

#540-03

OAL DKT. NO. EDU. 7557-00
AGENCY DKT. NO. 260-7/00

O.M., on behalf of minor child, J.M., :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
 OF BLOOMFIELD, ESSEX COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioning parent challenged the Board's residency determination that minor child, J.M., was ineligible to attend respondent's public schools free of charge in accordance with *N.J.S.A.* 18A:38-1 during the 1998-1999 and 1999-2000 school years. The Board sought tuition reimbursement for the alleged period of ineligible attendance.

In light of the record and the testimony of witnesses, the ALJ concluded that petitioner failed to prove by a preponderance of evidence that J.M. was domiciled in respondent's school district during the years in question. Petition was dismissed. The ALJ concluded that petitioner must be assessed \$26,612 as tuition reimbursement to the Board.

The Commissioner adopted the findings and determination in the Initial Decision as his own.

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.

September 10, 2003

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner’s exceptions were untimely, pursuant to *N.J.A.C. 1:1-18.4*, having been filed on August 21, 2003 in response to an Initial Decision mailed on August 4, 2003.¹

Upon careful and independent review of the record in this matter, and based on the Administrative Law Judge’s (ALJ) credibility assessments, *N.J.S.A. 52:14B-10(c)*, the Commissioner concurs with the ALJ that petitioner has failed to sustain his burden of establishing, by a preponderance of the credible evidence, that he was domiciled in Bloomfield during the 1998-99 and 1999-2000 school years, so as to entitle his child, J.M., to a free public education in the District’s schools.

Accordingly, the recommended decision of the OAL is adopted for the reasons expressed therein and the within Petition of Appeal is dismissed. Petitioner is hereby directed to

¹ It is noted that at no time during the exception period did petitioner request an extension of time within which to file, pursuant to *N.J.A.C. 1:1-18.8*.

reimburse the Board for tuition in the amount of \$26,612 for the period of J.M.'s ineligible attendance in the District's schools.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: September 10, 2003

Date of Mailing: September 10, 2003

² This decision may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*