

**New Jersey Commissioner of Education  
Final Decision**

Board of Education of the Township of Springfield,  
Union County,

Petitioner,

v.

Board of Education of the City of Newark,  
Essex County,

Respondent.

**Synopsis**

The issue in this case is which of the two school districts – the Board of Education of the Township of Springfield (Springfield) or Board of Education of the City of Newark (Newark) – is responsible for the tuition and transportation costs associated with educating the children of A.I.P. after the family lost their permanent residence and became homeless in approximately June of 2016. The Commissioner issued a previous decision in September 2022, remanding this matter to the OAL to address inconsistent findings in an earlier Initial Decision.

On remand, the ALJ found, *inter alia*, that: the preponderance of credible evidence indicates that A.I.P. and her children resided at an address in Newark for more than one year prior to the start of the 2017-2018 school year; accordingly, they became the responsibility of the Newark school district for the 2017-2018 school year; Springfield expended a total of \$79,511.58 in tuition and transportation costs related to the education of A.I.P.'s children; however, A.I.P. relocated to Dover in the summer of 2018 and from that point forward Dover became the school district responsible for the education of the P. children; the amount that Springfield paid in tuition and transportation for the period beginning in the summer of 2018 was \$36,031.92. The ALJ concluded that Newark is responsible for educational costs for the children for the 2017-2018 school year, and Dover became the responsible school district in the summer of 2018. Accordingly, the ALJ ordered Newark to reimburse Springfield in the amount of \$43,479.66 for educational costs related to the P. children during the 2017-2018 school year.

Upon review, the Commissioner remanded this matter a second time as she is unable to determine from the present record when the P. family's living situation became permanent such that they were no longer homeless. The Commissioner noted that in order to determine which school district is responsible for the cost of the P. children's education at different points in time, a fact-specific homelessness determination is essential. The present record does not provide sufficient and accurate information regarding where the P. family was living and for what length of time so as to allow the Commissioner to determine when they became homeless and at what point their period of homelessness ended. Accordingly, the matter was remanded to the OAL for further proceedings consistent with this 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.

**New Jersey Commissioner of Education**

**Final Decision**

Board of Education of the Township of  
Springfield, Union County,

Petitioner,

v.

Board of Education of the City of Newark, Essex  
County,

Respondent.

The record of this case and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, mindful of the Commissioner's September 7, 2022 decision remanding the matter to address inconsistent findings in the Initial Decision. The exceptions filed by respondent Newark Board of Education (Newark) pursuant to *N.J.A.C. 1:1-18.4*, and the reply thereto filed by petitioner Springfield Board of Education (Springfield), have also been considered.

The issue for determination here is which of the two school districts is responsible for the tuition and transportation costs associated with educating the P. children when they became homeless. It is undisputed that A.I.P. and her children resided in Springfield prior to becoming homeless in June of 2016. According to the McKinney-Vento paperwork submitted by A.I.P., the family was residing with A.I.P.'s mother at a Newark address and also at an Irvington address. As the district of residence (the last district that the children attended prior to becoming homeless),

Springfield initially paid for M.P. and Jad.P. to attend school.<sup>1</sup> M.P. attended an out-of-district placement, and Springfield paid the tuition and provided transportation from the Newark address. Springfield also paid the tuition for Jad.P. to attend an out-of-district placement, but she did not require transportation as it was a residential facility. At the end of the 2016-17 school year, Jad.P.'s residential placement came to an end. Springfield offered home instruction pending a new placement, but A.I.P. refused. M.P. also refused to attend the extended school year program.

