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OAL Dkt. No. EDU 13804-24 (EDU 08877-21 on remand)

Agency Dkt. No. 173-9/21

New Jersey Commissioner of Education

Final Decision

Board of Education of the Lower Cape May
Regional High School District, Cape May County,

Petitioner,

v.

New Jersey Department of Education, Office of
School Finance,

Respondent.

The record of this matter, the Initial Decisions of the Office of Administrative Law (OAL) issued January 30, 2023, August 5, 2024, and May 20, 2025, the exceptions filed by petitioner, Board of Education of the Lower Cape May Regional High School District (Board) pursuant to *N.J.A.C. 1:1-18.4*, and the reply thereto filed by the New Jersey Department of Education, Office of School Finance (OSF) have been reviewed and considered.

At issue is the Board's challenge to OSF's March 31, 2020, and December 31, 2020, determinations that the Lower Cape May Regional High School District was the district of residence for then-minor child K.C. for the 2019-2020 and 2020-2021 school years and was therefore financially responsible for K.C.'s education when K.C. was placed at residential State facilities or group homes during those years.

On August 5, 2024, the Administrative Law Judge (ALJ) granted OSF's motions for summary decision upon concluding that the Lower Cape May Regional High School District was K.C.'s district of residence for the 2019-2020 school year because K.C. lived with L.T., her grandmother, "prior to placement at a State residential facility in February 2019" and as of October 15, 2019, L.T. had legal custody of K.C., who resided within petitioner's school district. January 30, 2023, Initial Decision, at 8. Regarding the 2020-2021 school year, the ALJ concluded that the Lower Cape May Regional High School District was K.C.'s district of residence "because K.C. resided with her grandmother prior to placement by the DCF." August 5, 2024, Initial Decision, at 12.

The Commissioner determined that the ALJ's finding that L.T. had legal custody of K.C. prior to her 2019 placement by the Department of Children and Families, Division of Child Protection and Permanency (DCPP) was unsupported by the record absent a court order or credible testimony from L.T. Consequently, on September 17, 2024, the Commissioner remanded the matter to the OAL so that all custody orders pertaining to K.C. could be entered into the record, and so that the ALJ could make findings of fact regarding when L.T. obtained legal custody of K.C., and when DCPP obtained legal custody of K.C.

In accordance with the remand instructions, the ALJ reviewed numerous custody orders and entered additional findings of fact, including that L.T. obtained temporary custody of K.C. on August 20, 2014, in Levy County, Florida, pursuant to a court order which granted her "the rights and responsibilities of a legal parent" with the consent of both K.C.'s mother and father.¹ The

¹ The ALJ determined that, pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), *N.J.S.A. 2A:34-53 to -95*, there was no basis to dispute the legal force and effect of the Florida custody order in New Jersey.

record reflects that DCPD obtained legal custody of K.C. in the Superior Court of New Jersey on January 31, 2019, when it removed K.C. from L.T.'s care in Lower Cape May.² At that time, according to the record, K.C.'s mother's whereabouts were unknown and her father was incarcerated.

Legal custody of K.C. remained with DCPD from January 31, 2019, until October 21, 2019, when the Superior Court of New Jersey transferred legal custody to K.C.'s father, but continued physical custody with K.C.'s current placement, Spring House/Legacy Treatment Home. The Superior Court never transferred physical custody of K.C. to her father. Although he initially planned to reunify with K.C., he ultimately refused to provide care for her and would not cooperate with DCPD. Consequently, DCPD obtained legal custody of K.C. again on December 11, 2019, and K.C. remained in placement at Legacy Treatment Services until July 21, 2020, when DCPD placed her at East Mountain Youth Lodge/Carrier Clinic. DCPD maintained legal custody of K.C. until she turned 18 on October 2, 2021.

On remand, the ALJ again concluded that the Lower Cape May Regional High School District was financially responsible for K.C.'s educational costs because K.C.'s last residence prior to entering DCPD placement was with L.T., her legal custodian, in Lower Cape May. The ALJ noted that the record confirms that K.C.'s mother and father's parental rights were never terminated.

² To the extent the ALJ found or suggested on page 14 of the Initial Decision that L.T. maintained legal custody of K.C. until October 21, 2019, that finding is rejected as contrary to the record. Page 3, paragraph 1 of the January 31, 2019, Order to Show Cause for Temporary Custody states that the child "be immediately made ward(s) of the court and placed in the immediate custody, care and supervision of the Division." Paragraph 2 of the Order to Show Cause reiterates that the child is "in the legal and physical custody of the Division." Subsequent court orders in the record entered on March 4, 2019, April 3, 2019, and July 10, 2019, indicate that custody of K.C. remained with DCPD during this time.

Thus, the ALJ found that neither L.T. nor the State were ever granted guardianship of K.C. Consequently, the ALJ rejected the Board's argument that the State should have assumed financial responsibility for the child's educational costs.

In its exceptions, the Board argues that: (1) the ALJ's finding that K.C.'s mother, C.B., never had legal custody of K.C. during the relevant period is unsupported; (2) the ALJ improperly shifted the burden of proof by requiring the Board to prove that the State had custody of K.C.—and not merely that no resident of the district had custody of K.C.—to establish that the Board was not financially responsible for K.C.'s education; and (3) the ALJ erred by concluding that L.T. retained legal custody of K.C. even after K.C. was removed from L.T.'s custody by DCPD.

