

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

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**In the Matter of S.J.**

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**DECISION**

Held: This matter is on appeal from the decision of the local school district not to agree to transfer a student, who has been the victim of bullying, into another public school district. Although the student has not been physically assaulted or put at physical risk, she has become the victim of verbal bullying and shunning. Under these circumstances we believe that before we try other, more drastic, measures, we should apply the school district's newly enacted anti-bullying policy which was promulgated in accordance with General Assembly legislation effective in the 2004-2005 school year. The request to transfer the petitioning student to a different school district is therefore denied at this time. This matter is remanded to local school authorities for implementation of the district's anti-bullying policy with regard to the protection of the petitioning student. This matter will be reviewed at a hearing to be scheduled in December of 2004. Jurisdiction is retained.

DATE: September 22, 2004

## **Jurisdiction and Travel of the Case**

Jurisdiction is present under R.I.G.L.16-39-1 and R.I.G.L. 16-38-2. This matter is on appeal from the decision of the local school district not to agree to transfer a student who has been the victim of bullying into another public school district.

## **Issue Presented**

Is this student entitled to be transferred into another school district?

## **Position of the Parents**

The parents in this case are seeking to have their daughter transferred from her present public school to a public school in another school district. The parents contend that this transfer is appropriate because their daughter has been subject to bullying in the public school she presently attends.

## **Position of the School District**

The school district argues that it has made effective efforts to protect this student from bullying during the past school year and that it is prepared to make even more effective efforts during this school year to remediate this problem. The school district also argues that the applicable law does not permit the school transfer that is being requested in this case.

## **Findings of Fact**

1. This student has not been physically assaulted.<sup>1</sup>
2. On the other hand, this student has been the victim of a pattern of verbal abuse, abusive school related e-mails, verbal harassment, and shunning emanating from a clique of students during the 2003-2004 school year.<sup>2</sup>
3. During the 2003-school year, the school district did take some steps to try to ameliorate this situation, but its efforts fell short of being a solution to this problem.<sup>3</sup>
4. The school district involved in this case has adopted, effective this school year, an anti-bullying policy in accordance with recently enacted state law.<sup>4</sup>

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<sup>1</sup> Testimony of the student's mother.

<sup>2</sup> Exhibits 10, 11, 12, 13, and the testimony of the student's mother.

<sup>3</sup> Testimony of the Principal

<sup>4</sup> Testimony of Principal.

5. The newly appointed principal of the student's school has indicated her strong commitment to the effective remediation of the bullying which this student has experienced.

### **Conclusions of Law**

The school transfer provision of the Federal No Child Left Behind Act (NCLB) is not applicable to this case since the school the student attends is has not been found to be an "unsafe school" under the terms of the Act and the student has not been the victim of a crime of violence.<sup>5</sup> The Commissioner of Education, however, has held that under some conditions, in furtherance of state law<sup>6</sup> and in the exercise of the Commissioner's quasi-judicial discretion, it might be appropriate to order a specific student to be transferred to a new school district, if the student's present school district could not reasonably provide for the specific student's safety. In this regard however the Commissioner has always required that local measures, such as requiring the development of a school safety plan for the student, be tried before any consideration of a transfer would be in order.<sup>7</sup>

In the case at hand the student has not been physically assaulted or put at physical risk. Instead she has become the victim verbal bullying and shunning which may be amenable to correction through the school district's newly enacted anti-bullying policy which was promulgated in accordance with General Assembly legislation effective in the 2004-2005 school year. Under these circumstances we believe that we should employ the prescribed legislative remedy for bullying before we try other, more drastic, measures.

### **Conclusion**

The request to transfer the petitioning student to a different school district is denied at this time. This matter is remanded to local school authorities for implementation of the district's anti-bullying policy with regard to the protection of the petitioning student. This matter will be reviewed at a hearing to be scheduled in December of 2004. Jurisdiction is retained.

APPROVED:

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Forrest L. Avila, Hearing Officer

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Peter McWalters, Commissioner

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September 22, 2004  
Date

<sup>5</sup> 20 U.S.C. Sec. 7912

<sup>6</sup> R.I.G.L. 16-2-17.

<sup>7</sup> In the Matter of Jane A.R. Doe, Commissioner of Education, March 6, 1996.