

E.G.P., on behalf of minor child, M.B., :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE BOROUGH : DECISION ON REMAND
 OF RUTHERFORD, BERGEN COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioner sought to compel the respondent Board to provide a free public education to her grandson, M.B. The Board contested the petition because petitioner had not demonstrated that her grandson was legally entitled to a free public education in Rutherford. After initial decisions were issued, the case was twice remanded to the OAL for a plenary hearing, the second time based on the Commissioner's determination that testimony from petitioner was essential to a determination of whether M.B. resided with her because of a family or economic hardship and the length of time M.B. resided with E.G.P.

The ALJ concluded that petitioner failed to demonstrate that M.B.'s parents could not support him because of a family or economic hardship, and that M.G. was not entitled to a free public education in Rutherford prior to the date his father resided with him in petitioner's home. The ALJ ordered payment of tuition by petitioner in the amount of \$23,234 for the period of M.B.'s attendance at school in the Rutherford schools prior to his father residing with him and petitioner.

The Commissioner affirmed the decision of the ALJ, agreeing that petitioner had failed to demonstrate a family or economic hardship that would entitle M.G. to attend school in Rutherford free of tuition prior to his father residing with him in E.G.P.'s home.

August 20, 2001

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.

OAL DKT. NOS. EDU. 5562-97, EDU 1162-99
(ON REMAND) AND EDU 9881-00 (ON REMAND)
AGENCY DKT. NO. 143-5/97

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties filed no exceptions.

Upon careful and independent review of the record in this matter, the Commissioner concurs with the Administrative Law Judge (ALJ) that, due to petitioner's failure to make any demonstration as to a family or economic hardship, which necessitated her grandson living with her rather than with his parents, petitioner has failed to satisfy her burden of proving by a preponderance of the credible evidence that, prior to the commencement of the 1999-2000 school year, when M.B.'s legal guardian began living with him in petitioner's home, M.B. was entitled to a free public education in the Rutherford School District.

Accordingly, the Initial Decision of the OAL is affirmed for the reasons expressed therein. Petitioner is directed to reimburse the Board a total of \$23,234, representing tuition for the 1996-1997, 1997-1998 and 1998-1999 school years. Since M.B. has been residing with his legal guardian in petitioner's home since the 1999-2000 school year, he is entitled to a free

public education in the District from that time forward, unless and until this circumstance changes so as to alter his entitlement.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: August 20, 2001

Date of Mailing: August 20, 2001

* 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:2-1.1 et seq.* Commissioner decisions are deemed filed three days after the date of mailing to the parties.