In response, OSF argues that the ALJ's decision is correct, that all evidence indicates that L.T. had legal and physical custody of K.C. prior to her placement by DCPD, that the State never obtained guardianship over K.C., and that the Board is financially responsible for K.C.'s education for the 2019-2020 and 2020-2021 school years.

Upon review, the Commissioner adopts the ALJ's May 20, 2025, Initial Decision, as modified (with respect to the finding on page 14 of the Initial Decision that L.T. maintained legal custody of K.C. until October 21, 2019) as the final decision in this matter. When children are placed in residential State facilities or group homes by state agencies, "local school districts remain financially responsible for their educational services" pursuant to the State Facilities Education Act of 1979, N.J.S.A. 18A:7B-1 to -13 (the Act). *Bd. of Educ. of Borough of Highland Park v. N.J. Dep't of Educ.*, OAL Dkt. No. EDU 13316-14, Initial Decision at 10 (Nov. 30, 2015), *adopted*, Commissioner Decision No. 14-16 (Jan. 15, 2016). To determine where financial responsibility rests, the Commissioner must identify the district of residence for children in

residential placements pursuant to the Act, which states that “[t]he district of residence for children who are in residential State facilities, or who have been placed by State agencies in group homes . . . shall be the present district of residence of the parent or guardian with whom the child lived prior to h[er] most recent admission to a State facility or most recent placement by a State agency.”³ *N.J.S.A. 18A:7B-12(b)*. The Act further provides that “[i]f the district of residence cannot be determined according to the criteria contained herein . . . the State shall assume fiscal responsibility for the tuition of the child.” *N.J.S.A. 18A:7B-12(d)*. See, e.g., *Bd. of Educ. of Borough of Buena v. N.J. Dep’t of Educ.*, 96 *N.J.A.R.2d* (EDU) 288 (1995) (holding that the child’s district of residence could not be determined when adoptive parents surrendered their parental rights and were no longer child’s parents or guardians as a matter of law).

“Residence” as utilized within Title 18A “means domicile, unless a temporary residence is indicated.” *N.J.S.A. 18A:1-1*. “[T]he domicile of the child follows that of the parent or guardian having legal custody over him or her.” *L.D.M. v. Bd. of Educ. of Twp. of W. Orange*, Commissioner Decision No. 151-01, at 2 (2001). See also *Mansfield Twp. Bd. of Educ. v. State Bd. of Educ.*, 101 *N.J.L.* 474, 479 (Sup. Ct. 1925) (holding that persons other than parents having “legal control”

³ The related regulations offer additional guidance, including that “[t]he ‘present district of residence’ of a child in a residential State facility, pursuant to the definition of ‘resident enrollment’ at *N.J.S.A. 18A:7F-45* . . . means the New Jersey district of residence of the child’s parent(s) or guardian(s) as of the last school day prior to October 16.” *N.J.A.C. 6A:23A-19.2(a)(1)*. “The ‘present district of residence’ of a child placed by a State agency in a group home . . . means the New Jersey District of residence of the child’s parent(s) or guardian(s) as of the date of the child’s most recent placement by the State agency.” *N.J.A.C. 6A:23A-19.2(a)(2)*. “In subsequent school years spent in the educational placement made by a State agency, the child’s ‘present district of residence’ shall be determined in the same manner as for a child in a residential State facility as set forth in (a)1 above.” *Ibid.* “If the State becomes the child’s legal guardian after the date of the child’s initial placement by a State agency . . . the State will assume financial responsibility for the child’s education costs in subsequent school years.” *N.J.A.C. 6A:23A-19.2(a)(3)*.

over children are “those to whose care and custody children are committed by operation of law” and “have the legal status of parent or guardian”).

Following remand, the record now contains sufficient credible evidence for the Commissioner to conclude that, pursuant to *N.J.S.A. 18A:7B-12(b)* and *N.J.A.C. 6A:23A-19.2*, the Lower Cape May Regional High School District was the district of residence for K.C. for the 2019-2020 and 2020-2021 school years. L.T., a resident of Lower Cape May, had legal and physical custody of K.C. when DCPD removed her from L.T.’s home in 2019. Hence, L.T. was the legal guardian with whom K.C. lived prior to her most recent placement by DCPD. At no point did the State obtain guardianship of K.C., which would have required the termination of her mother and father’s parental rights. Thus, the Board is financially responsible for K.C.’s education during the 2019-2020 and 2020-2021 school years.

The Commissioner disagrees with the Board that the ALJ’s finding that K.C.’s mother, C.B., never had legal custody of K.C. during the relevant period is unsupported. On the contrary, the court orders in evidence support the ALJ’s finding. First, the August 20, 2014, order granting L.T. temporary custody of K.C. indicates that C.B. consented to the custody transfer and that K.C. had been in foster care in Florida. Moreover, the order granted L.T. “the rights and responsibilities of a legal parent” and authorized her to make all reasonable and necessary decisions for K.C. Second, the parties agree that K.C. was removed from L.T.’s care and custody by DCPD in January 2019, and same is reflected in various court orders. C.B.’s whereabouts were unknown at the time of the removal. When DCPD located C.B., it appropriately consulted with her regarding K.C. because her parental rights were never terminated. But, as documented in the court orders, DCPD—not C.B.— had legal custody of K.C. while K.C. was in placement (apart from a brief period

between October 2019 and December 2019 when the Superior Court transferred legal custody to K.C.'s father but the reunification attempt failed). In short, nothing in the record supports a finding that C.B. had custody of K.C. at any point after August 2014.

