

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

Karima K.

v.

West Warwick School Committee

DECISION

Held: The Superintendent's denial of the Appellant's home instruction plan for five of seven children receiving home instruction is sustained. Revised plans must be submitted to the superintendent within ten school days.

DATE: April 6, 2000

Travel of the Case

On January 3, 2000 a letter of appeal was submitted to Commissioner Peter McWalters regarding a dispute that had arisen between the administration of the West Warwick School Department and a family involved in home instruction. Mrs. Karima K. appealed to Mr. McWalters from the decision of the Superintendent denying approval of the home instruction plans submitted for five of her seven grandchildren, who are being instructed in the family home in West Warwick. The undersigned was designated to hear and decide this appeal, and a hearing was held on February 11, 2000. The transcript was received on March 15, 2000, and the record in the case closed at that time. Because issues of compulsory attendance are presented, the decision in this matter has been expedited. Jurisdiction to hear this dispute arises under R.I.G.L. 16-39-1 and more specifically under R.I.G.L. 16-19-2.

Issue:

Did the Superintendent act reasonably and in accordance with R.I.G.L. 16-19-2 in rejecting the home instruction plans submitted by Mrs. K. because they did not contain sufficient detail on course content, and the plans for two of the children were the same as those submitted in a previous year ?

Findings of Relevant Facts:

- Karima A. K. submitted home instruction plans for seven of her grandchildren on October 8, S.C. Ex. 3. Mrs. K. is the grandmother of the children and the entire extended family reside in the town of West Warwick, Rhode Island. S.C.Ex.1 and 5.
- David P. Raiche, then the Assistant Superintendent of Schools for the town of West Warwick, reviewed the plans, and determined that the plans submitted for five of the seven children should be rejected. His reasons were outlined in a letter sent to Mrs. K. on November 2, 1999. S.C. Ex. 4.
- On November 12, 1999 Mrs. K. responded to the Assistant Superintendent that for the reasons stated in her letter, she felt she had provided sufficient information on the children's' instructional programs and that she would not comply with the request to provide additional data. S.C. Ex.5.
- Additional correspondence from the Assistant Superintendent advised Mrs. K. of her right to appeal his decision to the Commissioner (S.C.Ex.7) and she availed herself of that right on January 3, 2000.

- The plans submitted for Student Y and Student I are the same home instruction plans submitted two years ago (these two children were enrolled in the public schools last year) Tr. p.13; S.C. Ex. 3 and 8.
- The plans submitted for Students J, M, and T list the five subjects in which instruction will be provided, but do not give detail as to specific instructional topics to be covered within each subject area. Tr.p. 34; S.C. Ex. 3. It is this additional curriculum detail which has been requested and not provided. Tr. pp.15, 22, 34.
- With the exception of last year when the children were enrolled in the public schools of West Warwick, the five older children have been home-instructed under plans approved by the district for several years. Tr. pp. 5- 6.
- During the years that Mrs. K. has been home-schooling her grandchildren, she has been provided with curriculum outlines, textbooks, and other materials by staff of the West Warwick school department. Tr. pp. 25-26, 34, 38 and 44.
- In past years, the children have participated in the state's standardized testing program each March and, with the exception of Student I, testing results indicate their progress is consistent with that of their peers in the public schools. Tr. pp. 57-58.
- Student I was evaluated during school year 1998-1999 and was found to be eligible for special education services. An individualized education program was developed in April of 1999, but was not implemented. Tr. pp. 16-18, 46-47. His home instruction plan submitted for this year does not make provision for him to receive the special education services described in his IEP. Tr. p.18.
- Mrs. K. testified that the difficulties Student I was experiencing in reading have been resolved. Tr. p.46.

Positions of the Parties

The School Department:

It is the position of the school department that it has responsibility under state law to approve home instruction programs for children of compulsory age. In order to fulfill this responsibility, it is necessary to review a somewhat detailed description of the program, and to have updated information every year with respect to each child who is home schooled. Therefore, the school department argues that the additional information it has requested with respect to the programs for Students Y, J and M will enable school officials to assess the adequacy of the program in terms of its coverage of the topics that are encompassed within the required broad subject areas listed in the plan. With respect to the other two children whose plans were denied, Students Y and I, although the specificity of the plans may be sufficient, the plans have not been updated to reflect the fact that these students are now at a fifth grade level. The same plans were submitted

when they were in home instruction for Grade three.¹ Implicit in this argument is the notion that if the content of the home instruction in fact remains the same, it would not be “thorough and efficient” as required by our statute. Although Mrs. K. has been involved in home instruction of her grandchildren for several years, and has been extremely successful, school officials argue they still must have a certain minimum of information provided in writing in order to determine compliance with the law and to support presentation of the home instruction plans to the School Committee for approval. A concern also expressed by the Superintendent was the fact that the plan submitted for Student I, who had been identified as being in need of special education, made no provision for his receipt of special education services.

