0001-05

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

TURNING THE CORNER

V.

CRANSTON SCHOOL COMMITTEE

and

PROVIDENCE SCHOOL BOARD

Decision on Jurisdiction

Held: Licensed group home has standing to bring claim against school districts for reimbursement of costs of educational services provided to DCYF-placed child.

Date: January 11, 2005

Introduction

This matter concerns a request by Turning the Corner for reimbursement of the costs associated with the educational services it provided student K.V. from March 17, 1999 through September 30, 1999. On November 15, 2001, the Commissioner of Education issued a Decision on Motion to Vacate and for Rehearing in this matter. In accordance with the decision, this case was assigned to the undersigned hearing officer for a de novo hearing. A hearing was held on May 13, 2002 at which the student's educational surrogate parent and counsel for Turning the Corner, the Providence School Board, the Cranston School Committee and the Department of Children, Youth and Families (DCYF) participated. During the hearing, the petition in this matter was amended to remove DCYF as a respondent.

Background

According to Turning the Corner, K.V. was placed in DCYF custody in March 1997. On March 13, 1999, DCYF placed K.V. at Turning the Corner. From approximately March 17, 1999 through September 30, 1999, Turning the Corner provided educational services to K.V. at a total cost of $10,317.96. Turning the Corner has not been paid for these services.

It is agreed that, during the relevant time period, Turning the Corner was licensed by DCYF as a group home and approved by the Department of Education to provide special education and related services in day and residential programs for behaviorally-disordered and learning-disabled students. K.V.'s placement at Turning the Corner was made pursuant to a purchase-of-service agreement between Turning the Corner and DCYF. The placement at Turning the Corner was not for educational purposes.

Positions of the Parties

Turning the Corner contends that, under the 1998 version of Rhode Island General Laws 16-64-1 and 1.1(d), the Providence School Board is financially responsible for the educational services that were provided to K.V. from approximately March 17, 1999 through May 17, 1999 and that the Cranston School Committee is financially

responsible for educational services provided from May 18, 1999 through September 30, 1999. Given the school districts' refusal to pay for the services, Turning the Corner argues that the determination of financial responsibility is within the Commissioner's jurisdiction under §16-64-6.

Respondents contest Turning the Corner's standing to bring this action. They contend that there is no statutory basis for a private facility to seek reimbursement for educational services, and that this case presents a contract dispute between Turning the Corner and DCYF[1] or a statutory claim to be brought by DCYF against a school district.

Discussion

The 1998 version of §16-64-1.1 addressed the payment and reimbursement of educational costs for children placed in foster care, group homes, child-caring facilities, community residence or other residential facilities by a Rhode Island state agency. R.I.G.L. 16-64-1.2 provided criteria to be used by the Department of Education in designating the city or town responsible for the cost of educating children in state care. That statute authorized the Commissioner to arrange for deductions from designated communities' state school aid to pay educational costs "[p]ending any final decision under §16-64-6 that a different city, town or agency bears such financial responsibility." In 1998, R.I.G.L. 16-64-6 stated, as it does now, that disputes over the responsibility to educate children based on residency shall "on the motion of any party to the dispute" be resolved by way of the Commissioner's hearing process.

The question thus becomes whether Turning the Corner is a party to a dispute regarding the financial responsibility to educate K.V. We hold that it is. DCYF placed K.V., a child, at Turning the Corner. Turning the Corner provided educational services to K.V. Turning the Corner has not been paid for those services by the communities it feels are responsible. As a result, Turning the Corner is alleging that it has sustained an economic "injury in fact." This allegation meets Rhode Island's standing requirement[2]

---

[1] Cranston School Committee cites the Commissioner's decision in Jane A.U. Doe v. Portsmouth Abbey School (February 19, 1997), in which it was held that the Commissioner lacked jurisdiction over a dispute involving a nonpublic school's withholding of a student's final transcript and diploma pending payment of tuition.

[2] See Pontbriand v. Sundlun, 699 A.2d 856 (1997).

and presents an issue "arising under" a law relating to schools or education, i.e., chapter 64 of Title 16. We therefore have jurisdiction over Turning the Corner's request and we will proceed to hear the claim on its merits.[3]

_____
Paul E. Pontarelli
Hearing Officer

Approved:

_____
Peter McWalters
Commissioner of Education

Date: January 11, 2005

[3] Jane A.U. Doe v. Portsmouth Abbey School does not apply here because the controversy in that case, a nonpublic school's withholding of a transcript and diploma for lack of payment of tuition, did not require the construction or application of an education statute, and therefore did not vest the Commissioner with jurisdiction to rule on its merits.