

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

-----  
IN THE MATTER OF JANE A.K. DOE

:  
:  
:

DECISION AND INTERIM ORDER

Held: Student is a resident of Newport for school enrollment purposes. Newport shall take appropriate measures to ensure student's safety at school.

Date: March 6, 1996

## Introduction

This matter concerns a request by the North Kingstown School Committee for a determination of student Doe's residency for school enrollment purposes.<sup>1</sup>

For the reasons set forth below, we find that student Doe is a resident of Newport.

## Background

Student Doe is 13 years old. Her parents reside in Newport. She began the 1996-1997 school year at the Frank E. Thompson Middle School in Newport. At the time student Doe was living with her parents during the week and spending weekends with her grandparents in North Kingstown.

Student Doe soon became the subject of hostile and threatening behavior by several other students at the Thompson Middle School. This behavior occurred at school and at the family residence in Newport. Student Doe's parents called the police to intervene in an incident at their home, and they alerted school officials as to the serious and escalating nature of this behavior. A meeting between student Doe's parents and school officials to address this situation was scheduled in October 1995, but prior to its taking place, student Doe was assaulted at school by one of the students who had been threatening her.

Student Doe's parents withdrew her from the Thompson Middle School on October 20, 1996. Student Doe went to live with her grandparents in North Kingstown. She spends weekends with her

---

1 The undersigned hearing officer was designated to hear and decide this matter. The request, which was dated February 15, 1996, was the subject of a hearing conducted on March 1, 1996.

parents in Newport.

In February 1996 student Doe's grandparents attempted to enroll her in the North Kingstown school system. North Kingstown questioned the legitimacy of student Doe's residence for school enrollment purposes, which prompted the filing of the request in this matter.

### Contentions of the Parties

North Kingstown contends that student Doe's residency in North Kingstown is not valid for school enrollment purposes because the evidence shows that she moved to her grandparents' home in North Kingstown for the purpose of attending school there.

The parents of student Doe assert that the safety of their daughter has been their primary concern. It is their opinion that the events of September and October 1995 demonstrate that the Newport school system is incapable of providing their daughter with an education in a safe environment. They feel that the family has taken appropriate steps to provide student Doe with the type of education to which she is entitled.

Newport recognizes student Doe's right to be educated in a safe environment, but it points to her family's lack of cooperation in this matter. Newport opposes any directive requiring it to pay out-of-district tuition for student Doe, but it is otherwise willing to abide by the Commissioner's determination of this dispute.

### Discussion

We find three educational statutes to be directly applicable to this case. The first is Rhode Island General Law 16-19-1, the compulsory attendance statute. Under that law, student Doe must

regularly attend public school in the town in which she resides, attend a private school, or receive at-home instruction pursuant to a program approved by the school committee.

The second statute is R.I.G.L. 16-2-17, which states in relevant part that

Each student, staff member, teacher, and administrator has a right to attend an/or work at a school which is safe, secure, and peaceful, which is conducive to learning, and which is free from the threat, actual or implied, of physical harm by a disruptive student.

The third statute is the law governing residency of children for school purposes. Under R.I.G.L. 16-64-6, the Commissioner of Education has the authority to resolve residency disputes. 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." In applying this statute, we have previously held that, to establish residency for school purposes, "all that has to be shown is actual abode in the town, and that the move to the town was not made for the purpose of going to school in the town."<sup>2</sup>

While the record establishes that student Doe is living with her grandparents in North Kingstown during the week, we are unable to find that student Doe's move to North Kingstown was not for the purpose of going to school there. To the contrary, the record shows that student Doe's move to North Kingstown was precipitated by the incidents which occurred at the Thompson Middle School and by her

---

<sup>2</sup> In the Matter of Priscilla H., Commissioner's decision, September 7, 1983, page 17.

parents' desire to have her safely attend a public school. Consequently, we must find that student Doe's residence for school enrollment purposes is Newport, not North Kingstown.

Although student Doe's parents need to be mindful of their responsibilities under the compulsory attendance statute,<sup>3</sup> they are entirely correct in maintaining that their daughter is entitled to receive a public-school education in a safe environment. Accordingly, we direct the Newport School Department to immediately make home-tutoring services available to student Doe at her parents' residence. These services, which must also address the schoolwork missed by student Doe during her prolonged absence from school, shall be provided while Newport school officials make alternative arrangements for student Doe's education or develop a plan which reasonably ensures student Doe's safe return to the Thompson Middle School. It is our expectation that, given the circumstances of this case, the School Department will involve family and/or school counselors and the police in the development of the plan. We shall retain jurisdiction in this matter in the event that student Doe's parents and the Newport School Department are unable to reach an agreement<sup>4</sup> consistent with the terms of this order.

### Conclusion

Student Doe's residency for school enrollment purposes is Newport. Newport is ordered to immediately make available home-

- 
- 3 And the fact that the Family Court has jurisdiction with regard to violations of the statute.
  - 4 This proceeding may be reopened at the request of the Newport school district or the parents of student Doe if the parties disagree as to the reasonableness of the action taken by the school district pursuant to this order.

tutoring services to student Doe while it makes alternative arrangements for student Doe's education or develops a plan which ensures her safety while attending the Thompson Middle School.

5

  
\_\_\_\_\_  
Paul E. Pontarelli  
Hearing Officer

Approved:

  
\_\_\_\_\_  
Peter McWalters  
Commissioner of Education

Date: March 6, 1996

---

5 We hereby issue an interim order in conjunction with this decision in light of our authority under R.I.G.L. 16-39-3.2 and 16-64-6 to issue such orders to ensure that a child receives required educational services during the pendency of a dispute.