432-25
OAL Dkt. Nos. EDU 09398-24, 11817-24 (consolidated)
Agency Dkt. Nos. 193-6/24, 211-7/24

New Jersey Commissioner of Education

Final Decision

Board of Education of the West Windsor-Plainsboro Regional School District, Mercer County,

Petitioner,

v.

Matheny Medical and Education Center, Somerset County,

Respondent,

AND

Matheny School and Hospital, Inc., d/b/a Matheny Medical and Education Center,

Petitioner,

v.

Board of Education of the West Windsor-Plainsboro Regional School District, Mercer County, and State of New Jersey,

Respondents.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by Board of Education of the West Windsor-Plainsboro Regional School District (Board) pursuant to *N.J.A.C.* 1:1-18.4, and the replies submitted by Matheny Medical and

Education Center (Matheny) and the State of New Jersey (State), have been reviewed and considered.

This consolidated matter concerns financial responsibility for tuition payments to Matheny, an approved private school for students with disabilities,[1] for educational services provided to M.M. during the 2023-2024 school year. The Board seeks reimbursement for monthly tuition payments it made to Matheny in January and February 2024 after M.M.'s parents relocated to Spain and were no longer domiciled in West Windsor Township. Matheny seeks monthly tuition payments from either the Board or the State for educational services provided to M.M. from January 1, 2024, to June 30, 2024.[2]

Upon review of cross-motions for summary decision filed by the Board and Matheny which were opposed by the State, and related exhibits, the Administrative Law Judge (ALJ) concluded that the Board was responsible for M.M.'s tuition payments to Matheny for the entire 2023-2024 school year pursuant to a Mandated Tuition Contract (Contract) executed by the Board and Matheny. The ALJ further concluded that the State was not financially responsible for M.M.'s tuition payments pursuant to the State Facilities Education Act of 1979 (Act), *N.J.S.A.* 18A:7B-1 to -13, because M.M. was not placed at Matheny by the State.

In its exceptions, the Board initially offers nine factual findings and requests that the Commissioner accept them "to the extent they are inconsistent with and not addressed in the

[1] An approved private school for students with disabilities, or APSSD, is "an entity approved by the Department according to *N.J.A.C.* 6A:14-7.1 through 7.3 to provide special education and related services to a student with disabilities placed in the APSSD by a parent/guardian, sending district board of education, or State agency responsible for providing the student's education through implementation of his or her individualized education program (IEP)." *N.J.A.C.* 6A:23A-18.2.

[2] M.M. was scheduled to graduate in June 2024.

[ALJ's] Factual Findings in the Initial Decision." Board's Exceptions, at 3-4. The Board also contends that the ALJ erred as a matter of law by: (1) failing to determine that, pursuant to *N.J.S.A.* 18A:7B-12(d) and *N.J.A.C.* 6A:23A-19.2(c), the State is financially responsible for M.M.'s tuition payments; (2) disregarding a Department of Education (DOE) employee's email to Matheny which suggested that the Board was no longer responsible for M.M. after her parents disenrolled her from the district; and (3) finding that the Contract between the Board and Matheny regarding payment of tuition remained in effect after M.M.'s parents moved to Spain.

In response, Matheny argues that the Commissioner should adopt the Initial Decision in its entirety. It claims that there is no legal basis to accept the alternative findings of fact proposed by the Board, as the ALJ's factual findings are fully supported by the record. It also contends that M.M.'s parents' attempt to disenroll her from the district was invalid because they did not understand the implications of doing so, that M.M.'s IEP was effective through June 30, 2024, and that the Board did not modify the IEP or terminate the Contract. It asks the Commissioner to order the Board to pay Matheny $66,000 within 30 days of the final decision.

The State agrees with Matheny that the Initial Decision is correct and should be adopted by the Commissioner. It argues that the instant matter is a contractual dispute between the Board and Matheny. It emphasizes that the State was not a party to the Contract and therefore cannot be held liable under its terms. It also contends that the Board misconstrued the Act, which neither governs private contracts nor applies to M.M. because she was not placed at Matheny by the State. It adds that the DOE was never asked to make a district of residence determination pursuant to the Act or related regulations.

Upon review, the Commissioner adopts the Initial Decision as the final decision in this matter. At the outset, the Commissioner holds that the ALJ's factual findings are fully supported by the record. Moreover, the Board's exceptions are procedurally defective as they fail to specify each finding of fact to which exception is taken as required by *N.J.A.C.* 1:1-18.4. It is not compliant with the regulation for a party to submit alternate factual findings and to request generally that the Commissioner accept them to the extent they are allegedly inconsistent with or not addressed in the Initial Decision without specifying which of the ALJ's factual findings are problematic. As for the ALJ's legal conclusions, the Commissioner finds that they are consistent with applicable law, and that the Board's exceptions are unavailing.

In particular, the Commissioner agrees with the ALJ that the Act and related regulations are not applicable to this matter. Enacted in 1979, the Act's purpose is to "assure a thorough and efficient education" for all students who reside in State facilities. *In re N.J.A.C. 6:28*, 204 *N.J. Super.* 158, 164-65 (App. Div. 1985). Toward that end, the Act requires "school districts to pay tuition for all children in State facilities." *D.S. v. Bd. of Educ. of Twp. of E. Brunswick*, 188 *N.J. Super.* 592, 607 (App. Div. 1983). Thus, the Act provides that "for school funding purposes," the Commissioner is tasked with determining the district of residence of affected students. *N.J.S.A.* 18A:7B-12. *See Forstrom v. Byrne*, 341 *N.J. Super.* 45, 65-66 (App. Div. 2001) (explaining that the "'district of residence' is responsible for the cost of education of such children").

