

RECORD SEALED

BOARD OF EDUCATION OF THE :
TOWNSHIP OF NEPTUNE, :
MONMOUTH COUNTY, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 NEW JERSEY STATE DEPARTMENT : DECISION
 OF EDUCATION, DIVISION OF FINANCE, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioning Board of Education challenged the Department of Education’s determination that the school district was responsible for educational costs involved in the placement of Z.S. in the KidsPeace Program following an adjudication of juvenile delinquency in a family court proceeding. Z.S. was enrolled as a regular education student in petitioning Board’s high school in September 2004, prior to the Superior Court Judge’s Order for placement of Z.S. at KidsPeace in December 2004 as part of his probationary sentence. Cross motions for summary decision were filed by the parties.

The ALJ found that: the Commissioner is without jurisdiction to review the legal propriety of a Superior Court judge’s order, and that her role in these proceedings is limited to carrying out the legislative determination as to what responsibility the district of residence should have in funding the educational costs for Z.S.’s placement, pursuant to N.J.S.A. 18A:7B-12(b); Z.S. and his parents are residents of Neptune; the determination that the Board is responsible for the educational costs associated with Z.S.’s education at KidsPeace is legally correct and unassailable. Accordingly, the ALJ granted the Department’s motion for summary decision, denied Neptune’s cross-motion, and dismissed the petition.

The Commissioner concurs that she does not have jurisdiction to review or change the order of the family court judge, and that because Neptune is the district of residence for Z.S, the district is responsible for his educational placement costs at KidsPeace. The Commissioner adopted the Initial Decision of the OAL as the final decision in this matter.

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.

March 23, 2006

OAL DKT. NO. EDU 06211-05S
AGENCY DKT. NO. 152-6/05

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

Upon an independent review of the record, the Commissioner finds that summary decision is appropriately granted to the Department as she concurs with the Administrative Law Judge's determination that the Commissioner of Education does not have jurisdiction to review or change the Order of Disposition issued by Family Court judge, the Honorable Thomas F. Scully, J.S.C., ordering the Department of Human Services, Division of Youth and Family Services, to place Z.S. at KidsPeace.

Accordingly, the Initial Decision of the OAL – concluding that because Neptune is the district of residence for Z.S., it is responsible for the educational costs of his placement in the KidsPeace Program – is adopted as the final decision in this matter.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 23, 2006

Date of Mailing: March 23, 2006

* 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.*