

#66-12 (OAL Decision: Not yet available online)

BOARD OF EDUCATION OF THE :
TOWNSHIP OF HAZLET, :
MONMOUTH COUNTY :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

NEW JERSEY STATE DEPARTMENT : DECISION
OF EDUCATION, OFFICE OF SCHOOL
FUNDING, :
RESPONDENT. :

SYNOPSIS

Petitioner claims that respondent Board incorrectly determined that the Hazlet school district is responsible for the cost of educating J.M. – a student receiving special education services in a residential placement – for the 2010-2011 school year. Petitioner also sought an order declaring that J.M. is a resident within the Matawan-Aberdeen Regional School District because J.M. resides in the Matawan district with his father, K.M., pursuant to a guardianship order, and because J.M. has not lived with S.M., his mother, in the Hazlet district since 2009. Respondent contends that it properly determined, pursuant to *N.J.S.A. 18A:7B-12b*, that Hazlet was the district of residence for J.M. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: there are no genuine issues of material fact and the matter is ripe for summary decision; petitioner bears the burden of proving that the Department’s residency determination was arbitrary, capricious or unreasonable; pursuant to *N.J.S.A. 18A:7B-12b* and *N.J.A.C. 6A:23A-19.2(a)(1)-(2)*, J.M.’s district of residence is his mother’s present district of residence in Hazlet because he lived with her prior to placement and she is the custodial parent, and because the terms of the parents’ divorce decree stipulates that J.M. is domiciled in Hazlet and would be educated in the Hazlet district. Accordingly, the ALJ concluded that the petitioning school district is responsible for J.M.’s education costs, granted respondent’s motion for summary decision and denied petitioner’s appeal.

Upon full and careful consideration, the Commissioner adopted the Initial Decision as the final decision in this matter as he concurred that – given the undisputed facts – summary disposition was appropriate, respondent’s motion for summary disposition was properly granted and petitioner’s motion for summary disposition was properly denied – for the reasons stated in the ALJ’s decision.

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.

February 21, 2012

OAL DKT. NO. EDU 6170-11
AGENCY DKT. NO. 116-5/11

BOARD OF EDUCATION OF THE :
TOWNSHIP OF HAZLET, :
MONMOUTH COUNTY :

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_____ :

The Commissioner has reviewed the record of this matter and the Initial Decision of the Office of Administrative Law (OAL) on the parties' cross motions for summary decision. The ALJ granted intervener status to Matawan-Aberdeen Regional School District by virtue of a companion case currently before him.¹ Petitioner, Board of Education of the Township of Hazlet (Hazlet) filed exceptions, and respondent, Office of School Funding (OSF) filed reply exceptions as provided by *N.J.A.C.* 1:1-18.4.

Hazlet argues in its exceptions that the ALJ erred as a matter of law when he determined that the 2009 Judgment of Incapacitation did not supersede the 2001 custody agreement, which granted custodial rights of J.M. to the mother, S.M. Moreover, Hazlet asserts that the ALJ relied, to its detriment, on facts not clearly established in the record regarding the parents' intent that S.M. should continue as the custodial, residential parent of J.M.

¹ See *Matawan-Aberdeen Regional School District v. Board of Education of the Township of Hazlet*, OAL Dkt. No. EDU 08759-10, Agency Dkt. No. 143-7/10. Since these matters involved substantially similar issues, the ALJ – with the consent of the parties – decided the cases concurrently.

In response, OSF agrees with the findings of the ALJ and argues that Hazlet offered no evidence that OSF's determination of residency was arbitrary, capricious or unreasonable. Additionally, it contends that the Judgment of Incapacitation, effective after J.M.'s placement at the residential facility, has no impact on the issue of domicile, which OSF determined to be pursuant to *N.J.S.A. 18A:7B-12b*, i.e., "the district of residence for children who are" placed in residential facilities "shall be the present district of residence of the parent...with whom the child lived prior to the most recent placement..."

Upon his considered review of the record and a thorough reading of the deposition transcripts,² the Commissioner concurs with the Administrative Law Judge (ALJ) that this matter is ripe for summary decision as there are no genuine issues of material fact to resolve. For the reasons convincingly presented in the ALJ's decision, the Commissioner agrees that the OSF did not act arbitrarily, capriciously or unreasonably in its determination that the Township of Hazlet is the district of residence and is, consequently, responsible for the cost of educating J.M.

Accordingly, summary disposition is granted to respondent OSF and the petitioner's cross motion is hereby denied. Moreover, the appeal of petitioner Hazlet is dismissed.

IT IS SO ORDERED.³

ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 21, 2012

Date of Mailing: February 22, 2012

² Depositions of parents K.M and S.M on behalf of J.M. were conducted *ad seriatim* on December 7, 2010.

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*. (*N.J.S.A. 18A:6-9.1*)