

OAL DKT. NO. EDU 4426-04  
AGENCY DKT. NO. 161-5/04  
(OAL Decision: [http://lawlibrary.rutgers.edu/oal/html/initial/edu04426-04\\_1.html](http://lawlibrary.rutgers.edu/oal/html/initial/edu04426-04_1.html))

D.M. AND K.M., ON BEHALF OF :  
MINOR CHILDREN, J.A.H. AND J.I.H., :  
PETITIONERS, : COMMISSIONER OF EDUCATION  
: DECISION  
V. :  
: :  
BOARD OF EDUCATION OF :  
THE TOWNSHIP OF EWING, :  
MERCER COUNTY, :  
: :  
RESPONDENT. :  
\_\_\_\_\_ :

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

Upon review, the Commissioner concurs with the Administrative Law Judge (ALJ) that J.A.H. and J.I.H. were entitled to attend school in the respondent's district during the period in question. However, the Commissioner does not base this assessment, as does the ALJ, on a conclusion that the students were domiciled in the district during that period pursuant to *N.J.S.A.* 18A:38-1(a). Rather, the Commissioner finds that, on the facts here presenting, petitioners' entitlement arises under *N.J.S.A.* 18A:38-1(b), since the students were, for reasons of family hardship, living with relatives who were district residents and who supported them gratis.

Accordingly, subject to the clarification set forth above, the Initial Decision of the OAL is adopted as the final decision in this matter.

IT IS SO ORDERED.\*

COMMISSIONER OF EDUCATION

Date of Decision: September 24, 2004

Date of Mailing: September 24, 2004

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\* 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.*