Furthermore, the Board's reliance on *Buena* is unavailing because the facts in that matter are readily distinguishable from the present matter. There, the State assumed financial responsibility for the child's education because the child's district of residence could not be determined according to the criteria contained in *N.J.S.A. 18A:7B-12*—the child's biological parents' rights had been terminated, the adoptive parents' rights had also been terminated, and the adoptive parents subsequently moved to the borough of Buena. The child had never resided in Buena with his former adoptive parents, and the fact that the adoptive parents moved to Buena after their rights were terminated was irrelevant for purposes of the district of residence determination under the statutory criteria then in effect.

Here, unlike in *Buena*, K.C.'s district of residence can be determined according to the criteria contained in *N.J.S.A. 18A:7B-12(b)*, which provides that "[t]he district of residence for children who are in residential State facilities, or who have been placed by State agencies in group homes . . . shall be the present district of residence of the parent or guardian with whom the child lived prior to h[er] most recent admission to a State facility or most recent placement by a State agency." See, e.g., *Bd. of Educ. of Twp. of N. Bergen v. N.J. Dep't of Educ.*, Commissioner Decision 253-23 (Aug. 22, 2023) (holding that North Bergen was child's district of residence for the 2019-2020 school year because child lived with his mother in North Bergen prior to placement). L.T., a resident of Lower Cape May, was the legal guardian with whom K.C. lived prior to her most recent placement. Contrary to the Board's contention, the transfer of custody

from L.T. to DCPD is not analogous to a termination of parental rights; this is not the situation contemplated by *N.J.A.C. 6A:23A-19.2(a)(3)* in which the State has obtained legal guardianship over the child and then assumes financial responsibility for the child's education.

The Commissioner also disagrees with the Board's contention that the ALJ improperly shifted the burden of proof by requiring the Board to prove that the State had custody of K.C.—and not merely that no resident of the district had custody of K.C.—to establish that the Board was not financially responsible for K.C.'s education. OSF's district of residence determination "is entitled to a presumption of correctness." *N. Bergen*, at 2. "[W]hen a local school board contests a district-of-residence determination made by the Department, the local board bears the burden of proving that the determination was in error." *Ibid.* (quoting *Bd. of Educ. of Twp. of Piscataway v. N.J. Dep't of Educ.*, OAL Dkt. No. EDU 05063-10, Initial Decision at 10 (Oct. 4, 2010), *adopted*, Commissioner Decision No. 465-10 (Nov. 8, 2010)). Thus, the ALJ committed no error when she concluded that the Board failed to present evidence to support its contention that OSP's determination was erroneous because DCPD had obtained guardianship of K.C. The Board likewise failed to present evidence to support its contention that no resident of Lower Cape May had custody of K.C.

Finally, the Commissioner agrees with the Board that the ALJ erred to the extent she suggested on page 14 of the Initial Decision that L.T. retained legal custody of K.C. even after K.C. was removed from L.T.'s custody by DCPD. Indeed, the record confirms that the Superior Court of New Jersey transferred legal custody of K.C. to DCPD on January 31, 2019. However, that isolated misinterpretation of the court orders has no bearing upon the ALJ's correct legal conclusion that the Lower Cape May Regional School District was K.C.'s district of residence for

the school years at issue pursuant to *N.J.S.A. 18A:7B-12(b)*, which takes into account “the present district of residence of the parent or guardian with whom the child lived prior to h[er] most recent admission to a State facility or most recent placement by a State agency.”

Accordingly, the May 20, 2025, Initial Decision, as modified, is adopted as the final decision in this matter. Respondent’s motion for summary decision is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.⁴



COMMISSIONER OF EDUCATION

Date of Decision: August 11, 2025
Date of Mailing: August 11, 2025

⁴ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 13804-24

AGENCY DKT. NO. 173-9/21

(EDU 08877-21 ON REMAND)

**LOWER CAPE MAY REGIONAL
HIGH SCHOOL DISTRICT, BOARD
OF EDUCATION, CAPE MAY COUNTY,**

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF EDUCATION,
OFFICE OF SCHOOL FINANCE.**

Respondent.

Brett Gorman, Esq., appearing for petitioner (Parker McCay, P.A., attorneys)

Sadia Ahsanuddin, Deputy Attorney General, appearing for respondent (Matthew
J. Platkin, Attorney General of New Jersey, attorney)

Record closed: April 3, 2025

Decided: May 20, 2025

BEFORE **KIM C. BELIN**, ALJ:

STATEMENT OF THE CASE

This matter concerns the Acting Commissioner of Education's (Acting Commissioner) remand of OAL docket number EDU 08877-21 involving the Lower Cape May Regional High School District (petitioner/Board) challenging the determination of the Office of School Finance (respondent/OSF) that the petitioner was the district of residence responsible for the educational costs of the minor child, K.C., for the 2019–20 and 2020–21 school years because K.C. lived with her grandmother in Lower Cape May during those school years. The Acting Commissioner questioned whether K.C.'s grandmother, L.T., obtained legal custody of K.C. by a court order and requested that all custody orders be entered into the record.