In June of 2017, Springfield informed Newark that the P. family had lived in Newark for a year, and therefore, Newark should take over responsibility for their placement and tuition for the 2017-18 school year. In September 2017, Newark's homeless management specialist Ana Osoria responded and indicated that she had spoken with A.I.P. and would assist her with registration but needed copies of the children's IEPs. Thereafter, on November 14, 2017, Ms. Osoria informed Springfield that she met with A.I.P. and that she had not lived in Newark consistently for a year because A.I.P. told her she had been staying in "multiple locations and at different districts including hotels/motels in Springfield, a friend's house in Irvington and her family member in Maplewood." (J3). Thereafter, Springfield worked to secure placements for the children because they had not been getting an education. Springfield offered home instruction in the interim, but A.I.P. refused. It appears that Jad.P. and M.P. began attending out-of-district placements in or about April 2018, and Springfield provided transportation for both children from the Newark address. On April 10, 2018, Springfield's Director of Social Services Tiffany Boehm informed Newark

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<sup>1</sup> Springfield also paid for and provided transportation for Jas.P. to attend school in Springfield during the 2016-17 school year. Jas.P. graduated in June 2017, and accordingly is not at issue in this matter.

that the placements would begin shortly, but that Springfield intended to bill Newark for the cost because the P. family had lived in Newark for more than a year.<sup>2</sup>

Springfield then initiated a residency investigation. The investigator conducted surveillance on the Newark address and observed M.P. leave the house and get on the bus on four consecutive school days beginning on April 25, 2018. He also observed several vehicles come and go but did not see Jad.P. He also conducted surveillance on a Saturday and did not see any activity. Based on his observations, the investigator concluded that M.P. was residing in Newark. On May 15, 2018, Ms. Osoria updated Springfield that she had spoken with A.I.P. on the phone on April 27, 2018, writing:

During our conversation, the parent indicated that her mother has asked them to leave several times since we spoke in November 2017 and the family had to split. Her older daughter resided with a friend in Irvington, NJ and [A.I.P.] and her younger daughter stayed temporarily [in Dover] with her friend in a 1 bedroom apartment. [A.I.P.] stated that she needed to provide Springfield with a stable address in order to arrange the bus pick up because of her frequent moves. According to [A.I.P.], because her temporary addresses are not reliable and short term, she drops off the students at her mother's address to be picked up so the bus is not interrupted.

(J7).

Ms. Osoria indicated that she set up an in person meeting with A.I.P. for April 20, 2018 so that she could bring documentation, but A.I.P. did not show up.

In August 2018, A.I.P. informed Springfield by email that she and the children "no longer stay at my mother's house, we currently stay with my fiancé temporarily until I can find a permanent dwelling for us." (P18). Springfield thereafter arranged transportation to pick up M.P. at the fiancé's home in Dover and paid the tuition for her out-of-district placement. It appears that Jad.P. dropped out of school. According to Ms. Boehm's testimony, in December 2018, A.I.P.

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<sup>2</sup> The Commissioner notes that with respect to Jad.P., Springfield only appears to seek reimbursement of her transportation costs. The Commissioner is unsure why Jad.P.'s tuition costs do not appear to be at issue.

indicated that she was permanently staying in Dover, and Dover took responsibility for M.P.'s education.

Springfield filed the instant petition against Newark seeking reimbursement of the tuition and transportation costs for M.P. and Jad.P. from June 2017 (one year after it alleged the P. family moved to Newark) through December 2018 (when Dover took over financial responsibility). Following a hearing, the Administrative Law Judge (ALJ) issued an Initial Decision dated June 8, 2022, which found that A.I.P. and her children resided in Newark from June 30, 2016 until the summer of 2018, and therefore became the responsibility of Newark for the 2017-18 school year. The ALJ then ordered Newark to reimburse Springfield for tuition and transportation from June 26, 2017 through December 31, 2018.

The Commissioner issued a decision on September 12, 2022 remanding this matter for inconsistent findings. In one instance, the ALJ appeared to find that A.I.P. was domiciled in Dover as of the summer of 2018, but then went on to order reimbursement of tuition and transportation through December 31, 2018. On remand here, the ALJ found that Dover became the responsible district for the children in the summer of 2018, and revised the tuition and transportation amount due from Newark to no longer include September through December 2018.

Upon review, the Commissioner is constrained to remand this matter a second time as she is unable to determine from the present record when the P. family's living situation became permanent such that they were no longer homeless. In order to determine which school district is responsible for the cost of the minor children's education at different points in time, a homelessness determination is essential. The Commissioner is also not satisfied that the present record provides sufficient and accurate information regarding where the P. family was living and for what length of time while they were homeless.

