

#456-07 (OAL Decision not available on-line)

D.Y. on behalf of minor child F.J.G., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BOROUGH OF COLLINGSWOOD,
CAMDEN COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner – a resident of the Borough of Collingswood – contested respondent’s determination that her nephew, F.J.G., was not entitled to a free public education in Collingswood schools. Respondent Board argued that F.J.G. was not a lawful resident; that the lawful residency of F.J.G. is in Puerto Rico; and that any placement of F.J.G. with the petitioner was solely for the purpose of obtaining a free public education in the district. The Board counterclaimed for tuition reimbursement. The matter was transmitted to the OAL, but prior to any hearing, the respondent represented to the ALJ that the petitioner and F.J.G.’s mother had submitted affidavits which were deemed sufficient to confer eligibility for F.J.G. to attend school in the district. Respondent requested that the matter be dismissed.

The ALJ found that respondent was able to substantiate that F.J.G. is eligible for enrollment in Collingswood schools, and concluded that the petitioner no longer wishes to proceed. Accordingly, the ALJ ordered the matter dismissed.

Upon an independent review of the record, the Commissioner adopted the Initial Decision as the final decision in this matter, noting that it would have been preferable for the parties to have been asked to submit written requests for dismissal of the case.

<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>

November 19, 2007

OAL DKT. NO. EDU 4245-07
AGENCY DKT. NO. 115-4/07

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 PETITIONER, :
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The petition alleging that F.J.G. is properly domiciled in respondent's district was filed on April 25, 2007. Respondent answered on May 17, 2007, disputing petitioner's allegations and including a counterclaim for tuition. On May 18, 2007, the matter was transmitted to the Office of Administrative Law (OAL).

By letter dated October 1, 2007, respondent's counsel represented to the Administrative Law Judge (ALJ) that respondent had received affidavits from petitioner and F.J.G.'s mother that were sufficient, in respondent's view, to establish F.J.G.'s eligibility for a free public education in its district. Respondent's counsel therefore asked that "the matter be dismissed."

On October 10, 2007, the ALJ issued an Initial Decision concluding "that petitioner no longer wishes to proceed" and ordering that the petition be dismissed. The Initial Decision was mailed to the parties on October 11, 2007.

The Commissioner notes that it would have been preferable for the parties to have been asked to submit in writing their respective requests for the dismissal of the claim set forth in the petition and the counterclaim set forth in the answer. Nonetheless, since the Initial Decision dismissing the case was mailed to the parties on October 11, 2007, and neither party has excepted thereto, the Commissioner concludes that the matter may be regarded as a voluntary dismissal of both the petition and counterclaim.

The Initial Decision is adopted as the final decision in this case, as supplemented herein, and the matter is dismissed.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: November 19, 2007

Date of Mailing: November 19, 2007

¹ 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.*