

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

T. H. :
 :
 :
vs. :
 :
 :
NORTH KINGSTOWN :
SCHOOL COMMITTEE :

DECISION

February 14, 1991

This matter was heard on October 30, 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 brought by Mr. and Mrs. Daniel H from a decision of the North Kingstown School Department not to grant a tuition waiver for their daughter, T .

Due notice was given to the parties as to the date, time and place of the hearing. The appellants appeared pro se. 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 the case under authorization from the Commissioner.

Facts of the Case

1. T is the daughter of Mr. and Mrs. Daniel H .
2. T is a senior at North Kingstown High School.
3. T has been attending school in North Kingstown continuously since kindergarten.
4. Sometime in September of 1989, the H moved from North Kingstown to East Providence and currently live at Dorr Avenue in East Providence with their daughter T,
5. At the request of the H , T was allowed to attend North Kingstown High School during the 1989-90 school year in accordance with an agreement whereby the H would pay a tuition of \$3829.73. (Respondent's Ex.1).
6. In August of 1990 the H called the Superintendent of Schools in North Kingstown, Dr. Josephine Kelleher, to make arrangements for T to complete her education as a senior at the High School during the 1990-91 school year.
7. On August 13, 1990, Dr. Kelleher wrote to the H informing

them that due to recently enacted legislation T . "is eligible to complete her senior year at the High School tuition free." (Respondent's Ex. 2).

8. On August 27, the Director of Administrative Services, Joseph F. Quinn, Jr., wrote to the H informing them that T had been granted permission to attend North Kingstown High School, 12th grade, during the 1990-91 school year provided they paid a tuition of \$5230.47. (Respondent's Ex. 3).
9. Mr. and Mrs. H immediately called the Superintendent of Schools upon receiving Mr. Quinn's letter of August 27 to inquire, and, the Superintendent informed them that she had made a mistake and that they would be required to pay the tuition as outlined in Mr. Quinn's letter.
10. Dr. Kelleher followed up the telephone conversation of September 4, with a letter of confirmation dated September 5. (Respondent's Ex. 4).
11. The H appealed to the Commissioner by letter of September 10. (Respondent's Ex. 5).

The facts in this case are not in dispute. Mr. H testified that the original telephone call to the Superintendent, which was made in August of 1990, was initiated as a result of the fact that he was out of work and his wife had to quit her job in order to take care of her terminally ill mother. So, they called Dr. Kelleher to see if they could receive any hardship consideration under the circumstances, and were delighted when she informed them that since their daughter was a senior, they would not have to pay any tuition. He further testified that they had put away some money they had refunded to them from income taxes in order to help to pay for T 's tuition. However, when they received the "good news" from Dr. Kelleher, they used that money to pay some bills, since it would not be needed for tuition. Mr. H also testified that they were forced to try every avenue

possible in order to see to it that T. . completed her senior year and graduated from North Kingstown High School. Upon cross-examination, Mr. H testified that they provided for T. 's transportation to and from North Kingstown each day.

Respondent argues that in accordance with §16-64-1, T is a resident of East Providence and since she moved prior to the beginning of her junior year, and paid tuition to attend North Kingstown High School, she does not come under the provision of §16-64-8, which allows students who are seniors or who are about to enter their senior year the discretion of electing to complete their senior year in North Kingstown.

Respondent argues also that it was indeed unfortunate that the Superintendent erred when she wrote the H. on August 13 that they would not have to pay tuition, but she did not have all the facts available to her at the time, and she did correct the situation as soon as she had all the facts available to her. Finally, respondent argues that there are no statutory exceptions which apply to this case and that the Commissioner of Education is duty bound to uphold the law as written and deny the appeal with regard to the waiving of tuition. Counsel for the respondent concluded by inviting the appellants to approach the North Kingstown School Committee for some sort of relief from the amount of tuition or to arrange some sort of payment schedule to pay it.

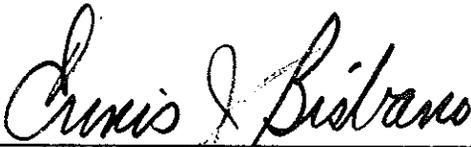
We find that we must concur with counsel for the respondent

when he states that we must uphold the law as written and in this case there are no statutory exceptions which apply. We can also find no application of the doctrine of estoppel on the facts presented. Lerner v. Gill, 463 A.2d 1352 (R.I.)

It is our decision that §16-64-8 does not apply in this case and, we do not have any authority to waive or reduce tuition payments as established by the North Kingstown School Department, even though the appellants were inadvertently misinformed by the Superintendent of Schools.

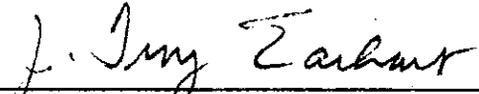
While we must sustain the School Committee we recognize the hardship present here. We, therefore, request but do not require, the School Committee to remit payment of tuition in this case.

Accordingly, the appeal is denied.



Ennis J. Bisbano
Hearing Officer

Approved: February 14, 1991



J. Troy Earhart
Commissioner of Education