PROCEDURAL HISTORY

On March 31, 2020, the OSF determined that the petitioner was the school district responsible for K.C.'s educational costs for the 2019–20 school year. On September 10, 2021, the petitioner filed a Petition of Appeal,¹ and the matter was transmitted as a contested case to the Office of Administrative Law (OAL), where it was filed on October 27, 2021. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

On October 25, 2021, respondent filed a motion to dismiss in lieu of an answer. N.J.A.C. 6A:3-1.5(g). Petitioner submitted a response on November 4, 2021, and on February 2, 2022, the Hon. Jeffrey R. Wilson denied the motion. On or about August 11, 2022, Judge Wilson was appointed to the Superior Court of New Jersey, and the case was reassigned to the undersigned.

On August 22, 2022, the respondent filed a motion for partial summary decision, and the petitioner filed a motion for summary decision. On September 16, 2022, the East Mountain School (EMS) filed a motion to intervene. On September 20, 2022, the

¹ N.J.A.C. 6A:23-19.2(d) mandates that appeals must be filed within thirty days of the final notice that a child was determined to be a resident of the district. The petitioner's appeal was filed beyond the thirty-day requirement because it relied upon the OSF's advice not to file an appeal because J.C. had assumed custody and transferred K.C. to another school district. (PMSD, Exhibit 13, DOE 11.)

petitioner filed its opposition to respondent's motion for partial summary decision, and the respondent filed its opposition to the petitioner's motion for summary decision.

On September 27, 2022,² the petitioner filed its opposition to the EMS's motion to intervene. The respondent did not submit a response to the motion to intervene. The respondent was granted a one-week extension to file its reply brief, which was submitted on October 4, 2022.

On October 27, 2022, the undersigned denied EMS's motion to intervene but granted EMS participation status. Oral argument on the motions for summary decision and partial summary decision was held on December 19, 2022. On January 30, 2023, the undersigned denied the petitioner's motion for summary decision and granted the respondent's motion for partial summary decision, finding that the petitioner was the district of residence for the 2019–20 school year. However, there remained an issue of material fact regarding K.C.'s residence after July 1, 2020, for the 2020–21 school year.

On April 19, 2023, the undersigned signed a protective order for an in-camera review of K.C.'s records from the Division of Children and Families (DCF). The parties obtained the records from the DCF regarding K.C.'s residency after July 1, 2020. Based on that previously undisclosed discovery, the parties filed cross-motions for summary decision on April 9, 2024. The parties were granted extensions to submit their oppositions and replies. The respondent filed its opposition and reply to the petitioner's motion for summary decision on May 20, 2024, and the petitioner filed its reply on May 31, 2024.

In a decision dated August 5, 2024, the petitioner's motion for summary decision was denied, and respondent's motion for summary decision was granted. The Acting Commissioner remanded the case in a decision dated September 17, 2024, for further proceedings to determine if L.T. had legal custody during the 2019–20 and 2020–21 school years. The Acting Commissioner also directed that all custody orders involving K.C. be entered into the record. On December 11, 2024, the undersigned issued another

² Petitioner filed a letter dated September 30, 2022, opposing the motion to intervene and requesting the opportunity to submit a more detailed response. A letter brief dated September 27, 2022, was submitted.

protective order for the release of records related to K.C.'s legal custody, including custody orders from August 1, 2014, through August 21, 2021. These documents were received on or about February 3, 2025. The parties reviewed the new records, and after a series of extensions submitted written submissions on April 3, 2025, and the record closed on that date.

FINDINGS OF FACT

The following **FINDINGS OF FACT** were made in the Initial Decision of August 5, 2024, in the matter docketed as EDU 08877-21, and are incorporated herein, with non-substantive modifications for stylistic purposes:

1. K.C. was a minor child of J.C., her biological father, and C.B., her biological mother. C.B. did not have physical or legal custody of K.C. during the period relevant to this controversy.
2. K.C. was diagnosed with bipolar disorder, depression, post-traumatic stress disorder, anxiety, attention deficit hyperactivity disorder, self-injurious behavior, and suicidal ideations. (Petitioner's Motion for Summary Decision (PMSD), Exhibit 10.)
3. In a letter dated December 31, 2020, the OSF determined that the petitioner was the district of residence for K.C. for the 2020–21 school year. (PMSD, Exhibit 2.)
4. K.C. resided with her maternal grandmother, L.T., in Lower Cape May until February 2019, when the Division of Children and Families (DCF) placed K.C. in a residential placement. (*Id.*)
5. In an Order dated October 2, 2019, the Hon. M. Susan Sheppard, P.J.F.P., continued physical custody with the DCF. The Order scheduled a discharge planning conference for October 9, 2019, to facilitate discharging K.C. to

her father's custody upon consent of counsel. A compliance review was scheduled for October 21, 2019. (PMSD, Exhibit 3.)

