



## Introduction

Mrs. Katherine W. filed the appeal in this matter after she was notified by the South Kingstown school department that her son J could no longer attend South Kingstown High School because he is not a resident of the town of South Kingstown. (Appellant's Exhibit 1).<sup>1</sup>

For the reasons set forth below, we hold that Appellant's son J is a resident of Charlestown for school enrollment purposes.

## Background

Appellant's son J completed the 8th grade at South Kingstown Junior High School in June 1992.

In September 1992 J enrolled in Chariho Regional High School. The Chariho school district was provided with a Charlestown address for J's place of residence. Chariho requested J's school records from South Kingstown on September 14, 1992. (School Committee Exhibit 3).

On November 30, 1992 J enrolled in the 9th grade at South Kingstown High School. On that date, and continuing through the month of December 1992, J lived with his grandfather in South Kingstown Monday through Friday and spent weekends with his family in Charlestown. In January 1993 J moved to the home of a classmate in South Kingstown.

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1 The undersigned hearing officer was designated to hear this appeal. It was heard on February 1 and February 19, 1993. Consistent with R.I.G.L. 16-64-6, the Chariho Regional School District was provided with notice of this proceeding and given an opportunity to be heard.

J           's parents paid room and board under this arrangement which continued until February 12, 1993. On that date J returned to the family residence in Charlestown.

Mrs. W            testified that a decision was made to change J           's enrollment from Chariho

when J            stated he was having difficulty at the new school. He stated he was unfamiliar with the Chariho peer groups and felt he could not fit in, thus he felt extremely threatened and afraid and could not integrate and make new friends. This is the reason that J            transferred back to South Kingstown, Rhode Island, as the South Kingstown schools were the most normal environment for J           's education and emotional well-being. (2/19/93 transcript, pp. 9-10).

Mr. and Mrs. W            described their longstanding residence in South Kingstown which was interrupted by a 6-month stay in California in 1991-1992 and a subsequent inability to find housing in South Kingstown due to a problem that arose with Mr. W           's federal housing voucher. That problem currently is in litigation and Mr. and Mrs. W            are living in Charlestown. They consider their Charlestown residence to be temporary and they intend to return to South Kingstown as soon as the housing voucher problem is resolved.

#### Positions of the Parties

Appellant requests that J            be allowed to continue to attend South Kingstown High School until the family re-establishes residency in South Kingstown. Appellant argues that J           's continued attendance at South Kingstown High School is necessary for his educational, emotional and social well-being. Appellant further claims that the family expects to obtain housing in South

Kingstown in the near future.

The School Committee contends that the evidence clearly shows that Mr. and Mrs. W have custody of J and they live outside the town of South Kingstown. J therefore is not a resident of South Kingstown and he cannot attend South Kingstown High School. Furthermore, when J lived in South Kingstown at the homes of his grandfather and his classmate, it was solely for the purpose of attending South Kingstown High School, which is not a valid basis to establish residency for school attendance.

#### Discussion

Under R.I.G.L. 16-64-6, the Commissioner has the authority to resolve disputes concerning the residency of a child for school enrollment purposes. With regard to residency, R.I.G.L. 16-64-1 states that

Except as otherwise provided by law or by agreement a child shall be enrolled in the school system of the town wherein he or she resides. A child shall be deemed to be a resident of the town where his or her parents reside.

R.I.G.L. 16-64-1 also addresses other situations not applicable here, and it contains a savings clause which states "In all other cases a child's residence shall be determined in accordance with the applicable rules of the common law."

In Laura Doe vs. Narragansett School Committee, April 17, 1984, the Commissioner found that the "deeming" provision of R.I.G.L. 16-64-1 quoted above creates a rebuttable presumption that a child's residence is the residence of his or her parents. The evidence in this proceeding establishes that, as of the date of the last

hearing, J            was, in fact, living with his parents in Charlestown. We further find, as explained below, that J            's residence remained in Charlestown at all times during the 1992-1993 school year.

It is Appellant's burden to put sufficient evidence on the record to rebut the presumption that J            's residency for school purposes is Charlestown, given that his parents have lived there prior to the beginning of the 1992-1993 school year. Because no particular portion of R.I.G.L. 16-64-1 pertains to the circumstances herein, the savings clause applies and the case must be examined in light of the common law of school residency.

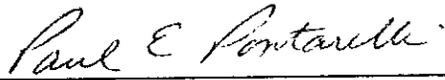
As quoted in the Laura Doe case, the common law of school residency provides that

Whether a child has a right to attend school in a given school district depends upon where he has his legal residence. It is generally held that a child has the right to attend the schools of the district in which he is actually living. The only major exception is when he is living in that district solely for the purpose of attending the school there. (Decision, p. 3).

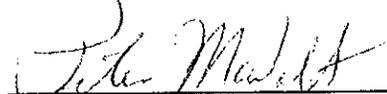
The evidence in this matter does not establish that J            lived in South Kingstown during the 1992-1993 school year for a substantial reason other than to go to school there. In fact, Appellant has admitted that J            lived in South Kingstown for the sole purpose of attending South Kingstown High School. We therefore must hold that J            was not entitled to attend South Kingstown High School at any time during the 1992-1993 school year.

Conclusion

Appellant's son J is a resident of Charlestown for school enrollment purposes. He must be enrolled in the Chariho regional school system. A copy of this decision will be forwarded to the Superintendent of Schools in Chariho with the expectation that South Kingstown and Chariho will work together to provide a smooth transition of this student to the Chariho school system. We further expect that school personnel in Chariho will work with Appellant's family to address any adjustment problems that the student may experience upon his return to Chariho.

  
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Paul E. Pontarelli  
Hearing Officer

Approved:

  
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Peter McWalters  
Commissioner of Education

Date: May 6, 1993