N.J.S.A. 18A:7B-12(a), (b), and (c), set forth specific criteria the Commissioner must consider when making a district of residence determination. The subsection (a) criteria apply to students placed in resource family homes by the Department of Children and Families. *N.J.S.A.* 18A:7B-12(a). The subsection (b) criteria apply to students "who are in residential State facilities,

or who have been placed by State agencies in group homes, skill development homes, private schools or out-of-State facilities." *N.J.S.A.* 18A:7B-12(b). The subsection (c) criteria apply to homeless students. *N.J.S.A.* 18A:7B-12(c). Subsection (d), which the Board asserts is applicable to the present matter, states:

> If the district of residence cannot be determined according to the criteria contained herein, if the criteria contained herein identify a district of residence outside of the State, or if the child has resided in a domestic violence shelter, homeless shelter, or transitional living facility located outside of the district of residence for more than one year, the State shall assume fiscal responsibility for the tuition of the child. The tuition shall equal the approved per pupil cost established pursuant to section 24 of P.L. 1996, c. 138 (C. 18A:7F-24). This amount shall be appropriated in the same manner as other State aid under this act. The Department of Education shall pay the amount to the Department of Human Services, the Department of Children and Families, the Department of Corrections or the Youth Justice Commission established pursuant to section 2 of P.L. 1995, c. 284 (C. 52:17B-170), or, in the case of a homeless child or a child in a family resource home, the Department of Education shall pay to the school district in which the child is enrolled the weighted base per pupil amount calculated pursuant to section 7 of P.L. 2007, c. 260 (C. 18A7F-49) and the appropriate security categorical aid per pupil and special education categorical aid per pupil.

The Board's contention that subsection (d) of *N.J.S.A.* 18A:7B-12 requires the State to assume financial responsibility for M.M.'s tuition for the 2023-2024 school year because her district of residence cannot be determined under subsections (a), (b), and (c), and because her parents moved outside of the state, lacks merit. By its plain language, the Act applies only to students in residential State facilities, students placed in resource family homes, students placed by State agencies, and homeless students. *N.J.S.A.* 18A:7B-12. While M.M. attends Matheny, an APSSD, the Board—not a State agency—placed M.M. at Matheny in accordance with *N.J.A.C.* 6A:14-7.5, and tuition payments for her educational services are governed by a Mandated Tuition

Contract between the Board and Matheny. *See N.J.A.C.* 6A:14-7.8 (explaining that boards of education shall pay tuition pursuant to the terms of a mandated tuition contract for students placed in APSSDs). Therefore, the Act is not applicable to M.M., and a district of residence determination pursuant to *N.J.S.A.* 18A:7B-12 is not warranted.[3]

Contrary to the Board's contention, and for similar reasons, *N.J.A.C.* 6A:23A-19.2(c), "Method of determining the district of residence," is not applicable to this case either. That regulation states that the "Department shall notify the district board of education of the determination of the district of residence. To prevent a lapse in the child's education and/or child study services, the district board of education shall be bound by the determination unless and until it is reversed on redetermination or appeal pursuant to (e) and (f) below." *N.J.A.C.* 6A:23A-19.2(c). As explained previously, the DOE never made a district of residence determination for M.M. because the Act does not apply to M.M.; she was not placed in a State facility or placed at Matheny by a State agency. Thus, a district of residence determination was not necessary, and *N.J.A.C.* 6A:23A-19.2(c) is not applicable. *See also* 56 *N.J.R.* 658(a) (explaining that *N.J.A.C.* 6A:23A-19.2 "establishes the criteria for determining the district of residence for financial responsibility for students who are placed in State facilities or placed by State agencies").

However, the Board contends that an email sent from a DOE staff member in response to an inquiry from Matheny constituted a district of residence determination regarding M.M. that

[3] Moreover, subsection (d) mandates that when the State assumes fiscal responsibility for a student's educational costs under the Act, DOE must pay tuition costs to either the State agency responsible for the placement or, in the case of a homeless child or a child in a resource family home, tuition costs to the school district in which the child is enrolled. It does not authorize DOE to pay tuition costs directly to a private school as the Board insists should occur here.

it and the ALJ are bound by. That is a mischaracterization of the email in question. "The Commissioner of Education, or her designee, is responsible for determining the child's present district of residence 'based upon the address submitted by the Department of Corrections, the Department of Children and Families, or the Juvenile Justice Commission on forms prepared by the Department of Education.'" *Bd. of Educ. of Twp. of N. Bergen v. N.J. Dep't of Educ.*, Commissioner Decision No. 253-23 at 2 (Aug. 23, 2023) (quoting *N.J.A.C.* 6A:23A-19.2(b)). The email from Christina Orozco, Special Education Specialist, does not state that it is a district of residence determination for M.M.; rather, it states that M.M. was unenrolled from the district by her parents, and that the Board "ceased to be responsible for this student, as of the date in which she was unenrolled."[4] The email, which makes no mention of the Contract executed by the parties, is not a final agency decision and also indicates that Matheny may contact the Executive County Business Administrator with questions regarding financial matters pertaining to the sending district.