Under the McKinney-Vento Act, homeless children are defined as “individuals who lack a fixed, regular and adequate nighttime residence,” which includes “children sharing housing with other persons due to loss of their own housing, economic hardship, or a similar reason.” 42 U.S.C.A. § 11434a. Similarly, under state law, homeless children are defined as “child[ren] or youth who lack[] a fixed, regular and adequate residence pursuant to *N.J.S.A. 18A:7B-12* and *N.J.A.C. 6A:17-2.2*,” which includes children living in the “residence of relatives or friends where the homeless child resides out of necessity because his or her family lacks a regular or permanent residence of its own.” *N.J.A.C. 6A:17-1.2* and *2.2*. When a child’s dwelling becomes fixed, regular and adequate, domicile attaches immediately. *Board of Education of the Township of Egg Harbor v. Board of Education of the Mainland Regional High School District, et al*, Commissioner’s Decision No. 555-10, decided December 30, 2010, at 4.

Thus, conducting a homelessness evaluation to determine whether a child’s home is considered fixed, regular and adequate requires a fact-specific analysis and “cannot rest upon a simple calculation of the amount of time that children have spent in a particular location or municipality.” *M. O’K. v. Board of Education of the Borough of Cresskill, et al*, Commissioner Decision No. 325-14, decided August 12, 2014, at 3, *aff’d*, A-0828-14T4 (App. Div. Sept. 8, 2016). In conducting such a fact-specific inquiry, the Commissioner must consider the totality of the circumstances, such as “[t]he reasons for the children’s homelessness, their living conditions, and the resources and intentions of the parents or custodians are relevant.” *Ibid*.

Once it is determined whether a child is homeless, the question becomes which district is financially responsible for the child’s education. Ordinarily, a student is eligible for a free public education in a school district if he or she is domiciled within the school district. *N.J.S.A. 18A:38-1(a)*; *N.J.A.C. 6A:22-3.1(a)*. A student’s domicile is determined by the domicile of his or her parents.

*N.J.A.C. 6A:22-3.1(a)(1)*. When a child becomes homeless, the school district of residence – *i.e.*, the school district in which the child resided before becoming homeless – remains responsible for the cost of the child’s education, including when the child is temporarily living and attending school in another school district. *N.J.A.C. 6A:17-2.3; N.J.S.A. 18A:7B-12*. However, when a homeless child lives in a school district for one year or longer – and a new domicile has not been established – the child is “deemed domiciled” in that district for the purposes of determining which district is responsible for the cost of the child’s education. *N.J.S.A. 18A:38-1(d); N.J.A.C. 6A:17-2.3(c)*.

In this matter, while it is undisputed that the family was homeless for at least the 2016-17 school year, it is unclear if or when the P. family lived in Newark for one year such that they would be “deemed domiciled” for purposes of the children’s education. Further fact finding is therefore required. In the June 8, 2022 Initial Decision, the ALJ found that the P. family were deemed domiciled in Newark for the 2017-18 school year, reasoning that: “In the instant matter, it is clear that A.I.P. resided in Newark. The address given to Springfield was the Newark address. Springfield’s investigator confirmed that A.I.P. resided in Newark. The only reasonable conclusion is the A.I.P. resided in Newark.” (Initial Decision, June 8, 2022, at 15). The Initial Decision on remand did not provide any additional factual findings on this issue and simply found that the preponderance of the credible evidence indicated that the P. family resided at the Newark address for more than a year. The Commissioner notes that, despite the ALJ’s finding regarding providing Springfield with the Newark address, A.I.P.’s McKinney-Vento paperwork listed both a Newark and an Irvington address.<sup>3</sup> Additionally, the investigator’s surveillance on four consecutive school days

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<sup>3</sup> The Commissioner acknowledges that the Newark address was used for the purposes of transportation beginning in the 2016-17 school year until the start of the 2018-19 school year, but also notes that according to Ms. Osoria, A.I.P. told her on April 27, 2018 that she would drop the children off at the Newark address when living temporarily elsewhere so that the bus service would not be interrupted.

in April 2018 does not prove that the P. family had lived in Newark for a year after becoming homeless in June 2016, but rather only demonstrates where the family was in April 2018.

