

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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THE SPURWINK SCHOOL II	:
	:
vs.	:
	:
COVENTRY SCHOOL COMMITTEE	:
CUMBERLAND SCHOOL COMMITTEE	:
JOHNSTON SCHOOL COMMITTEE	:
Re: Group Home Reimbursement	:
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D E C I S I O N

April 17, 1990

This matter was heard on November 2, 1988 and September 11, 1989 before Forrest L. Avila, and on December 19, 1989 and January 19, 1990 before the undersigned Hearing Officer.

The matter arises under §16-39-1 in that The Spurwink School is seeking a ruling from the Commissioner regarding responsibility for payment for the education of certain children enrolled in their special education program and who reside in group homes located in several towns.

School Committees, where group homes related to the Spurwink School are located, were asked to respond (Coventry, Cumberland and Johnston), witnesses were sworn and testimony taken.

The Issue

The Department for Children and Their Families (DCF) placed children at The Spurwink School, which operates its instructional programs in Lincoln, Rhode Island, and its residential group homes in other cities and towns. Spurwink has been directed by DCF to seek payment from the appropriate towns for its instructional program.

The issue is which towns are responsible for paying for the educational program.

Applicable State Laws

The laws of the State of Rhode Island which are pertinent in this case are cited herein:

§16-64-1. Residency of children. - Except as otherwise provided by law or by agreement a child shall be enrolled in the school system of the town where he resides. A child shall be deemed to be a resident of the town where his parents reside. If the child's parents reside in different towns the child shall be deemed to be a resident of the town in which the parent having actual custody of the child resides. In cases where a child has no living parents, has been abandoned by his parents, or when parents are unable to care for their child on account of parental illness or family break-up, the child shall be deemed to be a resident of the town where he lives with his legal guardian, natural guardian, or other person acting in loco parentis to the child. An emancipated minor shall be deemed to be a resident of the town wherein he lives. Children placed in group homes, in foster care, in child-caring facilities, or by a Rhode Island state agency or a Rhode Island licensed child-placing agency shall be deemed to be residents of the town where the group home, child-caring facility or foster home is located, and this town shall be reimbursed or the child's education be paid for in accordance with §16-7-20. (Emphasis added).

§16-7-20. Determination of state's share. - . . . that all other school age children, except those children receiving care and treatment in accordance with §40-10-7 [chapter 7 of title 40.1], who are placed, assigned or otherwise accommodated for residence by a Rhode Island state agency in a state-operated or supported community residence licensed by any Rhode Island state agency shall have the cost of their public school education paid for by the city or town wherein the child's residence as determined by §16-64-1 had been established immediately prior to the child's entry into the state-operated or supported community residence. The cost of the child's education shall be paid to the town where the child's group home or community residence is located and the town making the payment shall be reimbursed by the state in the same manner as previously described in this section, except in the case of handicapped children who are appointed state beneficiaries under chapter 25 of this title, in which case the reimbursement shall be in the manner described in §16-24-6. . . . (Emphasis added).

Under §16-64-1 the school district where a group home is located is responsible for a child's education and the school district where the child resided prior to entering state care is responsible for reimbursing the community providing the education.

Argument

The Spurwink School is being requested by DCF to bill tuition for the education of children enrolled in the Spurwink School. Spurwink argues that the appropriate action is to bill those towns/cities wherein its group homes are located per its understanding of §16-64-1 and §16-7-20.

The three towns presented argument for non-payment which in general revolved around two issues:

- (1) The lack of an identified town or city wherein the child resided prior to entry into the group home because of "incomplete" DCF records.
- (2) The lack of involvement in the IEP process by the town/city school departments.

The undersigned Hearing Officer directed DCF several times to re-search its records and provide the Department of Education with the known address of the parent(s) at the time of DCF's assumption of placement responsibility for the children in question. DCF presented the addresses at the hearing on January 19, 1990. As a result of this activity over many months and several hearings a resolution has been made as pertains to four (4) children. 1

Several motions were made and reserved for the decision.

By Johnston: For a directed verdict in the case of C D

Denied: Embodied in decision to follow.

1] Several children were discharged from Spurwink over the course of the hearings and as such were dropped by Spurwink as cases or dismissed by the Hearing Officer.

By Johnston: Interplead and interjoin with Central Falls on the case of J T

Denied: Embodied in decision to follow.

By Coventry: A motion on standing.

Denied: The Commissioner has the responsibility to decide under several sections of Title 16, R.I.G.L.

Decision

The facts as determined in this hearing are as follows:

1. The children in question are enrolled in The Spurwink School as of January 19, 1990.
2. The children reside in group residences in several towns, i. e. Coventry, Cumberland and Johnston.
3. All children have IEPs and are being educated under the laws and regulations governing handicapped education.
4. The controlling laws for payment and reimbursement are §16-64-1 and §16-7-20 and case law reinforcing these laws, notably In The Matter Of: James P., Commissioner of Education, April 14, 1986.
5. The children have an address of parent(s) known to DCF at the time of determination of care and control by DCF.

The Spurwink School is hereby found to be correct in billing the town/city of group home residence according to R.I.G.L. §16-64-1 for the following children:

1. Town of Johnston: C D and J T

2. Town of Coventry: C K and J W

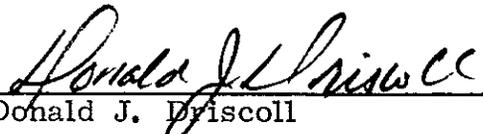
The towns of Coventry and Johnston are found to be correct in seeking reimbursement according to R.I.G.L. §16-7-20 for such expenditure from the town/city of record when DCF assumed care and control of these children.
2 and 3

2] On the matter of IEP, the Commissioner finds that there is a continuing problem of involvement in IEPs by towns and cities in certain cases. This may always be a problem since society is dealing with very difficult social and educational problems. We note that the "child benefit" theory is paramount. Cities and towns and the state can argue "procedures" to infinity. Children are essentially powerless and must be protected. The issue of the IEP, while important, cannot prevent education or the paying for education. We find in the instant case that The Spurwink School ensure LEAs involvement in the IEP process to the full extent prior to placement, if possible, and after placement there will be full participation offered.

3] The towns/cities, from which reimbursement will be sought, if in disagreement should seek a hearing on residency under §16-64 from the Commissioner of Education.

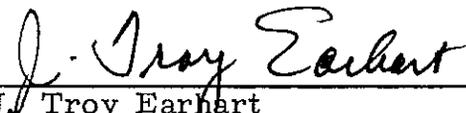
Note:

Children residing in group homes in Cumberland were withdrawn from consideration.



Donald J. Driscoll
Hearing Officer

Approved:



J. Troy Earhart
Commissioner of Education

April 17, 1990