

214-02R

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| BOARD OF EDUCATION OF THE | : | |
| BOROUGH OF SOUTH RIVER, | : | |
| MIDDLESEX COUNTY, | : | |
| | : | |
| PETITIONER, | : | COMMISSIONER OF EDUCATION |
| | : | |
| V. | : | DECISION ON REMAND |
| | : | |
| NEW JERSEY STATE DEPARTMENT OF: | : | |
| EDUCATION, DIVISION OF FINANCE, | : | |
| | : | |
| RESPONDENT. | : | |
| _____ | : | |

SYNOPSIS

Petitioning Board contested the Department’s determination that student S.R., who was living in a Correction Center, was a resident of the District and that the Board was responsible for the costs of her education. The Department contended that the Board was properly assigned responsibility for S.R. because S.R.’s parent or guardian resided in the District on January 15, 1997, the date of S.R.’s placement in the Center. The Board sought restoration of \$12, 281 in State aid. The 1998-99 school year was the period in question.

The ALJ ordered the amount of \$12,281 be restored to the State aid received by the Board, concluding that without more evidence, the Department could not show that S.R.’s parent or guardian was a resident in the District on January 15, 1997. The Commissioner set aside the Initial Decision. Noting that the Board carried the burden in this matter, the Commissioner found that he was unable to rule in the absence of an analysis conducted under the proper burden of proof. The matter was remanded for further proceedings.

On remand, the ALJ found that the Board’s case was based entirely on hearsay and that the Board did not carry the burden of persuasion in this matter. The petition was dismissed.

The Commissioner concurred that the Board failed to meet its burden of proving that the parent of S.R. was not a resident of its District when S.R. was placed in a State institution, so that the Department’s determination that the Board was the District responsible to pay tuition for S.R. for the 1998-99 school year must be upheld.

May 31, 2002

OAL DKT. NOS. EDU 6441-01 AND EDU 10117-98 (ON REMAND)
AGENCY DKT. NO. 417-9/98

BOARD OF EDUCATION OF THE :
BOROUGH OF SOUTH RIVER, :
MIDDLESEX COUNTY, :
 :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION ON REMAND
NEW JERSEY STATE DEPARTMENT OF :
EDUCATION, DIVISION OF FINANCE, :
RESPONDENT. :
_____ :

The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. Petitioner filed exceptions and respondent filed reply exceptions in accordance with *N.J.A.C.* 1:1-18.4, and these were duly considered when rendering the within decision.

Upon careful and independent review of the record, the Commissioner concurs that petitioner has failed to meet its burden of proving that the parent of S.R. was not a resident of petitioner's district when S.R. was placed in a State institution, so that respondent's determination that petitioner was the district responsible to pay the tuition for S.R. for the 1998-1999 school year must be upheld.

Accordingly, the Initial Decision of the ALJ is adopted as the final decision in this matter for the reasons expressed therein.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: May 31, 2002

Date of Mailing: May 31, 2002

* 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.