Additionally, the Commissioner agrees with the ALJ that the Contract remains in effect between the Board and Matheny. The Contract for the 2023-2024 school year provides that the Board, as sending district, agreed to purchase educational services described in M.M.'s IEP from

[4] The ALJ found that M.M.'s parent completed a "Release of Student Records" form on December 24, 2023, stating that M.M.'s last day of school was December 22, 2023. Initial Decision, at 4. The form authorized the Board to release M.M.'s records to Matheny. *Ibid.* Her parent also completed a "Student Transfer Verification Form" stating that M.M. was transferring from Matheny to a "nonpublic school within the state." Initial Decision, at 4-5. On January 2, 2024, a district secretary emailed M.M.'s parent to notify her that she had completed the release form incorrectly. *Id.* at 5. M.M.'s parent responded and expressed confusion, stating "M.M. is not changing school, just getting out of the ww-p [sic] system. Please let me know what to write in that case." *Ibid.* The secretary replied that no further changes were needed to the forms. *Ibid.* The Commissioner finds that even assuming M.M.'s parent intended to disenroll her from the district, M.M. remained at Matheny, and the Board continued to be bound by its Contract with Matheny until the Contract was terminated by either party.

Matheny commencing July 5, 2023, for 220 billable days. The Board further agreed to pay Matheny tuition for M.M. on a monthly basis. The Board now claims—for the first time in its exceptions—that it "met its obligations, both under Paragraph 11 and Paragraph 16, and thus the Mandated Tuition Contract was not in effect." Board's Exceptions, at 11-12.

Paragraph 11 of the Contract states that it may be terminated

> by the sending district in accordance with *N.J.A.C.* 6A:14-7.7(b).[5] The sending district shall convene an IEP meeting according to *N.J.A.C.* 6A:14-2.3. Written notice shall be provided to the parent and/or guardian of the affected student pursuant to *N.J.A.C.* 6A:14-2.3. The student may be terminated from the current placement after the sending district has provided written notice to the parents according to *N.J.A.C.* 6A:14-2.3. At or upon the conclusion of the IEP meeting, the sending district and the approved private school shall mutually agree to a termination date. If the parties cannot mutually agree to a termination date, the contract shall terminate on the 16th day after written notice of termination was provided to the parents pursuant to *N.J.A.C.* 6A:14-2.3, provided, however, that the parents have not exercised their right to disapprove the termination of the services at the approved private school. If the parent(s) and/or guardian(s) exercise their right to disapprove the termination of services at the approved private school by requesting mediation or a due process hearing, then the terms and conditions of the contract shall remain in full force and effect, unless the parties otherwise agree or the matter is resolved. The approved private school may bill the sending district for the number of enrolled days the student is enrolled after the date of the IEP meeting up to and including the date of termination.

[5] *N.J.A.C.* 6A:14-7.7(b) states: "When the district board of education is considering the withdrawal of a student with a disability from a receiving school prior to the end of the student's academic year, the district board of education shall convene an IEP meeting pursuant to *N.J.A.C.* 6A:14-2.3(k). The IEP meeting shall include appropriate personnel from the receiving school. At the IEP meeting, the IEP team shall review the student's current IEP and determine the student's new placement. Written notice of any changes to the IEP and the new placement shall be provided within 10 days of the date of the IEP meeting. The student may be terminated from the current placement after the district board of education has provided written notice to the parents pursuant to *N.J.A.C.* 6A:14-2.3. The termination shall be in accordance with the provisions of the contract between the receiving school and the district board of education."

Paragraph 16 of the Contract requires the sending district "to immediately inform the approved private school should it become aware of a change in the student's school district of residence for school funding purposes."

While the Board convened an IEP meeting on December 11, 2023, the IEP continued M.M.'s educational placement at Matheny for the remainder of the 2023-2024 school year—notwithstanding the Board's knowledge of the fact that her parents intended to move to Spain. Page 27 of the December 11, 2023, IEP states that "family is in the process of selling their home and moving to Spain. They are looking for a placement for [M.M.] in Spain as well." Although the Board informed Matheny that M.M.'s parents moved to Spain in January 2024, the Board never provided M.M.'s parents with written notice of termination of the placement pursuant to *N.J.A.C.* 6A:14-2.3 as is required by Paragraph 11. Thus, the Board did not terminate the Contract per Paragraph 11, and it owes tuition payments for M.M. to Matheny in accordance with the Contract's terms for the 2023-2024 school year.

Accordingly, the Initial Decision is adopted as the final decision in this matter. The Board's motion for summary decision is denied, and Matheny's petition for summary decision is granted.

IT IS SO ORDERED.[6]

COMMISSIONER OF EDUCATION

Date of Decision: September 8, 2025
Date of Mailing: September 8, 2025

[6] This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
SUMMARY DECISION
(CONSOLIDATED)

WEST WINDSOR-PLAINSBORO REGIONAL SCHOOL DISTRICT,
Petitioner,
v.
MATHENY MEDICAL AND EDUCATION CENTER, SOMERSET COUNTY,
Respondent,

AND

MATHENY SCHOOL AND HOSPITAL, INC. D/B/A MATHENY MEDICAL AND EDUCATION CENTER,
Petitioner,
v.
WEST WINDSOR-PLAINSBORO REGIONAL SCHOOL DISTRICT AND STATE OF NEW JERSEY,
Respondents.

