

0005-00

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

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In the Matter of J.G. Doe :
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DECISION

Held: Pawtucket has educational responsibility for J.G. Doe. It must pay to DCYF a sum equivalent to its per pupil special education cost to help support J.G.'s placement at Spurwink School.

DATE: February 8, 2000

TRAVEL OF THE CASE

The petitioner in this case is DCYF. It is requesting the Commissioner of Education to declare which Rhode Island town or city is responsible for educating J.G. DOE, a student who is now living and being educated at the Spurwink School.

THE LAW

In pertinent part the laws applicable to this case state:

42-72-5. Powers and scope of activities. —(b)(24)(v)...Each community...shall contribute to the department [DCYF], at least ...its average per pupil cost for special education ...as its share of the cost of educational services furnished to a seriously emotionally disturbed child [placed pursuant to the states program for seriously emotionally disturbed children] as its share of the cost of educational services furnished to [the child].

16-64-1.2 Designation of residency of children in state care for purposes of financial responsibility under 16-64-1.1---(b) The department of...education shall designate the city or town to be responsible for the cost of education for children in state care who have neither a father, mother, nor guardian living in the state or whose residence can be determined in the state or who have been surrendered for adoption or who have been freed for adoption by a court...using the following criteria:

- (1) Last known Rhode Island residence of the child's father, mother, or guardian prior to moving from the state, dying, surrendering the child for adoption or having parental rights terminated.
- (2) When the child's parents are separated or divorced and neither parent resides in the state, the last known residence of the last parent known to have lived in the state. Such designation shall be incorporated on the child's intra-state education identification card.

FINDINGS OF FACT

We find the following facts:

- The child in this case came to the attention of Massachusetts's social service authorities (DHS) not long after he was born in 1989.
- The parents and relatives of this child have been only occasionally able to provide him with decent care.
- By 1990 this child was essentially abandoned by his mother. Her parental rights have long since been terminated. Her last known whereabouts were in Cumberland, Rhode Island.

- The father of this child took custody in 1992 but he was never able to provide this child with a decent home. The father has moved between the cities of North Attleboro, Massachusetts , and Pawtucket, Rhode Island.
- This child came into the custody of Rhode Island social service authorities (DCYF) in 1994. The child was found in Pawtucket where he had wandered into a convenience store looking for food.
- A DCYF social worker testified that the father was living in Pawtucket when the child was taken into custody.
- The father's last known Rhode Island address was in Pawtucket. (Transcript, September 29, 1999, page10)
- The father was living in Attleboro, MA when his parental rights were terminated. (Exhibit A)
- The record in this case documents beyond doubt that this child is seriously emotional disturbed.

CONCLUSIONS OF LAW

The last known Rhode Island address for the father in this case was in Pawtucket, Rhode Island. Under the law it is therefore Pawtucket which is responsible for paying for J.G.'s education. R.I.G.L. 16-64-1.2. We further find that J.G. Doe was placed at Spurwink School by DCYF as part of DCYF's obligation to operate the state's program for seriously emotionally disturbed children. DCYF is therefore entitled to recover from Pawtucket a sum equivalent to Pawtucket's average per pupil special education cost to help fund J.G's placement at the Spurwink School. R.I.G.L.42 -72-5(b)(24).

CONCLUSION

Pawtucket has educational responsibility for J.G.Doe. It must pay to DCYF a sum equivalent to its per pupil special education cost to help support J.G.'s placement at Spurwink School.

Forrest L. Avila, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

DATE: February 8, 2000