

A.M.K., on behalf of minor children, S.K., :
L.K. AND A.K., :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE CITY : DECISION
 OF BURLINGTON, BURLINGTON :
 COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioning parent challenged the Board’s residency determination that her children were not entitled to a free public education from the Board because she and her children did not reside in the District before they moved to a shelter in Mt. Laurel.

In light of petitioner’s testimony, which the ALJ found credible, and the lack of satisfactory evidence from respondent (the Board did not include any extended observations), the ALJ determined that until petitioner and her children went into the shelter, they were domiciled in Burlington in petitioner’s parents’ home and, therefore, the Board was responsible for providing them a free public education. Petitioner’s appeal was granted; the Board’s claim for tuition was dismissed.

The Commissioner adopted the findings and determination in the Initial Decision as his own.

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.

August 1, 2003

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_____	:	

The record in this matter and the Initial Decision of the Office of Administrative Law have been reviewed. No exceptions were filed by the parties.

Upon careful and independent review of the record in this matter, and mindful that the Administrative Law Judge’s (ALJ) credibility determinations are entitled to the Commissioner’s deference, *N.J.S.A. 52:14B-10(c)*,¹ the Commissioner determines to adopt the ALJ’s conclusion that, notwithstanding petitioner’s admission that on some occasions she and her children may have stayed overnight in Beverly and Camden, petitioner and her children were *domiciled* in Burlington City as of and after December 17, 2002, and until she and her children moved into the shelter at Mt. Laurel. It was and is, therefore, the Board’s responsibility to

¹Acknowledging that the evidence presented by petitioner in the instant matter was not entirely satisfactory, the ALJ’s conclusion that petitioner and her children were domiciled in Burlington City as of and after December 17, 2002, turned on his credibility determination that petitioner’s testimony was “on the whole sufficiently credible***.” (Initial Decision at 9)

provide S.K., L.K. and A.K. with a free public education. *N.J.S.A.* 18A:38-1(f) and *N.J.S.A.* 18A:7B:12(c).

Accordingly, the Initial Decision is adopted for the reasons expressed therein.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: August 1, 2003

Date of Mailing: August 4, 2003

² This decision, as the Commissioner's final determination in the instant matter, 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.*