

BOARD OF EDUCATION OF THE :
BOROUGH OF MAGNOLIA, :
CAMDEN COUNTY, :
PETITIONER, :
V. :
BOARD OF EDUCATION OF THE :
TOWNSHIP OF DEPTFORD, :
GLOUCESTER COUNTY AND A.D. :
AND T.D., on behalf of minor children, C.V., :
H.L., J.D., J.D. AND C.D., :
RESPONDENT. :
AND : **COMMISSIONER OF EDUCATION**
BOARD OF EDUCATION OF THE : **DECISION**
TOWNSHIP OF DEPTFORD, :
GLOUCESTER COUNTY, :
PETITIONER, :
V. :
NEW JERSEY DEPARTMENT OF :
EDUCATION, OFFICE OF SCHOOL :
FUNDING, BOARD OF EDUCATION :
OF THE BOROUGH OF MAGNOLIA, :
CAMDEN COUNTY, AND BOARD OF :
EDUCATION OF THE TOWNSHIP OF :
MOORESTOWN, BURLINGTON COUNTY, :
RESPONDENTS. :
_____ :

SYNOPSIS

These two consolidated matters involve the district of origin and current domicile of the D family, which at various relevant times resided in the Borough of Magnolia, the Township of Moorestown, and the Township of Deptford. The three school districts disagree as to which district is responsible for the costs of providing a free public education to the D family children, who have been homeless since sometime in 2003 when they lost their home in Magnolia.

The ALJ stated that the two issues to be decided were: 1) whether Magnolia filed its petition of appeal from the initial determination that it was the district of residence responsible for the educational costs of

the D children in a timely manner, pursuant to *N.J.A.C.* 6A:23-5.2, and if not, whether *N.J.A.C.* 6A:23-5.2 may be relaxed in accordance with *N.J.A.C.* 6A:3-1.16, and 2) whether the D family is currently homeless or domiciled in Deptford township. The ALJ found that Magnolia's petition – filed 105 days after the initial determination that it was the district of residence – was untimely, and consequently concluded that Magnolia was the district of origin of the D children; Magnolia was therefore ordered to reimburse Moorestown and Deptford Boards of Education for the costs they incurred in educating the D children through January 5, 2005. The ALJ further concluded that Deptford Township has, since January 5, 2005 and continuing to the present, been the D children's district of residence; the Deptford Township Board of Education is therefore responsible for providing the children with a free public education until such time as the family establishes a fixed place of residence in another school district.

Upon full and careful consideration, the Commissioner concurred with the ALJ's determinations, and adopted the Initial Decision as the final decision in this matter.

<p>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.</p>

May 5, 2009

OAL DKT. NOS. EDU 994-07 AND EDU 8783-07
AGENCY DKT. NOS. 439-11/06 AND 246-8/07
(CONSOLIDATED)

BOARD OF EDUCATION OF THE :
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_____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Exceptions of both Magnolia Borough and Deptford Township Boards of Education, and reply to these from Moorestown Township Board of Education – filed in accordance with *N.J.A.C. 1:1-18.4* – were fully considered by the Commissioner in reaching her determination herein.

The exceptions of the Boards essentially recast and reiterate their arguments advanced before the Administrative Law Judge (ALJ) below which the Commissioner finds were fully considered and addressed in the Initial Decision and, consequently, will not be revisited here.

Upon full review and consideration of the entire record, the Commissioner agrees with the ALJ that: 1) the Magnolia Board of Education's appeal of the County Superintendents' determination that it was the district of origin during the D family's period of homelessness,¹ was untimely – pursuant to *N.J.A.C. 6A:23-5.2(d)* – and consequently its petition in this regard must be dismissed²; 2) Magnolia is, therefore, the D children's district of origin up to January 5, 2005 and is responsible for reimbursing the Moorestown and Deptford Township Boards of Education for the costs they expended in educating the D children during this period; and 3) since January 5, 2005 the Deptford Township Board of Education has been and continues to be the district of residence for the D children and, as such, was and continues to be responsible for providing them with a free public education from that point until such time as the family establishes a fixed residence in another school district.

Accordingly, the recommended decision of the OAL is adopted – for the reasons well stated therein – as the final decision in this matter.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: May 5, 2009

Date of Mailing: May 5, 2009

¹ Specifically, subsequent to their departure from Magnolia in 2003 up to January 5, 2005.

² It is noted that the relaxation rule found at *N.J.A.C. 6A:3-1.16* is restricted to the rules set forth in Chapter 3; however, even applying general principles of equity, the Commissioner finds – for the reasons expressed by the ALJ – that Magnolia has advanced no compelling reason to justify excusing it from the 30-day filing requirement of *N.J.A.C. 6A:23-5.2(d)*.

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*