While the family appears to have relocated to Newark on June 30, 2016, a determination needs to be made – through testimony from A.I.P. or others with personal knowledge of the family’s living arrangement – regarding how long the family lived in the Newark School District. On November 14, 2017, more than a year later, Ms. Osoria spoke with A.I.P. who appeared to tell her that she’d been living in different places, including hotels/motels, with a friend in Irvington and with a family member in Maplewood, but it is unclear whether A.I.P. had lived in Newark for a full year prior to bouncing between these temporary situations.

Additionally, a determination needs to be made regarding when the family’s homelessness status changed. It is undisputed that Dover took over responsibility for M.P.’s education sometime in December 2018, so it appears that the Dover address was a permanent residence and the family was no longer homeless. While A.I.P.’s August 2018 email indicated that she was temporarily staying with her fiancé in Dover until she could find a permanent dwelling, it is unclear at what point the Dover residence became fixed, regular and adequate. Such a determination is essential because it will decide which school district is responsible for the cost of M.P.’s education from September 2018 to December 2018. If the family was no longer homeless when they moved to the Dover residence in August 2018, then Dover would be responsible for the cost of education for that period; however, if the Dover residence did not become permanent until December 2018, then either Newark or Springfield (depending on whether the P. family was ever deemed domiciled in Newark) would be the responsible district.

The Commissioner notes that while homelessness determinations are fact-specific, there was never an evaluation of the family’s living conditions at any one of the Newark, Irvington, or



Dover addresses. No one looked into what parts of the home the family could use, where the children were sleeping, or what efforts A.I.P. was taking to secure permanent housing. While the Commissioner acknowledges that A.I.P. is not a party in this matter, the fact remains that she is the best source of information about the family's living situation and financial circumstances, and thus her participation through discovery or testimony is critical to a determination in this matter. Therefore, further information is necessary to determine where the P. family was staying when they were homeless and for how long, and the date their home became fixed, regular and adequate such that M.P. and Jad.P. were no longer homeless under state and federal law, in order to resolve the claims for tuition reimbursement.

Accordingly, this matter is hereby remanded to the OAL for further proceedings consistent with this decision,

IT IS SO ORDERED.

  
ANGELINA ALLEN-McMILLAN, J.D.S.  
ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 26, 2023  
Date of Mailing: January 26, 2023



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. EDU 08290-22  
AGENCY DKT. NO. 71-4/19

**ON REMAND**

OAL DKT. NO. EDU 06696-19

**BOARD OF EDUCATION OF THE  
TOWNSHIP OF SPRINGFIELD,**

Petitioner,

vs.

**BOARD OF EDUCATION OF THE  
CITY OF NEWARK,**

Respondent.

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**Marie-Laurence Fabian**, Esq., co-counsel for Petitioner (Porzio, Bromberg & Newman, P.C., attorneys)

**Teresa L. Moore**, Esq., for Respondent, Newark Board of Education (Riker, Danzig, Scherer, Hyland & Perretti, LLP, attorneys)

Record Closed: October 17, 2022

Decided: November 7, 2022

BEFORE: **THOMAS R. BETANCOURT**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Petitioner filed a petition, dated April 10, 2019, with the New Jersey Department of Education, Bureau of Controversies and Disputes, alleging that the Newark Board of Education is responsible for transportation and tuition costs for certain children that have attended school in Petitioner's district.

The matter was transferred to the Office of Administrative Law (OAL), where it was filed on May 15, 2019, as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13, bearing OAL Docket No. EDU 06696-19.

A prehearing conference was held on June 5, 2019. A prehearing order, dated June 7, 2019, was entered by the undersigned.

The hearing was held on December 13, 2021, December 14, 2021 and January 24, 2022.

