

B.R., on behalf of minor child, M.P., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE CITY : DECISION  
OF CLIFTON, PASSAIC COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

SYNOPSIS

Petitioning aunt challenged the Board’s residency determination that M.P., who came from Poland to live with her, was not entitled to a free public education under the “affidavit student” provision of N.J.S.A. 18A:38-1(b).

The ALJ concluded that M.P. was entitled to a free public education in the District since she came to live with petitioner due to legitimate family or economic hardship and not solely in order to attend school in the District. Moreover, petitioner provided all of M.P.’s financial support and declared M.P. as a dependent on her income tax return. The ALJ ordered that M.P. be admitted to the District without cost and that the Board’s counterclaim for tuition be denied.

The Commissioner adopted 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.

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The record of this matter and the Initial Decision of the Office of Administrative Law 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: 1) she is domiciled within the Clifton School District; 2) she is supporting M.P. *gratis*; 3) M.P.'s parents are incapable of supporting M.P. and caring for her in their own country due to economic and family hardship; and 4) M.P. is not residing with petitioner solely for the purpose of receiving a free public education in the District. M.P. is, therefore, entitled to attend school in the Board's district, free of charge, pursuant to *N.J.S.A. 18A:38-1 et seq.*

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

IT IS SO ORDERED.\*

COMMISSIONER OF EDUCATION

Date of Decision: October 2, 2003

Date of Mailing: October 3, 2003

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\* This decision 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.*