6. On October 21, 2019, Judge Sheppard transferred legal custody of K.C. to her father, J.C., but continued physical custody with K.C.'s then current placement, Spring House/Legacy Treatment Home. L.T. was terminated from the litigation. A compliance review was scheduled for November 13, 2019. (PMSD, Exhibit 4.)
7. J.C. authorized the release of K.C.'s pupil records to High Point Regional High School on October 21, 2019. (Respondent's Opposing Brief, Exhibit A, P003-004.)
8. Physical and legal custody for K.C. remained unchanged at the compliance review held on November 13, 2019. Another compliance review was scheduled for December 11, 2019. (PMSD, Exhibit 5.)
9. According to the DCF Contact Sheet, Mariah Berger, the new DCF caseworker for K.C., wrote on December 2, 2019, that she contacted High Point Regional to inquire about the delay in enrolling K.C. On December 5, 2019, High Point Regional staff responded that J.C. came to the school on November 27, 2019, to complete the paperwork but was unable to do so because the school closed early; the school reopened on December 2, 2019, however, a severe snowstorm caused power outages, and the school was closed. The High Point Regional staff person stated that they were reviewing K.C.'s file and would reach out to J.C. and were also requesting pupil records from the petitioner. (PMSD, Exhibit 9.)
10. Mariah Berger also drafted summary notes stating that on December 5, 2019, she contacted J.C., who stated that there was no longer an option for K.C. to live with him and that Ms. Berger was no longer welcome in his home. (Id.)

11. On December 11, 2019, Judge Sheppard ordered physical custody to remain with DCF at Spring House “until successful completion of the program.” The Order did not specify K.C.’s legal custody. (PMSD, Exhibit 6.) The Judge further ordered:

[T]he court is not currently requiring J.C. to comply with services based on his current position that he is not willing to care for K.C. and for other reasons stated on the record. Monmouth Regional School District, which covers Spring House, shall be considered the home school district for K.C. for school/homebound instruction purposes. The court determines that the removal of the child(ren) K.C. is necessary to avoid ongoing risk to the life, safety or health of the child(ren). Continuation of residence in the home would be contrary to the welfare of the child(ren) because J.C. strongly indicates that he is not willing to care for K.C. She cannot be maintained safely in his home. She has . . . health issues that need to be addressed in her current placement at Spring House and for the other reasons stated on the record and other due cause existing.

[Ibid.]

12. On December 11, 2019, K.C. was placed at Legacy Treatment Services. (PMSD, Exhibit 8.)
13. In a letter dated December 11, 2019, [Division of Child Protection and Permanency (DCP&P)] caseworker Mariah Berger and supervisor Cynthia Ginnetti notified J.C. that K.C. had been placed in an out-of-home placement and was in DCP&P’s custody, and as such, K.C.’s new school placement was Monmouth Regional High School. J.C. was given five business days to challenge this placement. This letter listed Lower Cape May Regional School District as the “District of Residence” and Monmouth Regional School District as the “Resource Home District.” The rationale given for this placement was:

The distance of the out of home placement to your child's present school—[K.C.] is placed in a Legacy Treatment Solutions Program located in Monmouth County, NJ. Monmouth Regional High School is the district that is closest in proximity to [K.C.]'s placement.

[Ibid.]

14. Mss. Berger and Ginnetti sent separate letters to the Monmouth Regional School District and High Point Regional School District dated December 12, 2019, stating that K.C. was in DCP&P's custody at Spring House-Legacy Treatment Solutions and the new school placement was Monmouth Regional High School. In both letters, High Point Regional School District was listed as "District of Residence," and Monmouth Regional School District was listed as "Resource Home District." (Ibid.)
15. In separate letters dated January 22, 2020, caseworker Berger and supervisor Reneta Angelastro notified Monmouth Regional High School and Lower Cape May Regional High School that K.C. was in DCP&P's custody at Spring House-Legacy Treatment Services and was to be enrolled in the Monmouth Regional School District. In these letters, Lower Cape May Regional was listed as the "District of Residence," and Monmouth Regional School District was listed as the "Resource Home District." (Ibid.)
16. On or about January 2020, K.C. was transferred from Legacy Treatment to Bridgeton Intermediate;³ however, K.C. signed herself out against medical advice. K.C. returned to Legacy Treatment. (PMSD, Exhibit 9.)
17. On or about July 2020, K.C. was discharged from Legacy Treatment and was a patient at the Monmouth Medical Center Adolescent Psychiatric Unit, where she remained until July 31, 2020. (Id.)

³ Inspira Behavioral Health Child Inpatient Center Bridgeton.

18. On July 31, 2020, K.C. was placed by DCF in East Mountain Youth Lodge at Carrier Clinic. (Respondent's Opposition to the Petitioner's MSD, Exhibit A at P020; PMSD, Exhibit 12.)
19. On or about September 11, 2020, Ms. Ginnetti wrote in her summary that J.C. expressed a desire to terminate his parental rights. (PMSD, Exhibit 10.)
20. Mariah Berger noted in her summary dated September 17, 2020, that J.C. had been arrested on August 19, 2020, and remained incarcerated on new charges and for violating his parole. (Respondent's MSD, Exhibit E.)
21. In an email dated April 9, 2021, the OSE notified the petitioner that K.C. never resided with her father but remained in her out-of-district placement, and, thus, K.C.'s grandmother was the last residence for K.C. prior to placement, making the petitioner responsible for K.C.'s educational costs. (Respondent's Opposition to Petitioner's MSD, P015-016.)
22. In an email dated May 20, 2021, the respondent stated that whether a child is registered in the family's school district is irrelevant in determining which school district is responsible for the child's educational costs. The controlling criteria for assigning financial responsibility for the child's education were where the child's parent/guardian resided on the date of the child's placement and whether the placement was authorized by a State agency. (Respondent's Opposition to Petitioner's MSD, P024.)
23. K.C. became a resident of East Mountain Youth Lodge on July 31, 2020, and attended classes from September 6, 2020, until April 19, 2021.

