

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

.....

Student M.P.

v.

Warwick

.....

DECISION

Held: This is an appeal from a decision of the Warwick school authorities to deny a private school student permission to enroll in a Warwick public school program for gifted children. While the Rhode Island Board of Regents has encouraged local school districts to allow private school students to enroll in public school courses on a space-available basis, we find nothing in this record which would give us grounds to overturn the decision of the Warwick school authorities not to admit non-public school students to Warwick's *Accelerated Learning Activities Program*. Therefore the appeal is denied and dismissed.

DATE: January 30, 2004

Travel of the Case and Jurisdiction

This is an appeal from a decision of the Warwick school authorities to deny a student who is enrolled in a private school permission to seek enrollment in Warwick's *Accelerated Learning Activities Program*—a public school program for gifted children that meets 90 minutes a week. [Transcript, page 15 and 19] Jurisdiction is present under R.I.G.L. 16-39-1 and R.I.G.L. 16-39-2.

Parent's Position

The parent in this case submits that her daughter's scholastic record and test scores make it evident that her daughter would qualify for admission to Warwick's program for gifted students. The parent notes that the Rhode Island Board of Regents has encouraged local school districts to allow private school students, and students enrolled in at-home instruction programs, to enroll in public school courses, or extra-curricular activities, on a space available basis.

The parent submits that she would be prepared to provide her own transportation so that her daughter could participate in Warwick's gifted program. The parent also contends that at least one home schooled student is now participating in Warwick's gifted program, and that space is available in the program to accommodate her daughter.

Warwick's Position

Warwick submits that there is no home schooled student enrolled in the *Accelerated Learning Activities Program* and that there is no space available to accommodate the petitioner's daughter in this program.

Findings of Fact

1. The *Accelerated Learning Activities Program* is coordinated with the standards based curriculum of the Warwick public schools. The program involves close work with the teachers who provide the students with their regular education programs. [Transcript, page 34]
2. The student in this case lives in Warwick but she attends a private school in East Greenwich. [Transcript, page 17]
3. There is a competitive admission process for the *Accelerated Learning Activities Program*. This process includes standardized testing and teacher recommendations. This process is currently under review and

changes may be made in the tests used and admission criteria may be changed. [Transcript, page 25]

4. There are no home-schooled students or non-public school students in the *Accelerated Learning Activities Program*. [Transcript, page 35] Warwick concedes that it does have one home schooled student who attends a laboratory science class. [Transcript, page 15]
5. Last year those operating the *Accelerated Learning Activities Program* concluded that program was being stretched too thin, and that it would be necessary to add another teacher to the program. While the school committee was sympathetic to the idea of adding a new teacher the committee concluded that it could not find a place in its budget for a new teacher for the program. [Transcript, page 30]
6. To cope with this committee decision teachers agreed to go the extra-mile and to perform work that went beyond the obligations of their positions. [Transcript, Page 31]
7. The administrator of the *Accelerated Learning Activities Program* is convinced that the addition of more students to the program "is opening a situation to which we cannot accommodate the needs of all these students based [on] our student-to-teacher ratio. [Transcript, page 34]
8. The *Accelerated Learning Activities Program* has been restructured to fit Warwick's standards based curriculum. [Transcript, page 33]

Conclusions of Law

1. There is no constitutional obligation for public schools to admit non-public school students into public school programs. *Kaptein v. Conrad School District*, 931 P.2d 1311 (Mont. 1997); *Swanson v. Guthrie Independent School Dist. No. I-1*, et al., 942 F.Supp. 511; *Thomas v. Allegany County Board of Education*, 443 A.2d 622 (1982)
2. There is no Rhode Island statute that requires public schools to admit non-public school students into public school programs.
3. The Rhode Island Board of Regents has encouraged—but not required—public schools to allow non-public school students to enroll in public school programs on a space available basis.

Discussion

The record in this case establishes that the Warwick public schools have a well-grounded concern that its *Accelerated Learning Activities Program* is over-subscribed. [Transcript, page 34] More fundamentally the record shows that the Warwick public schools have not made a decision to open the *Accelerated Learning Activities Program* to students in non-public schools. [Transcript, page 35] This is a discretionary decision for the Warwick public schools to make. We can find nothing in the record before us to justify overturning this decision of the Warwick school authorities not to admit non-public school students to Warwick's *Accelerated Learning Activities Program*.

Conclusion

The appeal is denied and dismissed.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

January 30, 2004
Date