

New Jersey Commissioner of Education
Final Decision

A.S., on behalf of minor child, M.S.,

Petitioner,

v.

Board of Education of the Borough of Mount
Ephraim, Camden County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed and considered. The parties did not file exceptions.

Upon review, the Commissioner concurs with the ALJ that challenges to a district's residency determination based on the "family crisis" exemption must first be appealed to the executive county superintendent (ECS). Because petitioner has not appealed to the ECS, this matter must be dismissed.

Accordingly, the Initial Decision is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹


COMMISSIONER OF EDUCATION

Date of Decision: October 24, 2025
Date of Mailing: October 27, 2025

¹ 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

OAL DKT. NO. EDU 07925-25

AGENCY DKT. NO. 108-4/25

A.S., ON BEHALF OF MINOR CHILD, M.S.,

Petitioner,

v.

BOROUGH OF MOUNT EPHRAIM BOARD

OF EDUCATION, CAMDEN COUNTY,

Respondent.

Michael Goryelov, Esq., for petitioner (Denbeaux & Denbeaux, attorneys)

Costadinos J. Georgiou, Esq., for respondent (Lenox, Socey, Formidoni,
Giordano, Lang, Carrigg & Casey, LLC, attorneys)

Record Closed: July 22, 2025

Decided: August 11, 2025

BEFORE **SUSAN MCCABE**, ALJ:

STATEMENT OF THE CASE

On April 16, 2025, petitioner, A.S., appealed respondent's residency determination to the Commissioner of the New Jersey Department of Education based on the "family crisis" exemption. Petitioner, however, did not first appeal the determination to the executive county superintendent. Must this case be dismissed? Yes. Challenges to a

school district's residency determination based upon the "family crisis" exemption must first be appealed to the executive county superintendent. N.J.A.C. 6A:22-3.2(h)(4)(i)–(iii).

PROCEDURAL HISTORY

On April 10, 2025, the chief school administrator for the Mount Ephraim Public School District issued a preliminary notice of eligibility to petitioner, which notified her that her minor child, M.S., and his sibling were no longer eligible to attend school within the Mount Ephraim school district's educational system. The chief school administrator based his determination on the family's residential relocation to an out-of-district township. On April 16, 2025, petitioner appealed the determination to the Commissioner based on the "family crisis" exemption to the regulation governing residential eligibility to attend a specific school district in New Jersey. (Respondent's Brief in Support of Motion to Dismiss, Ex. A.)

On April 17, 2025, the Office of Controversies and Disputes transmitted the case to the Office of Administrative Law as a contested case under the OAL Administrative Procedure Act. N.J.S.A. 52:14B-1 et seq.

On April 29, 2025, respondent filed a motion to dismiss instead of an answer. On July 8, 2025, petitioner filed her opposition to the motion. On July 22, 2025, I held oral argument and closed the record.

FINDINGS OF FACT

Based upon the papers submitted in support of and in opposition to respondent's motion to dismiss, and assuming all the allegations contained in the petition of appeal are true, I **FIND** the following as **FACT** for purposes of this motion only:

M.S. is a seven-year-old boy who had been attending school in Mount Ephraim, New Jersey, since he was school-aged. M.S. resided in Mount Ephraim from birth until April 1, 2025, when he and his family moved to Clementine, New Jersey. M.S. was in second grade at the time and remained in the Mount Ephraim school system until the

academic year ended. (Petitioner's Opposition to Respondent's Motion to Dismiss, Certification of A.S.)

Financial problems compelled petitioner to move from Mount Ephraim to Clementine. First, petitioner lost her job during COVID. Second, in June 2022, the family home in which petitioner had been raised fell into foreclosure, and petitioner retained counsel to represent her in the foreclosure proceedings. Petitioner's job loss and foreclosure proceedings, coupled with her father's passing and her husband's illness, resulted in extreme financial hardship that forced her to sell the family home in March 2025. On April 1, 2025, the family moved to Clementine. (Ibid.)

On April 10, 2025, petitioner received Mount Ephraim's preliminary notice of ineligibility and contacted Mount Ephraim's superintendent, who denied her request to allow M.S. to finish the school year with his class. Petitioner became confused about how to appeal the school district's determination because the instructions contained in the appeal form, which the superintendent provided her and which she followed, instructed her to appeal the school district's determination to the Commissioner. As a result, petitioner completed the form and filed it with the Commissioner. (Ibid.)

CONCLUSIONS OF LAW

A respondent may file a motion to dismiss instead of an answer to a petition if "the petitioner has advanced no cause of action even if the petitioner's factual allegations are accepted as true or for lack of jurisdiction, failure to prosecute, or other good reason." N.J.A.C. 6A:3-1.10; N.J.A.C. 6A:3-1.5(g).

Any challenge to a school district's residency determination based on the "family crisis" exemption, however, must first be appealed to the executive county superintendent. N.J.A.C. 6A:22-3.2(h)(4)(i)–(iii). A petitioner may thereafter appeal the executive county superintendent's determination to the Commissioner. N.J.A.C. 6A:22-3.2(h)(8). A petitioner may not first appeal to the Commissioner.

In this case, petitioner first appealed the school district's residency determination based on the "family crisis" exemption to the Commissioner. She did not first appeal to the executive county superintendent. Nevertheless, petitioner argues that this regulation should not apply to her because she was given conflicting advice.

More specifically, petitioner argues that the school district's superintendent advised her to use the pro se residency appeal form, which is for appeals to the Commissioner, not for appeals to the executive county superintendent. Second, petitioner argues that the preliminary notice of ineligibility advised her to "request a hearing before the Mt. Ephraim Board of Education," not the executive county superintendent. As such, petitioner concludes that she merely followed instructions when she appealed to the Commissioner.

While I understand why petitioner made her mistake, such misunderstanding does not excuse it. In other words, I have no authority to disregard the regulation at issue in this case no matter how understandable the mistake may be. Fortunately, no regulation prevents petitioner from now filing her petition of appeal with the executive county superintendent. Until then, neither the Commissioner nor I have jurisdiction to hear this case. As such, I **CONCLUDE** that petitioner filed her petition in violation of N.J.A.C. 6A:22-3.2(h)(4)(i)–(iii), that no cause of action exists to advance, and that this case must be dismissed.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that respondent's motion to dismiss this case is **GRANTED**, and that this case is **DISMISSED WITHOUT PREJUDICE**.

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.

August 11, 2025
DATE



SUSAN MCCABE, ALJ

Date Received at Agency:

Date Mailed to Parties:

SM/dc/gd

APPENDIX

EXHIBITS

For petitioner

Brief in Opposition to respondent's Motion to Dismiss with Exhibits

For respondent

Brief in Support of Motion to Dismiss with Exhibits