OAL DKT. NO. EDU 09398-24
AGENCY REF. NO. 193-6/24

OAL DKT. NO. EDU 11817-24
AGENCY REF. NO. 211-7/24

Andrew Li, Esq., appearing for petitioner/respondent, West Windsor-Plainsboro Regional School District, (Comegno Law Group, P.C., attorneys)

Janelle Edwards-Stewart, Esq., appearing for respondent/petitioner, Matheny School and Hospital, Inc. d/b/a Medical and Education Center, (Porzio Bromberg & Newman, attorneys)

Sadia Ahsanuddin, Deputy Attorney General, appearing for respondent, State of New Jersey (Matthew J. Platkin, Attorney General of New Jersey, attorney)

Record Closed: April 28, 2025 Decided: June 16, 2025

BEFORE **KIM C. BELIN**, ALJ:

STATEMENT OF THE CASE

West Windsor-Plainsboro Regional School District, co-petitioner/co-respondent, (WW-P) seeks tuition reimbursement from Matheny Medical and Education Center, co-respondent/co-petitioner, (Matheny) for tuition erroneously paid in January and February 2024 for M.M. after her parents moved to Spain in January 2024. Matheny seeks tuition from either WW-P pursuant to the tuition contract or respondent, the State of New Jersey (State), for educational services provided to M.M. from January 1, 2024, to June 30, 2024, pursuant to N.J.S.A. 18A:7B-12(d). Is WW-P entitled to tuition reimbursement or is the State financially responsible for the educational services provided by Matheny to M.M. after her parents moved to Spain? The Mandated Tuition Contract requires WW-P to pay tuition for the 2023–24 school year, and the State is not financially responsible.

PROCEDURAL HISTORY

Petitioner WW-P filed an appeal dated June 13, 2024, with the Commissioner of Education (Commissioner). Respondent, Matheny, filed an answer with affirmative defenses dated July 3, 2024. On July 10, 2024, the Department of Education (DOE), Division of Controversies and Disputes, transmitted the matter of West Windsor-Plainsboro Regional School District Board of Education v. Matheny Medical and Education Center (OAL Dkt. No. EDU 09398-24) to the Office of Administrative Law (OAL)

for determination as a contested case, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

Matheny filed an appeal dated July 8, 2024, with the Commissioner. WW-P filed an answer with affirmative defenses and a cross-claim dated July 29, 2024. On August 14, 2024, the DOE, Division of Controversies and Disputes, transmitted the matter of Matheny School and Hospital, Inc., d/b/a Matheny Medical and Educational Center v. Board of Education of the West Windsor-Plainsboro Regional School District and State of New Jersey, (OAL Dkt. No. EDU 11817-24) to the OAL for determination as a contested case, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

By Order dated September 24, 2024, the two matters were consolidated. The State received the petition on July 11, 2024, and was granted an extension to file a response. On August 13, 2024, the State filed a Motion to Dismiss (Motion) in lieu of an answer. Both WW-P and Matheny filed responses opposing the motion on October 7, 2024, in accordance with the briefing schedule. The State was granted an extension and filed its reply on October 22, 2024. The State's motion was denied by the undersigned by Order dated November 26, 2024.

WW-P and Matheny filed motions for summary decision (MSD) on February 28, 2025. Matheny filed a response dated April 2, 2025, opposing WW-P's motion. WW-P filed a response dated April 2, 2025, partially opposing Matheny's motion. The State filed a response dated April 2, 2025, opposing both motions.[1] Matheny and WW-P filed replies dated April 28, 2025, and the record closed.

[1] The DAG included a cross MSD in her submission; however, the motion was deemed untimely.

FACTUAL DISCUSSION AND FINDINGS

The parties agree that there are no facts in dispute. Based upon the documents filed in this matter, I **FIND** the following as **FACTS**:

1. Petitioner WW-P governs the affairs of the West Windsor-Plainsboro Regional School District, a public school district encompassing the municipalities of West Windsor and Plainsboro. The petitioner is responsible for providing either a thorough and efficient public education and/or a free and appropriate public education to students that lawfully reside in the municipalities of West Windsor and Plainsboro. The petitioner is located at 321 Village Road East, West Windsor, New Jersey, 08550.

2. Matheny is a private special education school approved by the DOE that provides academics to students with medically complex developmental disabilities and is located at 65 Highland Avenue, Peapack, New Jersey, 07997.

3. M.M. was a student with disabilities found eligible to receive special education and related services and who resided with her parents within the petitioner's boundaries. M.M. turned twenty-one years of age on January 24, 2024. She was admitted to and resided at Matheny Hospital, receiving educational and related services at Matheny School starting on November 15, 2022. (Matheny's Answer, Exh. A at 14.)

4. An Individualized Education Program (IEP), developed by the petitioner WW-P, placed M.M. at Matheny for the 2023–24 school year.

5. On May 1, 2023, the petitioner WW-P and Matheny entered into a Mandated Tuition Contract for educational services to be provided by Matheny for M.M. for the 2023–24 school year. (WW-P Petition, Exh. A.)

