

BOARD OF EDUCATION OF THE :
MATAWAN-ABERDEEN REGIONAL :
SCHOOL DISTRICT, :
MONMOUTH COUNTY, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 TOWNSHIP OF HAZLET, :
 :
 MONMOUTH COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner Matawan-Aberdeen Regional Board of Education (Matawan) sought a determination that respondent Hazlet Board of Education (Hazlet) is the party responsible for the cost of educating J.M. – a student receiving special education services in a residential placement – for the 2010-2011 school year. Since the divorce of his parents in 2001, J.M.’s custody has been governed by a divorce decree which gave joint legal custody to both parents but designated his mother, S.M., as the residential custodial parent and primary caretaker, and further provided that it was the parents’ intention that their son continue to be educated in and through the Hazlet school district. In January 2010, J.M.’s father – K.M., who resides in Aberdeen – filed for permanent sole legal guardianship of his son, under which K.M. would handle J.M.’s legal and financial matters. The guardianship documents did not cover J.M.’s living arrangements. Hazlet contended that petitioning Board is responsible for the cost of educating J.M. pursuant to the guardianship order. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: there are no genuine issues of material fact and the matter is ripe for summary decision; pursuant to *N.J.S.A. 18A:7B-12b* and *N.J.A.C. 6A:23A-19.2(a)(1)-(2)*, J.M.’s district of residence is his mother’s present district of residence in Hazlet because he lived with her prior to placement and she is the custodial parent, and because the terms of the parents’ divorce decree stipulates that J.M. is domiciled in Hazlet and would be educated in the Hazlet district; the divorce decree and not the guardianship order is determinative of J.M.’s domicile; and the guardianship order did not terminate J.M.’s residential custodial rights as it was executed pursuant to a judgment of incapacity that declared K.M. guardian over J.M.’s legal and financial issues. The ALJ concluded that the respondent school district, Hazlet, is responsible for J.M.’s education costs and, accordingly, granted petitioner’s motion for summary decision.

Upon full and careful consideration, the Commissioner adopted the Initial Decision as the final decision in this matter as he concurred that – given the undisputed facts – summary disposition was appropriate, petitioner’s motion for summary disposition was properly granted and respondent’s motion for summary disposition was properly denied – for the reasons stated in the ALJ’s decision.

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.

OAL DKT. NO. EDU 8759-10
AGENCY DKT. NO. 143-7/10

BOARD OF EDUCATION OF THE
MATAWAN-ABERDEEN REGIONAL
SCHOOL DISTRICT,
MONMOUTH COUNTY,

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V.
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BOARD OF EDUCATION OF THE
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COMMISSIONER OF

DECISION

The Commissioner has reviewed the record of this matter and the Initial Decision of the Office of Administrative Law (OAL) on the parties' cross motions for summary decision. Respondent (Hazlet) filed exceptions, and Petitioner (Matawan-Aberdeen) filed reply exceptions as provided by *N.J.A.C. 1:1-18.4*.

Hazlet¹ argues in its exceptions that the ALJ erred as a matter of law when he determined that the 2009 Judgment of Incapacitation did not supersede the 2001 custody agreement, which granted custodial rights of J.M. to the mother, S.M. Moreover, Hazlet asserts that the ALJ relied, to its detriment, on facts not clearly established in the record regarding the parents' intent that S.M. should continue as the custodial, residential parent of J.M.

¹ On May 31, 2011, Respondent Hazlet filed a companion case, *Hazlet Township Board of Education v. New Jersey Department of Education, Office of School Funding*, EDU 6170-11, Agency Dkt. No. 116-5/11. Since the new matter involved substantially similar issues, the ALJ – with the consent of the parties – decided the cases concurrently.

In response, Matawan-Aberdeen agrees with the findings of the ALJ and argues that both parents, K.M. and S.M., testified without contradiction during depositions² that their son, J.M., was domiciled in Hazlet – residing initially with his parents and then solely with his mother after the divorce. Moreover, both parents testified that after a transition period J.M. would once again enjoy overnight stays at his mother’s home. The father testified that his poor health made it impossible for him to undertake full custodial responsibility of his son.

Upon his considered review of the record and a thorough reading of the deposition transcripts, the Commissioner concurs with the Administrative Law Judge (ALJ) that this matter is ripe for summary decision as there are no genuine issues of material fact to resolve. For the reasons convincingly presented in the ALJ’s decision, the Commissioner agrees that the Township of Hazlet is the district of residence; Hazlet is the district of S.M.’s residence, and J.M. lived with her prior to the residential placement. Alternatively, Hazlet is J.M.’s domicile in accordance with the Divorce Decree; therefore, the Hazlet Board of Education is responsible for the cost of his education.

Accordingly, summary disposition is granted to petitioner Matawan-Aberdeen Regional School District, and respondent Hazlet’s cross motion is hereby denied.

IT IS SO ORDERED.³

ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 21, 2012

Date of Mailing: February 22, 2012

² Depositions of parents K.M and S.M on behalf of J.M. were conducted *ad seriatim* on December 7, 2010.

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*. (*N.J.S.A. 18A:6-9.1*)