

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

IN RE: RESIDENCY OF
JANE Q. DOE

INTERIM ORDER

February 17, 1993

PRELIMINARY FINDINGS OF FACT

- Student Doe, seventeen years old, left her home and parents in Norwich, Connecticut on or about January 7, 1993.
- She and her boyfriend, also seventeen, travelled first to Florida, and then to Rhode Island where they are presently living with his aunt in Ashaway, Rhode Island.
- Prior to leaving Connecticut, student Doe was enrolled as a senior at Grasso Technical Highschool in Groton, Connecticut.
- Student Doe's reason for leaving home, according to her testimony, is that she was not getting along with either of her parents, they were always fighting and she could not deal with the situation. (Tr. p. 25) Student Doe later elaborated, testifying that her parents were "pressuring her with school" and often comparing her in a negative way to her sister. (Tr. p. 29)
- Student Doe came to live with her boyfriend's aunt in Ashaway, Rhode Island because when they contacted her from Florida, the aunt indicated a willingness to take both her nephew and student Doe into her home provided that they follow the rules of her house, attend school, and that student Doe meet with her parents.¹ (Tr. pp. 10-11)
- This woman has not been appointed the legal guardian of either her nephew or student Doe, or otherwise been authorized to act on their behalf; she is presently providing their financial support. (Tr. pp. 29-30)

1. To attempt to resolve their differences, we assume.

- Student Doe wishes to continue to live in Rhode Island so that she can remain with her boyfriend, finish school and attempt to resolve her differences with her family. (Tr. pp. 29-30)
- According to the testimony received, student Doe's mother attempted to enroll her child in the Chariho Regional High School sometime in January, 1993 (Tr. p. 12)

INTERIM RULING

Our task is to apply our residency statute (R.I.G.L. 16-64-1) to the facts of this case. The focus becomes the statute's reference to determinations of residence on the basis of "applicable rules of the common law". Section 16-64-1's reference to family break-up has been interpreted to be inapplicable to the splintering of the relationship between parents and children (see Laura Doe v. Narragansett School Committee, April 17, 1984 decision of the Commissioner). Since student Doe's parents are living, and she has not been abandoned and there is no evidence that her parents are unable to care for her because of illness, section 16-64-1's provision that a child living with a person acting in loco parentis establishes residency in the school district where she lives is likewise inapplicable to this situation.² It is, therefore, covered by that portion of G.L. 16-64-1 which states:

In all other cases a child's residence shall be determined in accordance with the applicable rules of common law.

The common law test of school residency requires that a student who is living apart from his or her parents show some

2. see Jane A. Doe v. Cranston School Committee, February 9, 1989 decision of the Commissioner.

"substantial reason" for living in the new town other than to attend schools of the town. Such a showing has been made in our preliminary hearing of this matter.

Student Doe's parents received no formal notice of the pendency of proceedings before the Commissioner; they did not appear at the hearing, nor has their position on student Doe's attendance at Chariho High School been competently proven on the record. Lest our interim ruling, or any final order entered in this case be entered contrary to the wishes of student Doe's parents who are her joint and natural guardians,³ we direct that a copy of this order be sent certified mailing to student Doe's parents. Should they wish to be heard at any subsequent full hearing of this matter, they should so notify the hearing officer within ten (10) days of their receipt of our interim ruling. If they do not object to our ruling they need not notify this hearing officer or appear at any subsequent hearing.

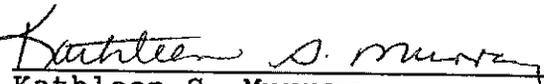
CONCLUSION

Student Doe is a resident of Ashaway for school purposes. The Chariho school district is hereby ordered to enroll this student immediately. This Interim Order is to remain effective during any appeal of this matter.

APPROVED:



Peter McWalters
Commissioner



Kathleen S. Murray
Hearing Officer

3. Our concern here is also that decisions of the Commissioner should not facilitate an unemanipated child's living separate and apart from his or her parents without their knowledge and/or consent.