

G.E.A., on behalf of minor child, J.G.A. :  
 PETITIONER, :  
 V. : COMMISSIONER OF EDUCATION  
 BOARD OF EDUCATION OF THE CITY : DECISION  
 OF ATLANTIC CITY, ATLANTIC COUNTY, :  
 RESPONDENT. :

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SYNOPSIS

Petitioning parent contested the Board’s residency determination. Board sought appropriate amount of tuition due and owing for the time petitioner attended its schools illegally.

ALJ concluded that as a matter of law, petitioner was not a bona fide resident of the City of Atlantic City from October 1997 through June 1998. ALJ concluded that petitioner’s son, J.G.A., was not entitled to a free public education at Atlantic City High School during that period and, therefore, was subject to the payment of appropriate tuition for his education. ALJ concluded that the Board was due the educational cost, as determined by the Department of Education, for the education provided J.G.A. from October 1997 through June 1998. Petition was dismissed.

Commissioner concurred with the ALJ that petitioner was responsible for the tuition payment to the Board for J.G.A.’s education expenses for the period J.G.A. was a nonresident pupil in the Board’s school. Commissioner, however, could not agree that dismissal of the petition was appropriate because the amount of tuition costs petitioner had to pay to the Board had not been calculated. Commissioner’s decisions in residency matters cannot be deemed final until the amount of tuition to be paid has been determined and ordered. (*Cranford Bd. Of Ed. v. A.McG. and L.McG.*) Thus, the Commissioner remanded the matter to OAL for calculation of tuition due.

OAL DKT. NO. EDU 4297-98  
AGENCY DKT. NO. 77-3/98

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

Upon consideration of the record herein, the Commissioner adopts as his own the findings and conclusions of the Administrative Law Judge (ALJ) that petitioner's son, J.G.A, was not entitled to a free public education at Atlantic City High School during the period October 1997 through June 1998 when he graduated. The Commissioner cannot agree, however, that dismissal of the petition is appropriate at this time because the amount of tuition costs petitioner must pay respondent has not been calculated. The matter must, therefore, be remanded to the OAL for further proceedings for the reasons stated below.

The initial calculation of the education costs owing and due to respondent, as well as the documentation upon which such calculation is based, must be brought to the record by the Atlantic City Board of Education, the party seeking said payment. Upon review of the information relative to calculation of tuition costs submitted by respondent, the ALJ will make a recommendation to the Commissioner as to the amount of damages petitioner should be ordered

to pay to respondent. Further, in accordance with the New Jersey Appellate Court's decision in *Board of Education of the Township of Cranford v. A. McG. and L. McG.*, 95 N.J.A.R. 2d (EDU) 74, aff'd 96 N.J.A.R. 2d (EDU) 140, rev'd and remanded Appellate Division, February 10, 1998, A-4742-95T3, slip opinion at pp. 8-10, the Commissioner's decision in residency matters such as herein cannot be deemed final until the amount of tuition to be paid has been determined and ordered.

Therefore, pursuant to the provisions of *N.J.A.C. 1:1-18.7(a)*, this matter is hereby remanded to the OAL for calculation of tuition due.\*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

March 10, 1999

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\* This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.