

L.S.M., ON BEHALF OF MINOR CHILD, A.M., :  
PETITIONER, :  
COMMISSIONER OF EDUCATION  
V. :  
DECISION  
BOARD OF EDUCATION OF THE TOWNSHIP :  
OF MONROE, GLOUCESTER COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

### SYNOPSIS

Petitioner sought to have her child return to school as a 10<sup>th</sup> grader, and sought assurances from the district that she would be protected in the future from religion-based hate crimes. Respondent Board asserted that until such time as A.M. was re-enrolled in the district, no controversy exists under the school laws for the Commissioner to rule on.

The ALJ found that in the course of proceedings in this case, the petitioner shifted her position on re-enrolling her child for the remainder of the 2006-2007 school year, and instead informed the ALJ that she intends to home-school and re-enroll her daughter in September 2007; accordingly, the district is not legally charged with A.M.'s education. The ALJ concluded that there is no cognizable controversy or dispute before the Commissioner, and that the contested case must be dismissed for lack of jurisdiction.

The Commissioner concurred with the ALJ for the reasons clearly stated in his decision, and dismissed the petition. In so holding, the Commissioner stressed that upon A.M.'s re-enrollment in the district's schools, any dispute between petitioner and the Board about A.M.'s appropriate grade placement would be a new cause of action appealable to the Commissioner at that time.

<p>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.</p>
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June 14, 2007

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

Upon review, the Commissioner concurs with the Administrative Law Judge (ALJ) that petitioner has removed her dispute from the jurisdiction of the Commissioner by withdrawing A.M. from the public school system. In so holding, however, the Commissioner stresses that – should petitioner re-enroll A.M. in September 2007 as she indicates her intent to do – any dispute between her and the Board about A.M.’s appropriate grade-level placement<sup>1</sup> would be a new cause of action appealable to the Commissioner at that time, provided A.M. remains enrolled in school.

Accordingly, for the reasons expressed therein, the Initial Decision of the OAL dismissing the Petition of Appeal is adopted as the final decision in this matter.

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: June 14, 2007

Date of Mailing: June 14, 2007

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<sup>1</sup> The Commissioner notes in this regard that, upon re-enrollment, A.M. must be placed as an eleventh-grader in accordance with petitioner’s representation, then assessed in terms of her specific levels of proficiency – not the equivalency of her home school curriculum to the Board’s curriculum – to determine if such placement is appropriate. *M.C., on behalf of minor child, L.C. v. Board of Education of the Freehold Regional High School District, Monmouth County*, decided by the Commissioner February 2, 2000.

<sup>2</sup> 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.*