6. On December 24, 2023, M.M.'s parent, A.L., completed a form entitled "Release of Student Records" stating that M.M.'s last day of school was December 22, 2023. A new address was listed as Calle del Rubi 3, Soto del Real, Madrid, 28791. (Id., Exh. B.) The release form authorized WW-P to release all pupil records related to M.M. to Matheny. In addition, A.L. completed a "Student Transfer Verification Form" stating

that M.M. was transferring from Matheny School to a "nonpublic school within the state." (Ibid.)

7. In an email dated January 2, 2024, the high school counseling secretary at WW-P high school notified A.L. that she had completed the release form incorrectly. (Matheny's Answer, Exh. B.) On January 3, 2024, A.L. responded expressing confusion over completing the forms. She stated: "[M.M.] is not changing school, just getting out of the ww-p [sic] system. Please let me know what to write in that case." (Ibid.)

8. The counseling department secretary responded that no further changes were needed to the forms. (Ibid.)

9. WW-P's Director of Special Services emailed Matheny and spoke with Matheny's principal about the parents' pending move to Spain before M.M. was formally withdrawn as a student.

10. Matheny invoiced WW-P on or about January 1, 2024, in the amount of $18,000 for educational services provided to M.M. (Id., Exh. C.) WW-P paid this invoice. (Petition, Exh. E.)

11. Matheny invoiced WW-P on or about February 1, 2024, in the amount of $14,400 for educational services provided to M.M. (Id., Exh. D.) WW-P paid this invoice. (Id., Exh. E.)

12. In a letter dated March 25, 2024, WW-P requested that Matheny reimburse the January and February 2024 payments totaling $32,400 because the parents had moved and were no longer residents of West Windsor-Plainsboro. (Id., Exh. F.)

13. In an email dated March 25, 2024, Christina Orozco, Special Education Specialist for the DOE, wrote: "The student was officially unenrolled from the West Windsor-Plainsboro Regional School District in December of 2023 by her legal guardians, her parents. Therefore, West Windsor-Plainsboro Regional SD ceased to be responsible for this student, as of the date in which she was unenrolled." (Id., Exh. G.)

14. Matheny issued invoices to the petitioner for educational services provided in March, April, and May 2024, totaling $52,200. (Id., Exh. H.)

15. M.M.'s parents moved to Spain on or about January 3, 2024. However, M.M. remained at Matheny until they could find a suitable residential placement for her there.

16. M.M. had no connection with the Division of Developmentally Disabled (DDD), Division of Children and Families (DCF), or The Division of Child Permanency and Protection (DCP&P). (Matheny's Answer, Exh. A at 9–12.)

ARGUMENTS ON THE MOTION

WW-P asserts that summary decision is warranted in its favor because M.M.'s parents disenrolled her on December 22, 2023, and the parents moved to Spain on January 3, 2024. Therefore, WW-P was no longer the district of residence and no longer financially responsible for M.M.'s education pursuant to N.J.S.A. 18A:7B-12(d). Under this statute, the State assumes fiscal responsibility when the district of residence cannot be determined by specific statutory criteria or when the parties move out of the state, which is what occurred here. Accordingly, WW-P is entitled to reimbursement of the $32,400 paid on February 20, 2024, and is not fiscally responsible for special education and related services provided in March 2024, April 2024, and June 2024.[2]

Matheny asserts that it is entitled to summary decision because there is no dispute that Matheny provided M.M. with all the educational instruction and services required pursuant to her IEP and is now owed $66,600 in tuition.[3] Either WW-P or the State must pay this balance. WW-P is fiscally responsible because the contract between WW-P and Matheny called for services to be provided until June 2024, and WW-P did not terminate the contract. Alternatively, the State is responsible for M.M.'s education costs pursuant to N.J.S.A. 18A:7B-12(d), which mandates that the State is responsible when the district

[2] It is unclear why May 2024 is not included in the claim.
[3] Matheny contends that it is owed $99,000 for services provided from January 1, 2024, to June 30, 2024, which consists of $60,500 in tuition and $38,000 for 1:1 nursing services. WW-P has paid $32,400 as tuition for January and February 2024.

of residence is outside the state. Failure to grant Matheny's MSD will result in unjust enrichment.

Matheny also contends that WW-P is not entitled to summary decision because it is not an indisputable fact that A.L. disenrolled M.M. from WW-P. The evidence shows that A.L. was confused about how to complete the transfer form and thus, there is a question of law regarding whether the form had the legal effect of ending M.M.'s enrollment and/or transferring fiscal responsibility from WW-P to the State. This lack of informed consent is at odds with the tuition contract and the IEPs dated December 11, 2023, and February 13, 2023. There is also a question of law regarding whether the State employee's email declaring that WW-P was no longer fiscally responsible represented a factual finding. Matheny contends the email contained "unsupported legal conclusions." (Matheny Response at 4.) Finally, the payments made to Matheny by WW-P in January and February 2024 were not in error but arose out of a contractual legal obligation and the IEPs.

The State asserts that this is a contract dispute between WW-P and Matheny and the State is not a party to the tuition contract. N.J.S.A. 18A:7B-12 only applies to students in residential state facilities or students who were placed there by state agencies. For these students, the DOE pays tuition to the Department of Human Services (DHS), the DCF, or the Youth Justice Commission (YJC). In addition, the State never became M.M.'s legal guardian and M.M. was not placed at Matheny by any state agency. Thus, there are no grounds for the State to assume fiscal responsibility for M.M.'s educational costs and both parties' MSDs should be denied.