The record remained open for the parties to submit post hearing briefs, which were due thirty days after receipt of the hearing transcripts. Transcripts were received on March 11, 2022. Petitioner submitted their brief on April 6, 2022. Respondent submitted their brief on April 7, 2022. Whereupon the record closed on April 7, 2022.

An Initial Decision was entered by the undersigned on June 8, 2022, wherein the undersigned found in favor of Petitioner and awarded it tuition reimbursement from Respondent in the amount of \$79,511.58.

By Final Decision of the Acting Commissioner of the Department of Education, dated September 7, 2022, the matter was remanded to the undersigned to ascertain who is responsible for the children's education costs between September 2018 and December 2018.

A telephone conference was held with counsel on September 15, 2022.

The parties were directed to submit briefs as to their respective positions as to the Final Decision. Petitioner submitted its brief, together with the Certification of Tiffany Boehm with proposed exhibits P-24, P-25 and P-26, on October 7, 2022. Respondent filed its reply thereto on October 17, 2022.

The record closed on October 17, 2022.

### **ISSUES**

Who is the responsible party for the education of the children from September 2018 through December 2018.

### **FINDINGS OF FACT<sup>1</sup>**

1. A.I.P., and her children, Jas. P., Jad. P. and M.P., resided in the Township of Springfield, N.J. until approximately June of 2016.
2. As residents of Springfield the children were entitled to be educated in the Springfield public school system.
3. All three children, above noted, were students with special needs and had Individualized Education Programs (IEPs). (P-20)
4. A welfare check at the Springfield address of the P family by the Springfield Police revealed that they no longer resided at said address. A different family resided therein. (12/13/21 Tr. 26:12 to 27:24)
5. The Springfield Board of Education discovered that the P family was residing in Newark, NJ, through a worker with Families and Communities Together (FACT), however the worker was unable to provide a current address. (P-19)
6. In September 2016, after being contacted by the school social worker, A.I.P. came to the Florence M. Guadineer Middle School to re-register M.P., and

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<sup>1</sup> The Findings of Fact herein are the Findings of Fact from the Initial Decision entered on June 8, 2022.

provided a lease, dated September 1, 2016, for her prior Springfield address. (P-21)

7. The P family was not living at their previous address in Springfield. They were living with the childrens' grandmother in Newark, NJ, at 134 Fabyan Place.

8. The Springfield Police confirmed that the P family was not living at their previous address. A different family was living there. (12/13/21 Tr. 41:6-17)

9. A.I.P. filled out a McKinney Vento Act Student Information form for Jad. P., Jas. P. and M.P. A.I.P. claimed in the forms that the family was homeless since June 30, 2016, and were residing at 134 Fabyan Place, Newark, NJ. She also listed an Irvington address on the forms. (P-3)

10. Springfield BOE set up transportation from the 134 Fabyan Place, Newark, NJ address to Springfield for Jas. P. and M.P. so they could attend school. Transportation was not required for Jad. P. as she was in a residential facility. Transportation for Jas. P. and M.P. continued through the end of the 2016/2017 school year.

11. Transportation was arranged for M.P. to attend the extended school year program but was subsequently cancelled as M.P. refused to attend the program.

12. The transportation company informed Springfield via email that M.P. would not leave the porch of the 134 Fabyan Place, Newark, NJ address. They also advised that A.I.P. had exited the house after being contacted by telephone that M.P. would not get on the bus. (P-9)

13. During the 2016/2017 school year the only address used to pick up the children for transport to school was the 134 Fabyan Place, Newark, NJ address.

