

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

Y.Y., on behalf of minor children, W.Y. and D.Y.,

Petitioner,

v.

Board of Education of the Borough of  
North Arlington, Bergen County,

Respondent.

**Synopsis**

This residency appeal was remanded to the OAL in July 2018 for supplementation of the record and calculation of tuition due to the respondent Board following consideration of the merits by the Commissioner (Commissioner Decision No. 229-18R, decided July 27, 2018). The Commissioner found no basis to disturb the findings of fact and credibility determinations of the ALJ, and adopted the conclusion that the petitioner was never domiciled in North Arlington but, rather, was domiciled in Kearny from September 2014 forward. A hearing was held on February 14, 2019 on the issue of tuition owed to the Board for the period of ineligible attendance.

The ALJ found, *inter alia*, that: a certification from the Board's business administrator was submitted into evidence, and concluded that \$30,857.03 was due from the petitioner for the ineligible attendance of her sons, D.Y. and W.Y.; petitioner disputed two of the days of attendance, which the Board deducted from the total tuition owed, making the amount due \$30,720.47. The ALJ found the certification to be accurate and credible. Accordingly, the ALJ filed the Initial Decision with the Commissioner for his consideration.

Upon review, the Commissioner concurred with the findings and conclusions of the ALJ, with a slight modification to the amount of tuition due because of rounding differences. The Commissioner adopted the Initial Decision of the OAL as the final decision in this matter, and modified the amount of tuition owed to \$30,720.36. The petitioner was directed to reimburse the Board in the total amount of \$30,720.36 for tuition costs incurred during the time period for which D.Y. and W.Y. were ineligible to attend school in North Arlington.

<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>
---

July 8, 2019

OAL Dkt. No. EDU 11099-18  
(EDU 05241-17 On Remand)  
(EDU 09260-16 Prior Remand)  
Agency Dkt. 149-5/16

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

Y.Y., on behalf of minor children, W.Y. and D.Y.,

Petitioner,

v.

Board of Education of the Borough of  
North Arlington, Bergen County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed – mindful of the Commissioner’s July 26, 2018 decision remanding this matter for calculation of tuition due to the Board. The parties did not file exceptions.

In his July 26, 2018 decision, the Commissioner determined that the petitioner failed to sustain her burden of demonstrating that she was a domiciliary of North Arlington from the 2014-2015 school year to the present; thus, the minor children were not entitled to a free public education in the District’s schools during that time. Pursuant to *N.J.A.C.* 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 North Arlington. The Commissioner noted, however, that pursuant to *N.J.A.C.* 6A:22-6.2(a), tuition may only be assessed for the period during which the hearing was pending “and for up to one year of a student’s ineligible attendance in a school district prior to the appeal’s filing and including the 21-day period to file an appeal.” As such, the Commissioner determined that since the Board issued its final notice of ineligibility on May 4, 2016, the tuition assessment is limited to the period from May 4, 2015 to the present. As the record lacked the information required to calculate the amount of tuition owed to the

Board, the Commissioner remanded the matter to the OAL for calculation of tuition due to the Board and supplementation of the record as warranted.

Upon review, the Commissioner finds that the Board is entitled to tuition reimbursement in the amount of \$30,720.36<sup>1</sup> for the period from May 4, 2015 to the present, during which time petitioner's minor children were ineligible to attend school in the District. Specifically, the record establishes that D.Y. attended school for 30.5 days from May 4, 2015 through the end of the 2014-15 school year, at a cost of \$60.24 per day, and 8 days in the 2015-16 school year, at a daily rate of \$68.28. The cost of tuition for W.Y. at the Bergen County Technical Schools was \$47.60 per day for 33 days from May 4, 2015 through the end of the 2014-15 school year, \$8,730.00 for the 2015-16 school year, \$8,910.00 for the 2016-17 school year, and \$9,126.00 for the 2017-18 school year.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter, as modified herein, and the petition is hereby dismissed. Petitioner is directed to reimburse the Board in the amount of \$30,720.36 for tuition costs incurred during the time period for which D.Y. and W.Y. were ineligible to attend school in North Arlington.

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

COMMISSIONER OF EDUCATION

Date of Decision: July 8, 2019  
Date of Mailing: July 8, 2019

---

<sup>1</sup> The ALJ found that the petitioner owed the Board \$37,720.47 – a difference of \$.11 from the Commissioner's calculation – due to a difference in rounding of the daily tuition cost.

<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).



*State of New Jersey*  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**Y.Y. ON BEHALF OF MINOR CHILDREN**

**W.Y. AND D.Y.,**

Petitioner,

v.

**BOARD OF EDUCATION OF THE BOROUGH  
OF NORTH ARLINGTON, BERGEN COUNTY,**

Respondent.

OAL DKT. NO. EDU 11099-18

AGENCY DKT. NO. 149-5/16

on Remand

---

**Y.Y. ON BEHALF OF MINOR CHILDREN**

**W.Y. AND D.Y.,**

Petitioner,

v.

**BOARD OF EDUCATION OF THE BOROUGH  
OF NORTH ARLINGTON, BERGEN COUNTY,**

Respondent.

OAL DKT. NO. EDU 05241-17

AGENCY DKT. NO. 149-5/16

---

**Y.Y. ON BEHALF OF MINOR CHILDREN**

**W.Y. AND D.Y.,**

Petitioner,

v.

**BOARD OF EDUCATION OF THE BOROUGH  
OF NORTH ARLINGTON, BERGEN COUNTY,**

Respondent.

---

OAL DKT. NO. EDU 09260-16

AGENCY DKT. NO. 149-5/16

**Y.Y. parent of D.Y. and W.Y. petitioner, pro se**

**Eric L. Harrison, Esq., for respondent, Borough of North Arlington Board of Education (Methfessel & Werbel, attorneys)**

Record Closed: February 14, 2019

Decided: May 23, 2019

BEFORE **JEFFREY A. GERSON**, ALJ t/a:

**STATEMENT OF THE CASE**

The Commissioner remanded the above matter in July 2018 to supplement the record with a calculation of tuition due from petitioner.

The Commissioner found no basis to disturb the undersigned Findings of Fact and credibility determination and adopted the conclusion that petitioner never was domiciled in North Arlington and remained domiciled in Kearny from September of 2014 forward.

An In-person hearing was conducted on February 14, 2019.

Submitted in evidence was a Certification from Kathleen Marano, Business Administrator for the North Arlington School District. The Certification of Marano (attached hereto) concludes that \$30,857.03 is due from petitioner for the ineligible attendance of her sons, D.Y. and W.Y. Marano's Certification, supported by several exhibits was, for the most part, uncontested by petitioner. Petitioner questioned only 2 days which the district credited to petitioner in the amount of \$137.56 reflecting two days of attendance.

The total owed by petitioner after deducting the two days of credit is \$30,720.47.

The Certification of both Marano and John Susino, the Business Administrator and Board Secretary for the Bergen County Technical and Special Services School, I **FIND** to be accurate and creditable. (Susino Certification attached).

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

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the 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 **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.

May 23, 2019



\_\_\_\_\_  
DATE

\_\_\_\_\_  
**JEFFREY A. GERSON, ALJ/Ret., on recall)**

Date Received at Agency:

May 23, 2019

Date Mailed to Parties:

sej

## **APPENDIX**

Admitted In Evidence

Certification of Kathleen Marano

Certification of John Susino