LEGAL ANALYSIS AND CONCLUSION

A motion for summary decision may be granted if the papers and discovery presented, as well as any affidavits which may have been filed with the application, show that there is no genuine issue of material fact and the moving party is entitled to prevail as a matter of law. N.J.A.C. 1:1-12.5(b). If the motion is sufficiently supported, the non-moving party must demonstrate by affidavit that there is a genuine issue of fact which can only be determined in an evidentiary proceeding in order to prevail in such an application.

Ibid. These provisions mirror the summary judgment language of R. 4:46-2(c) of the New Jersey Court Rules.

The motion judge must "consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party . . . are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party." Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995). Even if the non-moving party comes forward with some evidence, this forum must grant summary decision if the evidence is "so one-sided that [the moving party] must prevail as a matter of law." Id. at 536.

Here, it is undisputed that Matheny provided the educational programs and services as mandated by M.M.'s IEPs. The evidence shows that WW-P developed an IEP dated February 13, 2023, that placed M.M. at Matheny until October 26, 2023. (Matheny Petition, Exh. B.) In addition, WW-P and Matheny entered into a Mandated Tuition Contract dated May 1, 2023, for the 2023–24 school year. The educational services were to commence on July 5, 2023, and continue for 220 billable days, which consisted of 180 school days and 40 extended school year days. (Matheny Petition, Exh. C.) After being notified on or about October 2023 that the parents were moving to Spain, WW-P proposed another IEP dated December 11, 2023, that continued M.M.'s placement at Matheny until June 21, 2024. (Matheny's Petition, Exh. D.) WW-P notified M.M.'s parents that the IEP would become effective fifteen days after receiving the IEP unless the parents submitted an objection. (Ibid.) There is no evidence of an objection from M.M.'s parents, and thus, this IEP became effective on December 26, 2023. In addition, there is no dispute that WW-P paid Matheny $32,400 in tuition for January and February 2024. (Matheny Petition, Exh. F.) Accordingly, I **CONCLUDE** that Matheny has established that it is entitled to payment for providing educational and related services to M.M. from March 1, 2024, to June 30, 2024.

Matheny asserts that the amount owed is $66,600. The critical question is who is responsible for this payment. Matheny contends it is either the State pursuant to N.J.S.A. 18A:7B-12(d) or WW-P pursuant to the tuition contract and IEPs dated February 13, 2023,

and December 11, 2023. For the reasons that follow, I **CONCLUDE** that N.J.S.A. 18A:7B-12 does not apply to the present situation.

N.J.S.A. 18A:7B-12

This statute provides guidance on how the Commissioner determines a student's district of residence for school funding purposes. Specifically, this statute provides:

> For school funding purposes, the Commissioner of Education shall determine district of residence as follows:
>
> a.
>
> (1) In the case of a child placed in a resource family home prior to the effective date [Sept. 9, 2010] of P.L.2010, c.69 (C.30:4C-26b et al.), the district of residence shall be the district in which the resource family parents reside. If such a child in a resource family home is subsequently placed in a State facility or by a State agency, the district of residence of the child shall then be determined as if no such resource family placement had occurred.
>
> (2) In the case of a child placed in a resource family home on or after the effective date [Sept. 9, 2010] of P.L.2010, c.69 (C.30:4C-26b et al.), the district of residence shall be the present district of residence of the parent or guardian with whom the child lived prior to the most recent placement in a resource family home.
>
> b. The district of residence for children who are in residential State facilities, or who have been placed by State agencies in group homes, skill development homes, private schools or out-of-State facilities, shall be the present district of residence of the parent or guardian with whom the child lived prior to his most recent admission to a State facility or most recent placement by a State agency.
>
> c. 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. . . .
>
> d. If the district of residence cannot be determined according to the criteria contained herein, if the criteria contained herein

> identify a district of residence outside of the State, or if the child has resided in a domestic violence shelter, homeless shelter, or transitional living facility located outside of the district of residence for more than one year, the State shall assume fiscal responsibility for the tuition of the child. The tuition shall equal the approved per pupil cost established pursuant to section 24 of P.L.1996, c.138 (C.18A:7F-24). This amount shall be appropriated in the same manner as other State aid under this act. The Department of Education shall pay the amount to the Department of Human Services, the Department of Children and Families, the Department of Corrections or the Youth Justice Commission . . . or, in the case of a homeless child or a child in a family resource home, the Department of Education shall pay to the school district in which the child is enrolled the weighted base per pupil amount calculated pursuant to section 7 of P.L.2007, c.260 (C.18A:7F-49) and the appropriate security categorical aid per pupil and special education categorical aid per pupil.
>
> e. If the State has assumed fiscal responsibility for the tuition of a child in a private educational facility approved by the Department of Education to serve children who are classified as needing special education services, the department shall pay to the Department of Human Services, the Department of Children and Families or the Youth Justice Commission, as appropriate, the aid specified in subsection d. of this section and in addition, such aid as required to make the total amount of aid equal to the actual cost of the tuition.
>
> [N.J.S.A.18A:7B-12.]

This statute outlines the criteria to determine the district of residence for students in state facilities. The Senate Education Committee Statement for N.J.S.A. 18A:7B-12 is instructive and states in relevant part:

> The purpose of this bill is to provide a thorough and efficient education for children in all State facilities. It applies to educational programs in State schools and day training centers for the mentally retarded, State psychiatric hospitals, State residential youth centers, and State correctional facilities. . . . It also includes two sections redefining the criteria for determining the district of residence for children in State facilities as well as for others placed by State agencies.
>
> [Assembly, No. 86-L. 1979 c. 207.]