14. An email, dated June 27, 2017, was sent to the Newark Board of Education homeless liaison, Ana Osoria, to advise that the P family was living in Newark from May 2016. Said email provided the names of the children and the Newark address. (J-1)

15. Ms. Osoria did not respond to this email until September 12, 2017, after receiving a follow up email from Tiffany Boehm of Springfield, dated September 6, 2017. (J-2)

16. In response to Ms. Osoria's email of September 12, 2017, the IEPs for the three children were forwarded. (P-23)
17. By email dated November 14, 2017, Ms. Osoria advised Springfield that she met with A.I.P. and determined that A.I.P. did not reside in Newark for 365 days. This was based on representations made by A.I.P. Ms. Osoria determined that the children should be the responsibility of Springfield. (J-3)
18. Springfield then assumed responsibility for the children and arranged for placements and transportation from the 134 Fabyan Place, Newark, NJ address. Jad. P. was placed at Washington Academy, and M.P. was placed at Rutgers Day School. P-10 and P-11)
19. By letter dated April 10, 2018, Springfield advised Newark that it still held the position that Springfield was the responsible district for the 2017/2018 school year. (J-4)
20. Ms. Osoria responded, by email dated April 10, 2018, to said letter on behalf of Newark requesting documents to support Springfield's position and restating Newark's position. (J-5)
21. In response thereto, attendance and transportation records were provided by email dated April 23, 2018. (J-6)
22. Ms. Osoria responded, again reiterating Newark's position, which was based upon a conversation she had with A.I.P. Said email was also to update what had transpired. (J-7)
23. Springfield had their residency investigator investigate the residency situation for the P family. The investigator, James Post, set up surveillance at the 134 Fabyan Place, Newark, NJ address and discovered that M.P. was residing therein. He did not observe Jad. P. He prepared a report as to his findings. (P-4)
24. Newark's position regarding the residency of the P family was based entirely on what A.I.P. told Ms. Osoria without any supporting documentation.
25. Ms. Osoria testified that A.I.P. told her she wanted her children to continue to be educated in the Springfield district.

26. Ms. Osoria, after speaking via telephone with A.I.P. on April 27, 2018, arranged a meeting with her for April 30, 2018. A.I.P. did not attend the meeting. (J-7)
27. Springfield discovered during the summer of 2018 that the P family was living in Dover, NJ. M.P. was enrolled in the Dover district. The transportation contract for M.P. was cancelled. It appeared that Jad. P. had dropped out of school.
28. Newark Board of Education was the responsible district for the education of the P family children, Jad. P., Jas. P. and M.P. from the beginning of the 2017/2018 school year until the time the children became the responsibility of the Dover school district.
29. Springfield expended the sum of \$15,707.50 in tuition for the Rutgers Day School for M.P. for the period of April to June 2018. (P-12)
30. Springfield expended the sum of \$12,942.84 in tuition for the Rutgers Day School for M.P. for the period of September to October 2018. (P-13)
31. Springfield expended the sum of \$12,942.84 in tuition for the Rutgers Day School for M.P. for the period of November to December 2018. (P-14)
32. Total tuition costs expended by Springfield for M.P. are \$41,593,18.
33. Transportation costs paid by Springfield total \$39,918.40 for Jad P. to Washington Academy, and for M.P. to Rutgers Day School, for the period of June 26, 2017 through December 31, 2018. (P-15 and P-15a)
34. Total amount of funds expended by Springfield that the Newark Board of Education is responsible for equal \$79,511.58.<sup>2</sup>

### **ADDITIONAL FINDINGS OF FACT**

1. Springfield expended the sum of \$36,031.92 during the period A.I.P. had moved to Dover, New Jersey. (P-13, P-14, P-15i and P-15l)

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<sup>2</sup> The was the sum determined to be payable from Respondent to Petitioner in the Initial Decision of June 8, 2022. This amount is reduced in the within Initial Decision on Remand.

2. The Dover school district would be the responsible district to educate the children from the time A.I.P. moved to Dover. The move occurred in the summer of 2018.
3. The total amount due Springfield from Newark totals \$43,479.66 (79,513.58 less \$36,031.92)

## **LEGAL ANALYSIS AND CONCLUSION**

### **Right to a Free Public Education**

N.J.S.A. 18A:38-1(a) and N.J.A.C. 6A:22-3.1(a) sets forth the right of a student to a free public education, which in pertinent parts states:

Public schools shall be free to the following persons over five and under twenty years of age:

- a. Any person who is domiciled within the school district[.]

