

303-00

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| C.M., on behalf of F.O., | : | |
| | : | |
| PETITIONER, | : | |
| | : | |
| V. | : | COMMISSIONER OF EDUCATION |
| | : | |
| BOARD OF EDUCATION OF THE | : | DECISION |
| TOWNSHIP OF EDGEWATER, | : | |
| BURLINGTON COUNTY, | : | |
| | : | |
| RESPONDENT. | : | |
| _____ | : | |

SYNOPSIS

Petitioning parent challenged Board's residency determination that F.O., a 20-year-old with multiple handicaps, was not entitled to tuition payment by the District for his residential placement.

The ALJ concluded that the Board violated *N.J.S.A. 18A:38-1(b)2* when it failed to provide C.M. with a hearing prior to determining that she and F.O. were no longer domiciled in the District. The ALJ ordered the Board permanently restrained from determining the issue of petitioner's domicile without following the orderly procedure required by the statute.

The Commissioner adopted the findings and determination in Initial Decision as his own insofar as it directs that the Board is restrained from determining the domicile issue until it properly takes action pursuant to *N.J.S.A. 18A:38-1(b)2*. Commissioner forwarded a copy of this decision to the Office of Special Education, since the residency matter before the Commissioner was decided as part of a consolidated matter involving related special education issues on which the ALJ's decision is final.

September 11, 2000

OAL DKT. NO. EDU 2189-00
AGENCY DKT. NO. 91-3/00

C.M., on behalf of F.O., :
PETITIONER, :
V. COMMISSIONER OF EDUCATION :
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF EDGEWATER, :
BURLINGTON COUNTY, :
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 careful and independent review of the record, the Commissioner concurs with the Administrative Law Judge ((ALJ) that the Board violated *N.J.S.A.* 18A:38-1(b)2 when it failed to provide C.M. with a hearing prior to determining that she and F.O. were no longer domiciled in the District.¹

Accordingly, the Initial Decision of the ALJ is adopted insofar as it directs that the Board is restrained from determining this domicile issue until it properly takes action pursuant to *N.J.S.A.* 18A:38-1(b)2. A copy of this decision shall be forwarded to the Office of Special Education.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: September 11, 2000

Date of Mailing: September 15, 2000

¹ This matter, after transmittal to the OAL, was consolidated with its companion case, EDS 2321-00, wherein petitioner asserted that the Board violated the Individuals with Disabilities Education Act. The ALJ's decision on that issue is final.

² This decision, as the Commissioner's final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.