

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

IN THE MATTER OF KEVIN O.

DECISION

Held: Student retained residency in North Kingstown throughout junior year of high school and therefore was eligible to exercise option to remain for senior year following move to Richmond.

Date: February 20, 2002

Introduction

This matter concerns a request by the North Kingstown School Department for a determination of the residency of Kevin O. for school enrollment purposes.¹

Background

Kevin O. is a student at North Kingstown High School. He completed his sophomore year in June 2000. At the time, he was living with his mother in North Kingstown. Kevin's parents separated in 1998.

In August 2000, Kevin's mother wrote to the North Kingstown School Department and asked that Kevin be allowed "to continue and graduate from North Kingstown High School" while Kevin lived with the family of one of his closest friends in North Kingstown. Kevin's mother explained that she presently was "engaged to be married, and will be moving to Richmond where my fiancée owns a home." The request further described Kevin's emotional difficulty with the upcoming move, and the invaluable support that his friends' families had provided him during the parental separation. [North Kingstown Exhibit 4].

The School Department received two additional letters relating to the request of Kevin's mother. The mother of Kevin's friend reported that Kevin "will be staying with me during the school year 2000-2001. He will be here . . . Monday through Friday during the week and will spend the weekends and holidays with his mother or father as per their arrangements." [North Kingstown Exhibit 5]. Kevin's counselor documented his adjustment disorder problem and the treatment he had received. The letter noted that "Kevin's mother is engaged to be married, forcing Kevin to move to a different town and school. Kevin has said 'I'll live on the street before I move to Richmond.'" The counselor's letter also emphasized the importance of the support that Kevin's friends had provided during this stressful time. [North Kingstown Exhibit 3].

In a letter to Kevin's mother dated August 16, 2000, the School Department approved "your request for your son Kevin to continue school at North Kingstown High School for his junior and senior years and to graduate from North Kingstown High

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the request. A hearing was held on October 30, 2001. The North Kingstown and Charliho school districts were represented at the hearing.

School in 2002.” The letter confirmed that Kevin would be living with his friend’s family “Monday through Friday during the 2000-2001 school year . . .” [North Kingstown Exhibit 6].

Kevin lived with his friend’s family pursuant to the agreed-upon arrangement during the entire 2000-2001 school year. Following the end of school in June 2001, and the completion of his junior year, Kevin moved to his mother’s new address in Richmond. Upon learning in September 2001 that Kevin was no longer living in North Kingstown, the School Department notified his mother that the approval of her August 2000 request had been rescinded because of the change in Kevin’s residence. When a disagreement arose as to Kevin’s entitlement to remain at North Kingstown High School, the School Department submitted this request for a residency determination.

Positions of the Parties

The North Kingstown School Department questions the genuineness of the August 2000 request made by Kevin’s mother. It believes that it was presented with a picture of serious emotional difficulties that did not prove to be accurate with the passage of time. North Kingstown contends that Kevin’s legal residence remains with his mother, i.e., in Richmond, under Rhode Island General Law 16-64-1, and that, in the circumstances, Kevin should not be afforded the option of remaining in North Kingstown for his senior year consistent with R.I.G.L. 16-64-8.

Kevin’s mother contends that her August 2000 request was based on circumstances and assessments that existed at that time. She maintains that her request was limited to the 2000-2001 school year, and that Kevin did in fact live in North Kingstown with his friend’s family for that entire school year. She denies any plan to mislead the School Department, noting that she was barely able to react to circumstances as they arose and therefore not in a position to devise any type of a plan. She claims there is no basis to deny Kevin the senior option that he otherwise qualifies for under §16-64-8.

The Chariho School Department suggests that there was a failure of communication between the parties in August 2000 with regard to their expectations and understanding of what was being requested and granted. It contends that the evidence supports a valid North Kingstown residence for Kevin in 2000-2001, and that Kevin is

rightfully attending North Kingstown High School this year pursuant to the senior year option set forth in §16-64-8.

Discussion

We are convinced that the parties' present disagreement is the result of flawed communication and an incomplete understanding that took place in August 2000. Our view is perhaps best illustrated by testimony from the School Department that it approved the request of Kevin's mother based on the "assumption" that Kevin's emotional difficulties would require that he stay with his friend's family in North Kingstown for two years, and that "the assumption was made that that was the way he would continue." [Transcript, p. 39]. While there may have been legitimate grounds for the School Department to have been somewhat confused about the time period set forth in the August 2000 request, we are unable to find any basis for the assumption that Kevin's emotional situation would remain unchanged until his graduation.

Clearly, Kevin was working through some emotional issues at the time of his mother's request. The School Department graciously and commendably acted in Kevin's best interest when it allowed him to remain at the High School, thereby sparing him from further separation in his life. We feel safe in saying, however, that as an adolescent facing unknown circumstances and major change,² Kevin's future emotional state was unpredictable in August 2000. In hindsight, and with the benefit of a full airing of the circumstances, we are able to envision alternative ways of constructively dealing with Kevin's situation. Those alternative methods very well may have prevented the disagreement that arose in September 2001. While we regret the road not traveled, we are unable to find that Kevin's mother engaged in the type of conduct that would warrant the elimination of the senior year option for Kevin and require his enrollment in Chariho at this time.³ Accordingly, we find that the evidence regarding his residency the past two years allows him to remain at North Kingstown High School.

² I.e., the remarriage and relocation of his custodial parent.

³ Under §16-64-8, if a student who changes residence is "a senior or about to enter his or her senior year the student shall be allowed to complete his or her senior year in his or her original town of residence." School districts are not required to provide transportation to students exercising this option.

Conclusion

Kevin O. remained a North Kingstown resident for school enrollment purposes throughout the 2000-2001 school year. By moving to Richmond after he finished his junior year, he is eligible to invoke his option under §16-64-8 to complete his senior year at North Kingstown High School.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: February 20, 2002