

D.A., on behalf of minor children, :
P.M.A. AND P.A.A., :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
BOARD OF EDUCATION OF THE CITY :
OF CLIFTON, PASSAIC COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioning aunt appealed the Board's residency determination that her nieces, P.M.A. and P.A.A., were not entitled to a free public education in the District. Petitioner claimed that the children were entitled to a free public education pursuant to *N.J.S.A. 18A:38-1b*. A hearing was scheduled and since petitioner failed to appear, the Commissioner dismissed the matter. Subsequently, petitioner wrote a letter explaining that she thought the matter had been adjourned. The Department of Education, therefore, returned the matter to the OAL for a hearing based on petitioner's request.

The ALJ found that petitioner and her mother took their nieces into their home indefinitely to provide them with necessity of life that the minor students' parents were not able to provide them in Colombia. The ALJ found no evidence that this arrangement was entered into fraudulently for the purposes of obtaining a free public education in the District. The ALJ concluded that P.M.A. and P.A.A. met the requirements of affidavit students under *N.J.S.A. 18A:38-1b* and therefore are entitled to a free public education in the District.

The Commissioner adopted the findings and determination in the Initial Decision as his own and ordered the Board to continue to admit the children into its public school system free of charge, so long as there is no change in circumstances that would alter their entitlement.

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. NO. EDU 9037-01
AGENCY DKT. NO. 72-3/01

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The record of this matter¹ 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 in this matter, the Commissioner concurs that petitioner has demonstrated that P.M.A. and P.A.A. are entitled to attend school in the Board's district, free of charge, pursuant to *N.J.S.A. 18A:38-1b(1)*. Accordingly, the Initial Decision of the OAL is adopted for the reasons expressed therein. The Board is hereby ordered to continue to admit the minor children into its public school system, free of charge, so long as there is no change in circumstances that would alter their entitlement.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: September 23, 2002

Date of Mailing: September 25, 2002

¹ Previously docketed as OAL Dkt. No. EDU 3754-01.

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.