

R.C.P., on behalf of minor child, A.S.K.,	:	
	:	
PETITIONER,	:	COMMISSIONER OF EDUCATION
V.	:	
	:	DECISION
BOARD OF EDUCATION OF THE	:	
RAMAPO INDIAN HILLS REGIONAL HIGH	:	
SCHOOL DISTRICT, BERGEN COUNTY,	:	
	:	
RESPONDENT.	:	

SYNOPSIS

Petitioning uncle challenged Board’s residency determination.

The ALJ concluded that petitioner’s nephew satisfied the statutory test for an “affidavit student” under *N.J.S.A.* 18A:38-1b(1) to be entitled to a free public education in respondent’s District. The ALJ determined that petitioner is domiciled in the District, is supporting his nephew *gratis*, that A.S.K.’s parents are unable to support him in this country due to family hardship and that A.S.K. is not residing with petitioner solely for purposes of receiving a free public education in respondent’s District.

The Commissioner agreed that, under the facts of this case, R.C.P. is entitled to a free education in respondent’s schools and adopted the Initial Decision of the ALJ as his own.

OAL DKT. NO. EDU 11002-99
AGENCY DKT. NO. 247-8/99

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The Board's exceptions were untimely filed. The Initial Decision was mailed to the parties on May 25, 2000, and exceptions were due on or before June 7, 2000, but were filed by the Board on June 13, 2000. *See N.J.A.C. 1:1-18.4(a)*. Accordingly, neither the exceptions nor the reply thereto is considered in the Commissioner's determination of this matter.

Upon careful and independent review of the record in this matter, the Commissioner concurs that, under the particular circumstances of this case, R.C.P. is entitled to a free education in the Board's District and accordingly, adopts the Initial Decision of the ALJ as

his own.¹

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: August 18, 2000

Date of Mailing: August 22, 2000

¹ With respect to the discussion at page five of the Initial Decision regarding the issuance of guardianship papers, the Commissioner notes that the guardianship of a minor is governed by *N.J.S.A.* 3B:12-12 to 23, which gives the surrogate of the county in which the minor resides the powers of the Superior Court in the appointment of guardians for minors, *N.J.S.A.* 3B:12-12, and allows for appointment of a guardian for a minor where a parent absents himself from the state, leaving a minor child under the age of 18 without sufficient provision for his maintenance and education. *N.J.S.A.* 3B:12-23.

The requirements for an application for guardianship of a minor are set forth in R. 4:81. The requirements include the minor's age and residence, the names and addresses of the minor's nearest of kin and of all persons who stand *in loco parentis*, as well as all persons with whom the minor resides. R. 4:81-1.1(a). An affidavit made by a person with personal knowledge stating the value of the minor's real and personal estate, and the amount of income from any real or personal estate belonging to the minor, must be provided. R. 4:81-1(b). In addition, a renunciation from any living parent of the minor, along with a request for issuance of letters of guardianship consistent with the application, must be provided. R. 4:81-2. There is no requirement in the New Jersey Court Rules or statutes for a verification from the school district in which the proposed guardian is domiciled in order to grant guardianship papers. Therefore, the Commissioner agrees with the ALJ that the fact that petitioner was not provided guardianship papers for A.S.K. is not determinative of whether A.S.K. is entitled to a free education from respondent.

² This decision, as the Commissioner's final determination, 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.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.