All parties agree that N.J.S.A. 18A:7B-12 (a), (b), and (c) are inapplicable to the current set of facts. However, both WW-P and Mathey instead rely on (d) as being relevant. Specifically, if the Commissioner cannot determine the district of residence based upon the criteria set forth in (a), (b), and (c), and if it is determined that the district of residence is outside of the State, then the State assumes fiscal responsibility for the child. N.J.S.A. 18A:7B-12(d).

Following this logic, the State became financially responsible for M.M.'s educational costs by operation of law when M.M.'s parents moved to Spain. This reasoning is problematic, however, because the statute was intended to apply to students in state facilities, students placed by State agencies, or homeless students, which M.M is not. Stated differently, N.J.S.A. 18A:7B-12(d) provides that if the district of residence for a child in a residential State facility or who was placed by state agencies in a resource family home, group home, skill development home, private school, out-of-State facility, or a homeless child is determined to be outside of the State, then the State will assume financial responsibility. None of these scenarios describe M.M.'s situation.

In addition, WW-P and Matheny both ignore the rest of the statute, which mandates that when the State assumes financial responsibility, payment is made to the DHS, the DCF, the Department of Corrections (DOC), or the YJC. (Ibid.) The statute does not authorize payment to a private school for the disabled. Moreover, the evidence shows that all three of these agencies disavow having any connection with M.M. or her parents. (WW-P MSD Exh. I at 4–14.)

Accordingly, I **FIND** that this statute does not address the circumstances presented here where the student is in a private school for the disabled and the parents have moved out of the country. Accordingly, I **CONCLUDE** that N.J.S.A. 18A:7B-12 is irrelevant to this analysis.

N.J.A.C. 6A:23A-19.2

The corresponding regulations to N.J.S.A. 18A:7B-12 provide additional guidance on determining the district of residence for certain students. N.J.A.C. 6A:23A-19.2(c) provides that "The Department shall notify the district board of education of the determination of the district of residence." The State asserts that this regulation, like its originating statute, N.J.S.A. 18A:7B-12, only applies to children in residential facilities and does not address a contractual agreement between a school district and a private school for the disabled. (State's Response, at 11.) I agree. However, the State relies upon N.J.A.C. 6A:23A-19.2(b), which states:

> The Commissioner, or the Commissioner's designee, shall determine the "present district of residence" or "district of residence" referred to at N.J.S.A. 18A:7B-12.b based upon the address submitted by the Department of Corrections, the Department of Children and Families, or the [Youth] Justice Commission on forms prepared by the Department of Education.
>
> [Ibid.]

The State reasons that this regulation mandates that the Commissioner must determine the district of residence. Since there was no request for the DOE to make a district of residence determination, the State reasons this regulation does not apply. I am not persuaded that this reasoning is legally sound.

The evidence shows that in an email dated March 25, 2024, Christina Orozco, Special Education Specialist with the NJ DOE Field and Support Services, affirmed that M.M. was "officially unenrolled from the [WW-P] District in December of 2023 by her legal guardian, her parents. Therefore, [WW-P] ceased to be responsible for this student, as of the date in which she was unenrolled." (WW-P MSD, Exh. I at 1.) Thus, an inquiry was made. However, a determination by the Commissioner was unwarranted because M.M. did not fit within any of the categories contained in either N.J.S.A. 18A:7B-12 or N.J.A.C. 6A:23A-19.2.

Matheny similarly contends that this email is inconsequential because WW-P did not request a formal assessment from the DOE as contemplated by N.J.S.A. 18A:7B-12 and thus is tantamount to an "uninformed commentary by a State department worker[.]" (Matheny Brief opposing WW-P's MTD at 4.) However, Matheny presents no legal support for this statutory interpretation. The plain reading of N.J.S.A. 18A:7B-12 states: "For school funding purposes, the Commissioner of Education shall determine district of residence as follows: . . ." (Ibid.) While there is a reasonable assumption that an inquiry is needed to trigger a residency decision from the Commissioner, Matheny has failed to present legal support that a formal assessment is required or that Ms. Orozco's email concluding that WW-P was no longer the district of residence is insufficient notice.

Based upon a plain reading of N.J.S.A. 18A:7B-12 and N.J.S.A. 6A:23A-19.2, I am persuaded that they both are limited to children in state facilities or children who are homeless and thus, are not applicable to M.M. Accordingly, I **CONCLUDE** that the email from the DOE worker determining that WW-P was no longer the district of residence has no effect because the email was generated from a regulation that does not apply to M.M. See, N.J.A.C. 6A:23A-19.2(c). Even if this regulation was by some means relevant, there is no legal authority for the State to assume financial responsibility for a student in M.M.'s situation. I therefore further **CONCLUDE** that the State is not responsible for M.M.'s educational costs from January 1, 2024, to June 30, 2024.

IEP and Mandated Tuition Contract

It is uncontested that WW-P developed an IEP for M.M. dated December 11, 2023, to provide a free, appropriate public education for M.M. This IEP continued placement at Matheny for the remainder of the 2023–24 school year. The IEP is the roadmap of services designed to enable a child with disabilities to receive an educational benefit. In other words, the IEP must confer a meaningful educational benefit in light of a student's individual needs and potential. See T.R. ex rel. N.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 578 (3d Cir. 2000).

