

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

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J.B. v. Woonsocket and Cranston :
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INTERIM ORDER

Held: Woonsocket is responsible for developing an IEP for this student and for providing him with education. This interim order will remain in effect until a full hearing on the merits is held and completed. Such a hearing will be scheduled promptly if Woonsocket requests it.

DATE: December 17, 1999

TRAVEL OF THE CASE

This is a residency dispute between Woonsocket and Cranston. The petitioning student requests that we order Woonsocket to continue to provide him with educational services. Jurisdiction is present under R.I.G.L. 16-64-6 (Disputes over residency—Determination proceedings.)

FINDINGS OF FACT

For purposes of the present hearing we find the following facts:

- The special education student in this case is 19 years old. His last IEP was written by the Woonsocket school system. It indicated that his post school transition goal was employment in a sheltered workshop operated by the ARC of Northern Rhode Island.
- This student has lived almost his entire life in Woonsocket. His parents live in Woonsocket.
- This student has no intention of leaving Woonsocket.
- His parents do not believe that they are able to allow this student to reside with them.
- The student is said to have “problems with agitation, aggression, paranoia, and obsessiveness.”
- This student has not been declared to be incompetent.
- He has voluntarily entered the Eleanor Slater Hospital in Cranston to deal with acute mental health difficulties.
- This student was last enrolled in the Woonsocket school system.
- The only connection Cranston has with this case is that the Eleanor Slater Hospital, which is a State facility operated by MHRH, happens to be located in Cranston.
- The student has never been enrolled in the Cranston school system.

CONCLUSIONS OF LAW

Under R.I.G.L.16-64-2 (Retention of Residence): “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...pursuant to R.I.G.L.16-64-6, has ordered otherwise.” (*Emphasis added*) Cranston has not enrolled this student in its school system. The student is therefore eligible to receive education from Woonsocket

unless we can find, on the present record, that the student is now a resident of Cranston for school purposes.

A review of our cases convinces us that receipt of acute care in a hospital setting does not make a student a school resident of the community where the hospital is located. *In the Matter of Pricilla H.*, Commissioner of Education, 1983. To the contrary, the Special Education Regulations of the Board of Regents require the student's home community to continue to provide education to the student while the student is in a hospital. SpEd Regs: One, V, 4.5.4

There is, therefore, nothing in the present record to convince us that this student is now a resident of Cranston for school purposes. The facts and the law, as we now understand them, show that this student is still a resident of Woonsocket for school purposes.

CONCLUSION

Woonsocket is responsible for developing an IEP for this student and for providing him with education. This is an interim order. It will remain in effect until a full hearing on the merits is held and completed. Such a hearing will be scheduled promptly if Woonsocket requests it.

Forrest L. Avila, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

December 17, 1999
Date