attending school in the district is not domiciled within the district, then the board of education may remove the child, subject to a hearing. N.J.S.A. 18A:38-1(b)(2). The parent bears the burden in the hearing to prove by a preponderance of evidence that the child is eligible for a free education. Id. If the parent does not carry this burden, then the school district may assess the parent for tuition for the child prorated to the time of the student's ineligible attendance computed on the basis of 1/180 of the total annual per pupil cost to the district multiplied by the number of days of ineligible attendance. Id.

In this case, D.D. proved by a preponderance of evidence that her domicile is in Elizabeth. D.D. credibly testified that she and her children moved in with her aunt at Mravlag Manor after they vacated the apartment on Court Street in Elizabeth. At the time, D.D. was struggling to find affordable housing so she relied on the support of a relative. It is of no import that D.D. is not on the lease, that her aunt may not have reported the family's presence to the public housing complex, or that this may be a temporary arrangement until D.D. finds an affordable apartment of her own. Likewise, the fact that D.D. works at a house in Linden and spends considerable time there, including staying overnight with her family on occasion, does not make this her domicile. For the time being, the family lives at Mravlag Manor and intends to return there when they leave.

I decline to draw an adverse inference against D.D. from her aunt's not testifying at the hearing, as the board requests in its written summation. Such an inference may be appropriate where, for example, the witness is available to the party both practically and physically, see State v. Hill, 199 N.J. 545, 561-62 (2009), but that is not the case here. In this case, D.D.'s aunt was unavailable because she had to work. In addition, the argument that the aunt would have testified that D.D. does not reside at Mravlag Manor is belied by the aunt's notarized statement saying exactly the opposite. It is also belied by D.D.'s credible testimony and competent evidence, namely her motor vehicle registration, voter registration, and bank statement.

Accordingly, I **CONCLUDE** that D.D.'s domicile is in Elizabeth; that H.H. and I.B. are eligible to receive a free education in the district; and that D.D. does not owe the district tuition for any periods of ineligibility.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** H.H. and I.B. are eligible to receive a free public education in the district, and D.D. does not owe the district tuition.

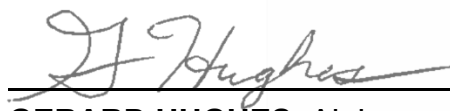
I hereby **FILE** my initial decision with the **DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **DEPARTMENT OF EDUCATION**, which by law is authorized to make a final decision in this matter. If 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 **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

July 16, 2026

DATE

A handwritten signature in dark ink, appearing to read "G Hughes", is written over a horizontal line.

GERARD HUGHES, ALJ

Date Received at Agency:

July 16, 2026

Date Mailed to Parties:

July 16, 2026

GH/am

APPENDIX

Witnesses

For Petitioner:

D.D.

For Respondent:

William Buteau, Investigator

Exhibits

For Petitioner:

- P-1 D.D.'s Motor Vehicles Commission change of address form, dated April 13, 2026
- P-2 D.D.'s voter registration acknowledgment card
- P-3 D.D.'s Wells Fargo statement of accounts

For Respondent:

- R-1 Buteau's investigation report with attachments
- R-2 I.B.'s laptop usage report from 6/17/25 to 4/23/26
- R-3 H.H.'s laptop usage report from 2/26/26 to 4/27/26
- R-4 I.B.'s laptop usage report from 5/1/26 to 6/1/26
- R-5 H.H.'s laptop usage report from 5/4/26 to 6/3/26
- R-6 Elizabeth Public School Calendar for 2025-2026
- R-7 Buteau's surveillance photographs from 6/11/26
- R-8 D.D.'s vehicle registration record