

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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BURRILLVILLE SCHOOL COMMITTEE

VS.

PROVIDENCE SCHOOL BOARD  
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**INTERIM DECISION**

Held: The sum of \$208,967.79 will be deducted from Providence's state aid and paid to Burrillville as reimbursement for the cost of educating 11 children residing at the Tannerhill Group Home. A full hearing on the merits will be scheduled at a later date.

Date: December 5, 2000

## **Introduction**

This is a request by the Burrillville School Committee for a residency determination under R.I.G.L. 16-64-1.1 and 1.2 for the purpose of obtaining reimbursement of the cost of educating 11 group home children that have attended Burrillville schools in the past 10 years.<sup>1</sup>

## **Background**

The 11 children involved herein were placed by the Department of Children, Youth and Families at the Tannerhill Group Home in Burrillville at various times since 1990. Tannerhill does not operate an on-grounds educational program. All of the 11 children were enrolled in the Burrillville public schools during the 1990's. Burrillville alleges that it incurred a total cost of \$208,967.79 educating these children and that under §16-64-1.2, the city of Providence is financially responsible.

Burrillville submitted various documentation in support of its claim. For 5 of the children, affidavits signed by DCYF social caseworkers were presented. The affidavits state that, based on the caseworker's review of the DCYF case record, the child was living with his or her mother "just prior to placement in DCYF care," and that "at the time the child was placed in the care of DCYF," the child's mother was living at a specified address in Providence. [Petitioner's Exhibit 2]. For 5 other children, Burrillville School Department registration forms were submitted. The forms were completed by DCYF caseworkers. The forms identify "the custodial parent(s) when D.C.Y.F. became involved," and provide a specified address in Providence as the "address at [that] time." [Petitioner's Exhibits 3, 4 and 6]. For the 11th child, a request from the director of DCYF to the commissioner of education asking for a determination of residency and financial responsibility was submitted. The request, dated November 30, 1998, states, in part, that "[a]ccording to DCYF records, at the time the Department's termination of parental rights petition was pending, the child's mother and father resided at" a specified address in Providence. [Petitioner's Exhibit 4].<sup>2</sup>

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<sup>1</sup> Burrillville's request was filed on February 23, 2000. The commissioner of education designated the undersigned hearing officer to hear and decide the request. Hearings were conducted on April 27 and June 5, 2000.

<sup>2</sup> There is no record of a commissioner's decision regarding the director's request.

No intra-state education identification cards were placed into evidence nor was there any evidence that Providence had been designated as the financially-responsible city for any of these children.

### **Positions of the Parties**

Relying on the Commissioner's decision in Burrillville vs. Pawtucket, April 30, 1999, Burrillville contends that it has presented a prima facie case under §16-64-1.2 sufficient to warrant the payment of \$208,967.79 from Providence's state aid.

Providence contends that the evidence submitted by Burrillville lacks reliability to justify a transfer of state aid. Providence also argues that only a prior designation under §16-64-1.2(a) or (b) can serve as prima facie evidence of residency in this proceeding.

### **Discussion**

The parties do not dispute that §16-64-1.1(d) applies to this case. The statute provides that children placed by DCYF in group homes who are enrolled in a public school in Rhode Island shall have the cost of their education paid for by the city or town in which the group home is located, and the city or town in which the child's parent(s) or guardian live as determined by §16-64-1.2 shall reimburse the city or town which enrolled the children.

The dispute in this matter concerns the interpretation of §16-64-1.2. Enacted in 1998, it states as follows:

- (a) An initial factual determination and designation of the residence of the parent(s) of a child placed in the care and custody of the state shall be made by the family court in accordance with §33-15.1-2. The director of the department of children, youth and families shall incorporate such designation of parent's residence on the child's intra-state education identification card and thereafter update the designation pursuant to §42-72.4-1(b).
- (b) The department of elementary and secondary 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 of competent jurisdiction using the following criteria: (1) last know 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.

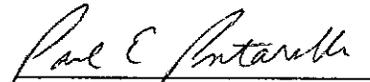
- (c) The designation of a city or town pursuant to subsection (a) or (b) shall constitute prima facie evidence of parents' residence in the city or town and/or the city or town's financial responsibility for the child's education as provided in §16-64-1.1. Pending any final decision under §16-64-6 that a different city, town or agency bears such financial responsibility, the commissioner shall be authorized to order the general treasurer to deduct the amount owed from the designated community's school aid and to pay such amount to the community or state agency which has incurred the educational costs.

In Burrillville vs. Pawtucket, we were asked to assign the financial responsibility for the education of 4 students who resided at the Tannerhill Group Home and attended Burrillville public schools. In examining the legislature's approach to this subject, we interpreted the statute as requiring that the Commissioner "take at least interim action based upon prima facie evidence in cases concerning residency for reimbursement purposes." [Decision, p. 3]. We therefore permitted Burrillville to use the Commissioner's hearing process to make a prima facie showing under §16-64-1.2(b). Adjustments in state aid were immediately made, and an opportunity for a timely hearing on the final merits was provided.

Having considered Providence's arguments, we remain convinced that our interpretation of the statute in Burrillville vs. Pawtucket resulted in a fair and practical procedure to resolve reimbursement questions. Accordingly, we will adhere to our previous interpretation. We find that Burrillville has presented a prima facie case that Providence is responsible for \$208,967.79 that was spent to educate these 11 Tannerhill residents in Burrillville public schools. That amount will be deducted from Providence's school aid and paid to Burrillville under §16-64-1.2 (c).

**Interim Conclusion**

The monies requested by Burrillville will be deducted from state aid due Providence and paid to Burrillville. The parties are directed to confer with each other and with DCYF with regard to the residence of the parents during all relevant time periods. This matter will then be scheduled for a final hearing on the merits. We authorize the parties to engage in discovery. If Providence continues to dispute financial responsibility, it must identify the community that it believes should be responsible. A final hearing on the merits will be in order when the parties indicate that a dispute still exists, that discovery has been completed, and they are prepared to demonstrate by evidence which named community owes the monies at issue. Until the parties are prepared to do so, the prima facie determination of residency will remain in effect. State aid accounts may be prospectively and retroactively adjusted when a final decision is made in this matter.<sup>3</sup>



Paul E. Pontarelli  
Hearing Officer

Approved:



Peter McWalters  
Commissioner of Education

Date: December 5, 2000

<sup>3</sup> Burrillville's request for counsel fees will be considered at the conclusion of this matter.