

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

NANCY T. and
JOHN M.
vs.
BARRINGTON
SCHOOL COMMITTEE

D E C I S I O N

May 21, 1990

This matter was heard on March 22, 1990 upon the appeal to the Commissioner of Education under the provisions of §16-64-6 of the General Laws of Rhode Island, as Amended. The appeal was made by Nancy T. and John M. because the Barrington School Committee notified them that their child was ineligible to continue her education in Barrington because they were no longer residents of Barrington.

Due notice was given to the parties as to the date, time and place of the hearing. The appellants appeared pro se and the School Committee was represented by counsel. Testimony was taken, a transcript of which was made and evidence was presented. The undersigned Hearing Officer was assigned to hear this case under authorization from the Commissioner.

Facts of the Case

- Alysa T. is the child of Nancy T. and John M.
- Alysa is a student enrolled in the 8th grade in the Barrington Public Schools.
- Nancy T. and John M. have lived in Barrington for seventeen (17) years on Townsend Street.
- Alysa has attended school in Barrington continuously since kindergarten.
- Nancy and John still own the property on Townsend Street and have been attempting to sell the property for some time.
- Because they are not able to financially afford to activate the Barrington residence, Nancy T. John M. and their daughter Alysa have been living temporarily with friends in Providence.

- Nancy T and John M are registered voters of the Town of Barrington and they pay taxes there for the property on Townsend Street.
- The Barrington address is listed on their current driver's license and their car is registered in Barrington.

Issue of the Case

The Barrington School Department alleges that Alysa T is attending school in Barrington illegally since she is living with her mother and father, Nancy T and John M, in Providence. The Barrington School Department argues that pursuant to §16-64-1 ". . .the child shall be deemed to be a resident of the town in which the parent having actual custody of the child resides". The School Department argues that in accordance with that provision of law, Alysa should be attending school in Providence.

The appellants' testimony, which was unrefuted, revealed that they had intended to change their residency from Barrington to Newport, where they were employed by a theatrical group and had an arrangement with the Newport Historical Society to live in one of their properties and function as caretakers/restorers in lieu of paying rent. However, the Historical Society decided to sell the house placing them in the position of nowhere to live and without enough income to keep their Barrington house operational. The house has been up for sale for awhile and on more than one occasion, closings had been scheduled with potential buyers only to have the transaction fall through at the last minute because of legal complications. They testified that they had fully intended to reactivate the house in Barrington and live there, that is why they did not establish residency

elsewhere. When they realized that they could not afford to reactivate the Barrington house, they put it on the market and moved in temporarily with a friend in Providence. The agreement they have with the landlord and friend is that they must move out as soon as their Barrington property is sold.¹ They testified that once they sell the property, they will be able to afford establishing a permanent residency some place, which might even be in Barrington. They request that their daughter be allowed to finish out the present school year in Barrington.

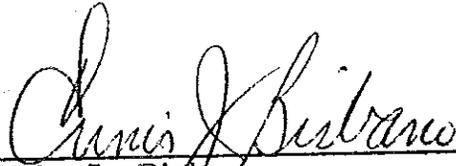
The Commissioner has ruled consistently that physical presence in a community coupled with a lack of intent to presently leave the community is all that is needed to establish residency for school purposes under §16-64-1. (See: Newport Residency Case involving Lucy's Hearth, Interim Decision of the Commissioner dated November 14, 1984, and In the Matter of Priscilla H., Commissioner of Education, September 7, 1983). It is our decision that in accordance with this premise, the appellants and their daughter are legal residents of Providence for school purposes since they are physically present there and there is a lack of intent to presently leave Providence. However, §16-64-8 reads as follows:

When a student changes his or her residency during the course of a semester the student shall be allowed to complete the semester in his or her original town of residence. . . . No school district shall be required to provide transportation to a student exercising the option permitted in this section. No school district shall require a student to exercise the option allowed in this section. . . .

1] There is a sale of the property pending a change in zoning which is presently before the Barrington Zoning Board.

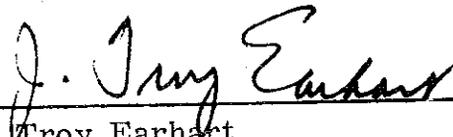
Since the end of the present school year is a little over one month away, and because the appellants are only requesting that their daughter be allowed to complete the present school year in Barrington, it is our decision that the appellants may exercise the option available to them under §16-64-8 and have Alysa remain in the Barrington Public Schools until the end of the present semester.

Accordingly, the appeal is sustained.



Ennis J. Bisbano
Hearing Officer

Approved:



J. Troy Earhart
Commissioner of Education

May 21, 1990