Consideration in proving residency for purposes of establishing eligibility for school district placement is found at N.J.A.C. 6A:22-3.4(a),

(a) A district board of education shall accept a combination of any of the following or similar forms of documentation from persons attempting to demonstrate a student's eligibility for enrollment in the school district:

1. Property tax bills, deeds, contracts of sale, leases, mortgages, signed letters from landlords and other evidence of property ownership, tenancy or residency;

2. Voter registrations, licenses, permits, financial account information, utility bills, delivery receipts, and other evidence of personal attachment to a particular location;

. . .

3. Court orders; State agency agreements; and other evidence of court or agency placements or directives;



4. Receipts; bills; cancelled checks; insurance claims or payments; and other evidence of expenditures demonstrating personal attachment to a particular location or to support the student;

...

6. Affidavits, certifications and sworn attestations pertaining to statutory criteria for school attendance, from the parent, guardian, person keeping an "affidavit student," adult student, person(s) with whom a family is living, or others as appropriate;

...

8. Any other business record or document issued by a governmental entity.

(b) A district board of education may accept forms of documentation not listed in (a) above, and shall not exclude from consideration any documentation or information presented by a person seeking to enroll a student.

(c) A district board of education shall consider the totality of information and documentation offered by an applicant, and shall not deny enrollment based on failure to provide a particular form of documentation, or a particular subset of documents, without regard to other evidence presented.

N.J.S.A. 18A:7B-12(c) states: The district of residence for children whose parent or guardian temporarily moves from one school district to another as the result of being homeless shall be the district in which the parent or guardian last resided prior to becoming homeless. For the purpose of this amendatory and supplementary act, "homeless" shall mean an individual who temporarily lacks a fixed, regular and adequate residence.

As A.I.P. claimed homelessness for the 2016/2017 school year, Springfield acted appropriately and registered children, notwithstanding their new address in Newark.

N.J.S.A. 18A:38-1(d) states: Any person whose parent or guardian, even though not domiciled within the district, is residing temporarily therein, but any person who has

had or shall have his all-year-round dwelling place within the district for one year or longer shall be deemed to be domiciled within the district for the purposes of this section.

The preponderance of the credible evidence shows that A.I.P., M.P. and Jad. P. resided at 134 Fabyan Place, Newark, NJ for more than one year. Accordingly, they became the responsibility of the Newark school district for the 2017/2018 school year.

N.J.A.C. 6A:22-6.3 states in pertinent part: a) Tuition assessed pursuant to this section shall be calculated on a per-student basis for the period of a student's ineligible enrollment, up to one year, by applicable grade/program category and consistent with the provisions of N.J.A.C. 6A:23A-17.1. The individual student's record of daily attendance shall not affect the calculation.

Springfield expended the sum of \$41,593.18 in tuition costs, and the sum of \$39,918.40 in transportation costs from the time that Newark was the responsible district for the education of M.P. and Jad. P. The total sums expended by Springfield were \$79,511.58.

However, A.I.P. relocated to Dover, New Jersey in the summer of 2018. Dover would be the responsible district from that point going forward. See Board of Ed. Of Twp. of Egg Harbor v. Board of Ed. Of Mainland Reg'l H.S. Dist., No. 555-10 (Comm'r Ed. Dec. 30, 2010). I agree with the position taken by Respondent that Dover was the responsible district from the period A.I.P. moved. Accordingly, Respondent should not be responsible to reimburse Petitioner for that time frame. The amount Petitioner paid during this period equals \$36,031.92. The balance due Petitioner from Respondent equals \$43,479.66.

I note that Respondent objected, in its brief, to the additional exhibits produced by Petitioner (P-24, P-25 and P-26). I have determined that the same shall be admitted and be part of the record. The matter is on remand and each party was free to introduce additional relevant information if they chose. I do note that I give no weight to

the assertion by A.I.P. that she remained homeless (P-24) as it is unsupported hearsay with no residuum of relevant competent evidence.

