

0036-99

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

.....
IN RE: RESIDENCY OF ALLEN B. :
: :
.....

DECISION

Held: Allen B. is a resident of North
Kingstown for school purposes.

DATE: August 31, 1999

Findings of Fact

1. Allen B. is a student in the North Kingstown High School. He is living with his grandparents in that town.
2. His parents live in the City of West Warwick.
3. An extreme level of antipathy and conflict exist between Allen B. and his father. This conflict has come close to physical conflict. Neither of the protagonists in this drama see counseling as a way in which such disputes should be settled.
4. Allen B. is living with his grandparents in North Kingstown because of the hostility and antipathy existing between him and his father.

Conclusions of Law

Rhode Island's school residency law creates a rebuttable presumption that the residence of the parents is the residence of the child for school purposes. Laura Doe v. Narragansett School Committee, Commissioner of Education, April 7, 1984.

The categories in the residency statute are, for the most part, simply restatements of the common law of school residency. R.I.G.L. 16-64-1 The common law of school residency is well stated in Joel R. v. Board of Education, 686 N.E.2d 650 (1997):

The child's residence in a district other than that in which his parents reside is sufficient to entitle him to attend school tuition-free in the district in which he resides so long as such residence was not established solely to enjoy the benefits of free schooling.

Under the common law of school residency, a student who is not living with his parents must show two things before he or she can go to a school in a town where his or her parents are not residing. These are that:

1. the student is in fact living in a different town.
2. That the student is living in that town for a substantial reason other than to go to school there.

The common law of school residency is used in all cases not specifically covered by the Rhode Island Residency Statute. (R.I.G.L. 16-64-1)

In the present case the evidence convinces us that Allen B. is not living in North Kingstown “solely to enjoy the benefit of free schooling” in that town. He is living in North Kingstown because of a family conflict which is best dealt with by keeping the participants separated.

Conclusion

Allen B. is a resident of North Kingstown for school purposes.

Forrest L. Avila, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

DATE: August 31, 1999