

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

IN RE: RESIDENCY OF JANE B.C. DOE

Held: Issue raised by request for
residency determination
is moot.

July 10, 1998

Introduction

This matter concerns a request by the North Kingstown School Committee for a residency determination as it relates to the responsibility to fund an out-of-district special education placement for student Doe.

Background

In September 1994, a due process hearing was requested on student Doe's behalf with regard to the North Kingstown school district's obligation to provide her with an appropriate educational placement for the 11th grade. On January 9, 1995, the hearing officer issued a decision in the due process proceeding. Following a decision by a review officer on appeal, counsel for student Doe's parents filed suit in United States District Court regarding their child's right to a free appropriate public education.

On January 16, 1996, student Doe's parents and the North Kingstown school district entered into a settlement in the District Court proceeding. The settlement provided, in part, that "[t]he North Kingstown School Department shall pay tuition for an out-of-district day placement at the Carroll School for [student Doe] at the public school rate for academic years 1995-96 and 1996-97," and that "the Carroll School shall have full and complete responsibility for [student Doe's] graduation from high school." [School

1 The Commissioner of Education designated the undersigned hearing officer to hear and decide the request. A hearing was conducted on June 10, 1997. The parents of student Doe and the East Providence School Committee were provided with notice of the hearing as parties in interest. All parties were represented by counsel in this proceeding.

Committee Exhibit 6]. The settlement concluded by stating that it represented "full satisfaction of all differences between the parties." [ibid.]

In January 1997, the parents of student Doe became residents of the town of East Providence. Upon learning of the parents' change of residence, the North Kingstown School Committee filed the request herein on April 29, 1997. Student Doe graduated from the Carroll School on May 30, 1997. Student Doe was never enrolled in the East Providence school system.

Positions of the Parties

The North Kingstown School Committee contends that it promptly filed this request upon receiving notice that student Doe's parents had established residency in East Providence, and that under R.I.G.L. 16-64-1 the obligation to fund student Doe's placement at the Carroll School shifted to East Providence as of January 1997. The Committee further contends that the settlement in federal district court is not controlling here because residency was not an issue in the due process proceeding. It also argues that R.I.G.L. 16-64-8 does not apply to out-of-district placements.²

The East Providence School Committee contends that the Commissioner of Education has no jurisdiction to review or modify the federal court settlement in this case. It maintains that the responsibility to fund the Carroll School

2 R.I.G.L. 16-64-8 permits students who have changed their residence to complete the semester or their senior year in their original town of residence.

placement has already been decided by the settlement, and that North Kingstown remained responsible under R.I.G.L. 16-64-2 until student Doe was enrolled³ in another school system. The Committee also argues that North Kingstown's continued responsibility is also established under R.I.G.L. 16-64-8.

Counsel for the parents of student Doe contends that, pursuant to the settlement, North Kingstown has a contractual obligation to pay for the Carroll School placement. Counsel also asserts that the settlement constitutes restitution for past harm, and that R.I.G.L. 16-64-8 is applicable.

Discussion

Assuming arguendo that we have jurisdiction to entertain the request herein, we are unable to provide North Kingstown with any financial relief in light of our prior decisions holding that, absent a prior request and ruling under R.I.G.L. 16-64-6 regarding a child's place of residence, the child remains entitled under R.I.G.L. 16-64-2 to receive a free public education from the school district in which he or she was enrolled. Sullivan vs. Newport School Committee, February 10, 1986; La Fontaine vs. North Kingstown School Committee, November 30, 1988; affirmed by Board of Regents, August 24, 1989. Because

3 R.I.G.L. 16-64-2 states in pertinent part that

A child shall be eligible to receive education from the town in which the child's residence has been established until his or her residence has been established in another town and that town has enrolled the child within its school system, unless the commissioner of education of elementary and secondary education, pursuant to R.I.G.L. 16-64-6, has ordered otherwise.

residency determinations affect school districts' financial responsibilities on a prospective basis only, the fact that student Doe graduated from high school shortly after the filing of this request renders the matter moot.

Conclusion

The issue raised by the request for a determination of student Doe's residence is moot.



Paul E. Pontarelli
Paul E. Pontarelli
Hearing Officer

Approved:



Peter McWalters
Peter McWalters
Commissioner of Education

Date: July 10, 1998