Here, the IEP dated December 11, 2023, required special classes in academics, language, self-help, daily living, occupational and physical therapy, speech-language,

and 1:1 nursing services. (Matheny Petition, Exh. D.) To fulfill the IEP, WW-P contracted with Matheny to provide the educational and related services for M.M. Matheny is an approved private school for the disabled pursuant to N.J.A.C. 6A:23A-18.2, which provides:

> "Approved private school for students with disabilities" or "APSSD" means an entity approved by the Department according to N.J.A.C. 6A:14-7.1 through 7.3 to provide special education and related services to a student with disabilities placed in the APSSD by a parent/guardian, sending district board of education, or State agency responsible for providing the student's education through implementation of his or her individualized education program (IEP).
>
> [Ibid.]

The parties agreed that Matheny would provide educational and related services to M.M. in accordance with the IEP starting July 9, 2023, for 220 days. In exchange for these services, WW-P agreed to pay Matheny the approved private school monthly tentative tuition charge based upon a per diem rate of $550 for the duration of the contract. (Matheny Petition, Exh. C.) It is also uncontested that the State is not a party to the contract between Matheny and WW-P.

In their respective MSD, both Matheny and the State contend that when M.M.'s parents moved to Spain, WW-P did not properly terminate the contract, and therefore WW-P remains bound by the contractual terms. WW-P contends that it did not terminate the tuition contract because the conditions for termination were not met. Paragraph 11 of the tuition contract provides:

> This **agreement** may be terminated by the **approved private school** [Matheny] in accordance with N.J.A.C. 6A:14-7.7(a) or by the **sending district** [WW-P] in accordance with N.J.A.C. 6A:14-7.7(b).
>
> [WW-P Reply at 2; emphasis in the original.]

N.J.A.C. 6A:14-7.7(b) outlines termination procedures when a district is considering withdrawing a student with a disability from a receiving school prior to the end of the

student's academic year. WW-P was not seeking to withdraw M.M. from Matheny. Accordingly, WW-P asserts there was no need for WW-P to terminate the contract. WW-P counters that it fulfilled its obligations under paragraph 16 of the contract, which required WW-P to "immediately inform the approved private school should it become aware of a change in the student's school district of residence for school funding purposes." (WW-P MSD, Exh. B at 6.)

Based upon these uncontroverted facts, the tuition contract was still in effect on January 3, 2024, when M.M.'s parents left for Spain until June 30, 2024, when the term ended. Pursuant to N.J.A.C. 6A:14-7.5(b)3:

> When a district board of education places a student with a disability in an approved residential private school in order to provide the student a free, appropriate public education, the placement shall be at no cost to the parent. The district board of education shall be responsible for special education costs, room, and board.

Accordingly, I **CONCLUDE** that WW-P is responsible for compensating Matheny for services rendered from March 1, 2024, through June 30, 2024, and is not entitled to reimbursement for payments made in January 2024 and February 2024.

Matheny asserts that there is a question of fact surrounding whether A.L. disenrolled M.M. from WW-P. Matheny contends that A.L. was confused when she signed the transfer and release forms, and thus, there was no informed consent. (Matheny Response at 2–3.) However, A.L. clearly articulated her intention to unenroll M.M. from WW-P schools in the email dated January 3, 2024. (Matheny Answer, Exh. B.) Accordingly, I am persuaded that A.L. intended for M.M. to be removed from WW-P but A.L. did not understand the financial implications.

Viewing the facts of each motion as I must, in the light most favorable to the non-moving party, I **CONCLUDE** that the facts and inferences on the record as developed so far leave insufficient disagreement between the parties regarding whether Matheny is entitled to tuition payment from January 1, 2024, through June 30, 2024. In addition, the evidence produced leaves an insufficient basis to validate WW-P's claim of entitlement to

recoup tuition for January 2024 and February 2024 from Matheny. Finally, there is no factual basis to hold the State responsible for M.M.'s educational expenses. An evidentiary hearing is not required as the facts so far established are "so one sided that one party must prevail as a matter of law." Brill, 142 N.J. at 533. Accordingly, I **CONCLUDE** that there are no remaining unresolved issues of material fact that require submission to a fact finder, and thus, summary decision in favor of Matheny is warranted under the Brill standard.

ORDER

For the foregoing reasons, I hereby **ORDER:**

- Matheny's motion for summary decision is hereby **GRANTED.**
- West Windsor-Plainsboro's motion for summary decision is hereby **DENIED**.

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. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**. A copy of any exceptions must be sent to the judge and to the other parties.

June 16, 2025
DATE

Kim C. Belin
KIM C. BELIN, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

KCB/am

APPENDIX

Exhibits

For the petitioner/respondent WW-P:

- Motion for Summary Decision dated February 28, 2025
- Response in Opposition to Matheny's Motion for Summary Decision dated April 2, 2025
- Reply to Matheny's Opposition dated April 28, 2025

For respondent/petitioner Matheny:

- Motion for Summary Decision dated February 28, 2025
- Response in Opposition to WW-P's motion for summary decision dated April 2, 2025
- Reply to WW-P's Opposition dated April 28, 2025

For respondent State of New Jersey:

- Response to WW-P and Matheny's motions for summary decision dated April 2, 2025