I make the following additional **FINDINGS OF FACT** based upon the custody orders and other documents related to K.C.'s legal custody from August 20, 2014, to March 7, 2022, which were released by the DCF.

1. A temporary custody order granting temporary custody of K.C. to L.T. was issued on August 20, 2014, by the Honorable Mary Day Coker, Circuit Judge of the Eighth Judicial Circuit in Levy County, Florida. (Petitioner's Exhibit 2.)
2. There is no evidence that the temporary custody order was registered in New Jersey.
3. An Order to Show Cause was entered on January 31, 2019, proposing to remove K.C. from L.T.'s residence and make K.C. a ward of the State because L.T. was arrested and charged with driving while intoxicated and reckless driving. (Petitioner's Exhibit 3.)
4. The DCP&P issued a notice of emergency removal dated January 29, 2019, placing K.C. in a resource house. (Petitioner's Exhibit 4.)
5. The DCP&P filed a complaint for custody on or about January 31, 2019. (Petitioner's Exhibit 5.)
6. A Child Protection Multipurpose Order (Return Order to Show Cause) was issued on March 4, 2019, by the Honorable M. Susan Sheppard, J.S.C., granting custody, care and supervision, and physical custody of K.C. to the DCP&P in an approved placement. (Petitioner's Exhibit 6.)
7. A Child Protection Multipurpose Order (Disposition) was issued on April 3, 2019, by the Honorable M. Susan Sheppard, J.S.C., continuing custody of K.C. with the DCP&P in an approved placement. (Petitioner's Exhibit 7.)
8. A Civil Order of Admission was entered on April 3, 2019, by L.T. stating that her family needed the services of the DCP&P to ensure the health, safety, and welfare of K.C. and thus K.C. was under the care and custody of the DCP&P. (Petitioner's Exhibit 8.)

9. A Child Protection Multipurpose Order (Compliance Review/Summary Hearing) was issued on July 10, 2019, by the Honorable M. Susan Sheppard, J.S.C., continuing custody of K.C. with the DCP&P in an approved placement. (Petitioner's Exhibit 9.)
10. A Child Protection Multipurpose Order (Compliance Review/Summary Hearing) was issued on November 13, 2019, by the Honorable M. Susan Sheppard, J.S.C., continuing legal custody of K.C. with J.C. and physical custody with Spring House/Legacy Treatment Home. (Petitioner's Exhibit 12.)
11. A Child Protection Multipurpose Order (Summary Hearing) was held on March 5, 2020, and the Honorable M. Susan Sheppard ordered that K.C. continue under the custody, care and supervision of the DCP&P and physical custody continue with Spring House or other approved placement. (Petitioner's Exhibit 17.)
12. A Child Protection Multipurpose Order (Compliance Review) was issued on May 27, 2020, by the Honorable M. Susan Sheppard, J.S.C., continuing custody of K.C. with the DCP&P at Spring House or other approved placement. (Petitioner's Exhibit 18.)
13. A Child Protection Multipurpose Order (Summary Hearing) was issued on August 19, 2020, by the Honorable M. Susan Sheppard, J.S.C., continuing custody of K.C. with the DCP&P in an approved placement. The Order also directed the parents to work with the DCP&P to develop a long-term plan for K.C. (Petitioner's Exhibit 23.)
14. A Permanency Hearing was held on August 25, 2020, before the Honorable M. Susan Sheppard, J.S.C., who ordered that K.C. continue in an approved plan that included Individual Stabilization -Independent Living because it was unsafe for her to reside with J.C. and the DCP&P was to file to terminate parental rights and file for kinship legal guardianship. (Petitioner's Exhibit 24.)

15. A Child Protection Multipurpose Order (Compliance Review/Summary Hearing) was issued on December 1, 2020, by the Honorable M. Susan Sheppard, J.S.C., continuing the care, custody and supervision, and physical custody of K.C. with the DCP&P in an approved placement. (J057.)
16. A Permanency Hearing was held on December 1, 2020, before the Honorable M. Susan Sheppard, J.S.C., who ordered that the DCP&P's Individual Stabilization-Independent Living plan was appropriate and acceptable. In addition, the court determined that the parents were unwilling to work toward reunification and terminating parental rights was unwarranted because K.C. was seventeen years old and in an independent placement. (J061.)
17. A Child Protection Multipurpose Order (Compliance Review/Summary Hearing) was issued on March 3, 2021, by the Honorable M. Susan Sheppard, J.S.C., continuing the care, custody and supervision, and physical custody of K.C. with the DCP&P in an approved placement, which was the East Mountain Youth Lodge. (J064.)
18. A Child Protection Multipurpose Order (Compliance Review/Summary Hearing) was issued on May 26, 2021, by the Honorable M. Susan Sheppard, J.S.C., continuing the care, custody and supervision, and physical custody of K.C. with the DCP&P in an approved placement. (J068.)
19. A Child Protection Multipurpose Order (Compliance Review/Summary Hearing) was issued on August 25, 2021, by the Honorable M. Susan Sheppard, J.S.C., continuing the care, custody and supervision, and physical custody of K.C. with the DCP&P in an approved placement. (J072.)
20. By court order dated October 5, 2021, the litigation was terminated because K.C. turned eighteen on October 2, 2021. (J076.)
21. A Summary Hearing Order dated December 9, 2021, was issued and the DCP&P reported that they did not know K.C.'s whereabouts. The judge

ordered that the DCP&P continue to provide bus pass, budgeting, clothing, checks, and housing for K.C. (J079.)