Based upon the foregoing, I further **CONCLUDE** that Jad. P. and M.P., together with their mother, A.I.P., resided at 134 Fabyan Place, Newark, NJ, from June 30, 2016 until the summer of 2018; and, Newark became the responsible school district for the 2017/2018 school year after the family resided therein for more than one year.

I further **CONCLUDE** that A.I.P. moved to Dover, New Jersey in the summer of 2018 and that Dover became the responsible district for the education of the children thereafter.

### **ORDER**

Based upon the foregoing it is **ORDERED** that the Newark Board of Education reimburse the Springfield Board of Education the sum of \$43,479.66.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

November 7, 2022



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DATE

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**THOMAS R. BETANCOURT, ALJ**

Date Received at Agency:

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Date Mailed to Parties:

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**APPENDIX**

List of Witnesses

For Petitioner:

None

For Respondent:

None

List of Exhibits

For Petitioner:

- P-1 letter from Tiffany Boehm to A.I.P. (parent), dated 6/27/16
- P-2 Email from Kara King to Tiffany Boehm, dated 9/16/16
- P-3 McKinney Vento Act Student Resident Information forms
- P-4 Email report from James Post to Jannett Pacheco, Petitioner's Former Director of Human Resources, dated 5/13/18
- P-5 Request for Coordinated Special Education Transportation form with regard to Jas.P. for the time period ASAP through June 23, 2016, dated 9/22/16
- P-6 Request for Coordinated Special Education Transportation form with regard to M.P. for the time period ASAP through June 23, 2016, dated 9/20/16
- P-7 Request for Coordinated Special Education Transportation form with regard to M.P. for the time period ASAP through June 22, 2017, dated 12/2016
- P-8 Request for Coordinated Special Education Transportation form with regard to M.P. for the time period July 5, 2017, through August 15, 2017, dated 8/15/17
- P-9 Emails from Diana Blajsa from UCESC to Sue Lies, Petitioner's Transportation Coordinator, dated 6/9/17
- P-10 Request for Coordinated Special Education Transportation form with regard to Jad.P. for the time period April 2, 2018 through June 21, 2018, dated 3/26/18

- P-11 Request for Coordinated Special Education Transportation form with regard to M.P. for the time period April 11, 2018 through June 21, 2018, dated 6/1/17
- P-12 Vendor History Printout for April, May and June 2018
- P-13 Vendor History Printout for September and October 2018
- P-14 Springfield Board of Education Purchase Order 901230
- P-15 Springfield Board of Education District Billing Reports
- P-17 Power School Documents
- P-18 emails between Tiffany Boehm and parent dated 11/28 and 29/2021
- P-19 email between Tiffany Boehm and FACT worker
- P-20 IEPs
- P-21 Lease submitted by parent to Springfield
- P-23 email dated 9/17/17 from Tiffany Boehm's secretary, Jessica

For Respondent:

- R-1 Residency Investigation
- R-2 McKinney Vento training manual
- R-3 McKinney Vento questionnaire

Joint Exhibits:

- J-1 Email from Elyn Atherton to Ana Osoria with the subject "Homeless Students Living in Newark" dated 6/27/17
- J-2 Emails from Tiffany Boehm to Ana Osoria dated 9/6-12/17
- J-3 Emails from Ana Osoria to Tiffany Boehm dated 11/14/17
- J-4 letter from Tiffany Boehm to Ana Osoria dated 4/10/18
- J-5 Email from Ana Osoria to Tiffany Boehm dated 4/10/18
- J-6 Email from Tiffany Boehm to Ana Osoria with attachments dated 4/23/18
- J-7 Email from Ana Osoria to Tiffany Boehm dated 5/15/18

Additional Exhibits on Remand:

P-24 email Aug. 8, 2018 to Tiffany Boehm from A.I.P.

P-25 Request for Coordinated Special Education Transportation

P-26 Request for Coordinated Special Education Transportation

Briefs submitted on Remand:

Petitioner:

Letter brief of Marie Laurence Fabian, Esq.

Certification of Tiffany Boehm, with P-24, P-25 and P-26

Respondent:

Letter brief of Teresa L. Moore, Esq.