

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

K.B., on behalf of minor children, L.P.,  
K.P. and J.P.,

Petitioner,

v.

Board of Education of the Township of  
South Harrison, Gloucester County,

Respondent.

**Synopsis**

Petitioner filed a *pro se* residency appeal challenging the respondent Board's determination that her minor children are not eligible to receive a free public education in the South Harrison School District. The Board filed a motion to dismiss the petition as untimely.

The ALJ found, *inter alia*, that: petitioner's appeal was untimely filed; further, by petitioner's own admission, the children are not domiciled within the South Harrison School District as required under *N.J.S.A.* 18A:38-1 and *N.J.A.C.* 6A:22-3.1. The ALJ concluded that petitioner's claims against the respondent Board are without merit; accordingly, the ALJ ordered the petition dismissed.

Upon review, the Commissioner concurred, *inter alia*, that the Board's motion to dismiss the petition for untimeliness is appropriately granted. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, and the petition was dismissed.

<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>
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June 18, 2019

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K.P. and J.P.,

Petitioner,

v.

Board of Education of the Township of  
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Respondent.

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

Upon review, the Commissioner concurs with the Administrative Law Judge (ALJ) that the Board's Motion to Dismiss for untimeliness of the petition is appropriately granted. Moreover, even assuming, *arguendo*, that petitioner had timely filed her appeal, the Commissioner further concurs that petitioner has not sustained her burden of demonstrating that her children are domiciliaries of South Harrison so as to entitle them to a free public education in the District's schools.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.<sup>1</sup>

COMMISSIONER OF EDUCATION

Date of Decision: June 18, 2019  
Date of Mailing: June 19, 2019

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<sup>1</sup> This decision may be appealed to the Superior Court, Appellate Division, 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**

**GRANTING MOTION TO DISMISS  
PETITIONER'S APPEAL**

OAL DKT. NO. EDU 00790-19

AGENCY DKT. NO. 308-12/18

**K.B. ON BEHALF OF MINOR  
CHILDREN, L.P., K.P. AND J.P.,**

Petitioner,

v.

**SOUTH HARRISON BOARD OF  
EDUCATION, GLOUCESTER COUNTY,**

Respondent.

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**K.B.**, petitioner, pro se

**Daniel F. Thornton**, Esq. for respondent, South Harrison Board of Education  
(Comegno Law Group, P.C., attorneys)

Record Closed: April 1, 2019

Decided: May 10, 2019

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

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

The petition in this matter was filed on January 14, 2019. Petitioner K.B. is the mother of the minor children L.P., K.P. and J.P. who attended schools within the purview of the South Harrison Township Board of Education in November of 2018.

Respondent South Harrison Township Board of Education filed a Motion for Dismissal of the petition on January 7, 2019.

### **FACTUAL DISCUSSION**

K.B. (“petitioner”) filed this petition on behalf of her minor children L.P., K.P. and J.P., students who attended schools within the purview of the South Harrison Township Board of Education in November of 2018.

During prehearing conferences held with the parties, the petitioner admitted that her children stayed with their grandparents during the week due to the petitioner’s work schedule. The children then attended school in the grandparents’ school district, that being Mullica Hill. The children were residents of Piles Grove Township which is the address of the petitioner and is outside of the South Harrison School District.

Subsequent to the conference in this matter, counsel for the school board provided to the court a copy of a of an order entered by the Hon. John Tomasello, JSC on March 22, 2019. Judge Tomasello’s order granting custody of the three children in question to their father who is a resident of Pennsylvania. The order further authorizes and grants the father’s application to relocate the children to Pennsylvania. Petitioner did not respond to counsel’s submission. Nor did petitioner appear for an in-person settlement conference scheduled for March 22, 2019. No explanation for non-appearance was received by the petitioner and the record closed on April 1, 2019. In the event that relocation of the children has not yet occurred, this Initial Decision granting respondent’s Motion for Summary Decision (R-1) shall resolve this matter.

### **LEGAL DISCUSSION**

Petitioner lists two causes of action for their motion. The first is that petitioner’s filing is untimely under N.J.S.A. 18A:38-1(b)(2). The second that petitioner’s children, by her own admission, do not reside in the district; thus a violation under N.J.S.A. 18A:38-1 and N.J.A.C. 6A:22-3.1.

The date of the appeal evidences the untimely filing. The petitioner’s own admission evidences the children are not residents and imaged municipality under the

South Harrison Board of Education jurisdiction. In light of this information I **FIND** that any claims petitioner might have against the South Harrison School Board that are subject to the jurisdiction of the Commissioner of Education are plainly time-barred by N.J.A.C. 6A:3-1.3(i) and I **CONCLUDE** therefore that they should be dismissed.

I further **FIND**, that the children of the petitioner are not residents of Mullica Hill Township and are therefore not residents entitled to educational benefits within the South Harrison School District and are therefore not under the jurisdiction of the South Harrison Board of Education.

Therefore, I **CONCLUDE** that all of petitioner's claims against the South Harrison Board of Education and should be **DISMISSED**.

### **CONCLUSION**

The petition warrants dismissal on two counts:

1. Petitioner admits that the children are not residents of the district governed by the South Harrison Board of Education. She freely stated that the children reside with her parents (in Mullica Hill) during the week as a convenience to accommodate her work schedule – therefore they go to school in the South Harrison District. She also admits that she resides in Woodstown – not in an area under the jurisdiction of the South Harrison District and that is where her children reside; and
2. Petitioner failed to file an appeal within the appropriate time frame as detailed under R. 4:6-2(e) and N.J.A.C. 1:1.3(a).

The claim must be dismissed under the dictates of both.

For the reasons stated herein, I **FIND** that the petition filed by petitioner does not comply with the appropriate rules and administrative guidelines, nor are the children residents of the South Harrison District. Therefore, I **CONCLUDE** that petitioner's claims should be **DISMISSED**.

**ORDER**

Based upon all of the foregoing, it is hereby **ORDERED** that the petition in this matter be and hereby is **DISMISSED**.

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 10, 2019  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
**CARL V. BUCK III, ALJ**

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

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## LIST OF EXHIBITS

For petitioner:

None

For the respondent:

R-1 Motion for Dismissal

R-2 Letter, dated March 14, 2019

R-3 March 25, 2019 letter