22. A Summary Hearing Order dated March 7, 2022, was issued and the DCP&P reported that K.C. had moved into a new apartment on February 28, 2022, and was doing well. (J081.)

DISCUSSION AND CONCLUSIONS OF LAW

The Commissioner, in his remand, stated that knowing who had legal custody of K.C. during the 2019–20 and 2020–21 school years was critical. The Commissioner relied upon his decision in L.D.M. v. Board of Education of Township of West Orange, No. 151-01, Comm’r (May 1, 2001), <https://www.nj.gov/education/legal/>, wherein the administrative law judge (ALJ) ordered the petitioner to pay tuition for her brother’s attendance in West Orange prior to the date the petitioner obtained an order of custody. The Commissioner reversed the ALJ, holding that the custody order applied to the entire period in question, and thus the petitioner’s brother was entitled to a free public education. The Commissioner reasoned that once the petitioner assumed legal custody of her brother, the only remaining question was whether the petitioner was domiciled in West Orange because the domicile of the child follows that of the parent or guardian having *legal custody* over him or her.” Id. at 8.

In the present case, there is a custody order dated August 20, 2014, from Florida granting temporary custody of K.C. to L.T. The petitioner contends that this custody order was never registered in New Jersey as required by N.J.S.A. 2A:34-79(a) and thus has no legal force in the state. However, a close review of this statute reveals that registration of an out-of-state custody order is not mandatory. Specifically, N.J.S.A. 2A:34-79(a) provides:

A child custody determination issued by a court of another state may be registered in this State, with or without a simultaneous request for enforcement, by sending to the Superior Court in this State:

- (1) a letter or other document requesting registration;
- (2) two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and
- (3) except as otherwise provided in section 21 of this act, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

[Emphasis added.]

Thus, there is no mandate for a custody order from another state to be registered in New Jersey. However, the law mandates that a child-custody order from another state must be recognized in New Jersey. Specifically, N.J.S.A. 2A:34-77(a) provides:

A court of this State shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this act or the determination was made under factual circumstances meeting the jurisdictional standards of this act and the determination has not been modified in accordance with this act.

However, a New Jersey court “may not modify a child custody determination made by a court of another state unless a court of this State has jurisdiction to make an initial determination under paragraph (1) or (2) of [N.J.S.A. 2A:34-65].” N.J.S.A. 2A:34-67. These statutes are part of the Uniform Child Custody Jurisdiction and Enforcement Act, (UCCJEA), N.J.S.A. 2A:34-53 to -95, which both New Jersey and Florida have adopted. The UCCJEA was enacted “‘to avoid jurisdictional competition and conflict’ between jurisdictions in favor of ‘cooperation with courts of other states.’” Battle v. Algee, 2024 N.J. Super. Unpub. LEXIS 45, *15 (App. Div. January 10, 2024) (quoting Sajjad v. Cheema, 428 N.J. Super. 160, 170–71 (App. Div. 2012) [quoting Griffith v. Tressel, 394 N.J. Super. 128, 138 (App. Div. 2007)]). Governed by these standards, there is no basis

to dispute that the Florida custody order has legal force in New Jersey. Accordingly, I **CONCLUDE** that the Florida custody order constitutes sufficient proof that L.T. had legal custody of K.C. as of August 20, 2014.

It is undisputed that K.C. resided with L.T. in Lower Cape May in 2019. A review of the newly released court orders show that K.C. was removed from L.T.'s residence on an emergency basis on January 29, 2019, after L.T. was arrested. (Petitioner's Exhibits P017 and P018.) As a result of the arrest and other factors, the DCP&P filed a complaint on or about January 31, 2019, seeking custody of K.C. (Petitioner's Exhibit P021–037.)

On February 19, 2019, the DCF placed K.C. in a residential placement. The DCP&P acquired temporary custody of K.C. on March 4, 2019, but allowed L.T. visitation privileges. (Petitioner's Exhibit P042.) However, the court orders show that L.T. continued to have legal custody of K.C. until April 3, 2019, when L.T. admitted that she was part of a family that needed the support of the DCP&P to ensure the health, safety, and welfare of K.C. This Admission Order explicitly acknowledges that L.T. had custody of K.C. The Order states: "the court finds the defendant, L.T., had custody and control of the child(ren) as parents or guardians and further finds: . . . the child(ren) require(s) care and supervision or custody of the Division." (Petitioner's Exhibit P050.) Legal custody shifted to J.C., K.C.'s father, on October 21, 2019, however, K.C. never lived with him, she remained in various State facilities.

Under N.J.S.A. 18A:7B-12, the district of residence for students placed in State residential facilities is the present district of residence of the parent or guardian with whom the child lived prior to the child's most recent placement by a State agency. Therefore, the school district financially responsible for the educational costs of a child placed in a State facility like K.C. was, is determined by the residence of the parent/guardian with whom the child last resided prior to the State placement. See N.J.A.C. 6A:23A-19.2(a)1, and 2. In this case, the petitioner is financially responsible because K.C.'s last residence prior to placement in a State facility was with L.T. in Lower Cape May as of October 15, 2019, the annual cutoff date for local school districts to file annual enrollment data with the Commissioner. See N.J.S.A. 18A:7F-33.