Karima K.

Mrs. K. notes at the outset that her track record in successfully home schooling her grandchildren over the past several years speaks for itself. She takes the position that the additional information requested by the Superintendent is unnecessary paperwork and unduly burdensome. Since school officials have already provided her with curriculum outlines for all the relevant grades, textbooks and related materials, she argues that there can be little doubt as to the topics she will be covering in instructing these children in the home. She points out that last year, when the children were enrolled and attended public school in West Warwick, the schools did not provide her with the type of detailed information she is being required to produce at this time. All she was provided with were report cards at the end of each semester.

With respect to the home instruction plans submitted for Students Y and I, Mrs. K. agrees that they are the same as those she used in home instructing these children two years ago; however, she notes that the subject areas covered in grades four through six are basically the same. It is the particular lessons and activities that would vary and result in a substantially different program in each grade.

In an indirect response to the district’s concerns as to the failure to make any provision for special education services for Student I, Mrs. K. notes that when it was suspected that Student I had a learning disability, early in the 1998-1999 school year when he first entered public school, it took several months for the IEP process to be completed. An IEP was not in place until mid-April of that year. Although the home instruction plan for Student I for this year does not provide for or access special education services for him, he has nonetheless overcome the reading problem which prompted the need for special education.

Finally, Mrs. K. notes that as devout Muslims, members of the family are under an obligation imposed by their religion to seek knowledge and convey this knowledge to children during all the years of their lives, not just during the ages when children are subject to compulsory education laws. There should be no doubt as to their commitment to educating their children, given that it is one of the foundations of the Muslim religion.

¹ The children were enrolled in the public schools during school year 1998-1999.

DECISION

Rhode Island's home instruction statute, R.I.G.L. 16-19-2, is silent with respect to procedures for obtaining approval and in particular the documentation that must be submitted with respect to the home instruction program. Past home instruction decisions have confirmed that implicit in our statute is the authority of a school district to utilize elements of an approval process that are reasonable and effective in assuring that the home-educated child is being properly educated. See *Thifault v. North Smithfield School Committee*, decision of the Commissioner dated July 2, 1990. We have observed that in fulfilling its responsibilities with respect to ensuring that children, including home-schooled children, receive an adequate education state and local governments are seeking to accomplish a compelling state interest. Local districts in Rhode Island, as agents of the state, are delegated the function of approving home instruction plans, and typically one of the elements of the approval process is the submission of a plan or proposal by the parent for review by school officials. The level of specificity with respect to the instructional program must be sufficient to inform school administrators that the subjects required by statute will be covered. We do not find it unreasonable that the plan be required to include a listing of sub-topics under each broad subject heading so that on review one could verify the actual content of the course. Such information would not only eliminate any misunderstandings as to the substance of the course, but would also help to ensure that the depth of coverage of the subject matter was sufficient. This would be especially important for plans submitted for older students, as one would expect that the same subject matter listed in successive years would be covered in more depth.

It has not been demonstrated on this record that providing this additional information would be unduly burdensome. While it is true that Mrs. K. has considerable experience and proven success in home instruction, school officials must be able to make an objective assessment and decision based on the information submitted in each plan. Furthermore, the Superintendent must be prepared to support his recommendation to approve the plans to the members of the West Warwick School Committee with reference to a written description of the home instruction plans. While Mrs. K.'s past experience and success may well form part of the basis for his decision to recommend approval of the plans, her past record cannot replace specific, updated written plans for the home instruction of each of her grandchildren. These plans should be submitted as soon as possible, but in no event later than ten school days from the date of this decision. If the Superintendent is not in receipt of the revised plans by that time, the children will be considered truant.

With respect to Student I, it would appear from Mrs. K.'s testimony that the instructional methods utilized at home so far this school year have addressed the issue of his reading difficulties. However, given that an evaluation in 1999 resulted in a finding of his eligibility for special education services, we suggest, but do not require, that he be reevaluated before the end of this school year, and the findings reviewed by Mrs. K. and

members of the IEP team so that the effectiveness of his home instruction program in this respect can be objectively assessed.

The district's denial of approval of the home instruction plans previously submitted is sustained. Mrs. K. should submitted revised plans no later than ten (10) school days from the date of this decision.

Kathleen S. Murray
Hearing Officer

APPROVED:

Peter McWalters, Commissioner

April 6, 2000
Date