This same reasoning applies to where K.C. lived on October 15, 2020, when the factual record shows that K.C. was placed at EMS. However, N.J.A.C. 6A:23A-19.2(a)(2) states:

In subsequent school years spent in the educational placement made by a State agency, the child's "present district of residence" shall be determined in the same manner as for a child in a residential State facility as set forth at (a)1 above.

Thus, although K.C. was placed at EMS, the district of residence responsible for her educational costs remained the petitioner, "the district of residence of the child's parent(s) or guardian(s) as of the last school day prior to October 16." N.J.A.C. 6A:23A-19.2(a)1.

The factual record does not support the petitioner's contention that the DCF became K.C.'s legal guardian. As stated in the undersigned's Initial Decision dated August 5, 2024:

Guardianship is "established by the order of a court of competent jurisdiction," and parental rights must be terminated. N.J.S.A. 30:4C-2; N.J.S.A. 30:4C-15(c) and (f) (a petition to terminate parental rights must be filed "if it appears that the best interests of any child under the care or custody of the [DCF] require that [the child] be placed under guardianship"). The respondent correctly asserts that the petitioner failed to produce a court order awarding legal guardianship and/or a court order terminating parental rights. Simply put, there are no indicia of legal guardianship by the DCF.

[Initial Decision, at 11.]

Indeed, the permanency hearing Order dated August 25, 2020, reveals that the DCF did not seek termination of parent rights. (Petitioner's Exhibit P114.) Accordingly, I **CONCLUDE** that the petitioner has not proven that the DCF was K.C.'s legal guardian responsible to assume financial responsibility for K.C.'s education for the 2019–20 or 2020–21 school year.

The respondent's determination regarding "district of residence" is entitled to a presumption of correctness. Bd. of Educ. of South River v. Dep't of Educ., 2002 NJ AGEN LEXIS 228 (April 12, 2000). When a local school board contests a district of residence determination made by the Department of Education, the local board bears the burden of proving that the determination was an error. Bd. of Educ. of Bradley Beach v. Dep't of Educ., 2000 NJ AGEN LEXIS 938 (July 3, 2000). Having carefully reviewed the record, I **CONCLUDE** that there are no material facts in dispute and that the respondent is entitled to prevail as a matter of law. The record shows that there was a custody order from Florida granting custody of K.C. to L.T., and under the UCCJEA, New Jersey must recognize the custody order regardless of whether it is registered. In addition, there are no disputed issues of material fact remaining as to where K.C. resided on October 15, 2019, or October 15, 2020. Viewing the facts of each motion as I must, in the light most favorable to the non-moving party, I **CONCLUDE** that the petitioner's claim that the respondent erred in determining that the petitioner was the district of residence for the 2019–20 and 2020–21 school years is without merit. Since there is no factual dispute sufficient to justify an evidentiary hearing, summary decision in favor of the respondent is appropriate.

ORDER

I hereby **ORDER** that the petitioner's motion for summary decision is **DENIED** and respondent's motion for summary decision is **GRANTED**. No other proceedings are required.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Acting Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to **Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**. A copy of any exceptions must be sent to the judge and to the other parties.

May 20, 2025

DATE


KIM C. BELIN, ALJ

Date Received at Agency:

Date Mailed to Parties:

KCB/am

APPENDIX

Exhibits

For petitioner

- Written Brief with exhibits, dated April 3, 2025

For respondent

- Written Brief with certification and exhibits, dated April 3, 2025

Joint

J001–J0021 Order Granting Petition for Temporary Custody (Florida), dated August 20, 2014

J003–J006 Order to Show Cause for Temporary Custody, dated January 31, 2019

J007–J010 Child Protection Multipurpose Order, dated March 4, 2019

J011–J014 Child Protection Multipurpose Order, dated April 3, 2019

J015–J017 Civil Action Order, dated April 3, 2019

J018–J022 Child Protection Multipurpose Order, dated July 10, 2019

J023–J027 Child Protection Multipurpose Order, dated October 2, 2019

J028–J032 Child Protection Multipurpose Order, dated October 21, 2019

J033–J036 Child Protection Multipurpose Order, dated November 13, 2019

J037–J040 Child Protection Multipurpose Order, dated December 11, 2019

J041–J044 Child Protection Multipurpose Order, dated March 18, 2020

J045–J048 Child Protection Multipurpose Order, dated May 27, 2020

J049–J052 Child Protection Multipurpose Order, dated August 19, 2020

J053–J056 Permanency Hearing, dated August 25, 2020

J057–J060 Child Protection Multipurpose Order, dated December 1, 2020

J061–J063 Permanency Hearing, dated December 1, 2020

J064–J067 Child Protection Multipurpose Order, dated March 3, 2021

J068–J071 Child Protection Multipurpose Order, dated May 26, 2021

J072–J075 Child Protection Multipurpose Order, dated August 25, 2021

J076	Adjournment, dated October 5, 2021
J077–J078	Termination of Litigation, dated October 5, 2021
J079–J080	Summary Hearing Order, dated December 9, 2021
J081–J082	Summary Hearing Order, dated March 7, 2022