

0003-05

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Residency of Student C. V.

.....

DECISION

Held: Because this student is living with his grandparents in Cranston for a substantial reason other than to attend the public schools of Cranston, he is a resident of Cranston for school purposes.

DATE: January 28, 2005

Jurisdiction and Travel of the Case

In this school residency case Cranston is requesting the Commissioner to rule that the student who is the subject of this hearing is not a resident of Cranston for school purposes. Instead Cranston suggests that this student should be going to school in West Warwick where his mother lives with his two sisters. Jurisdiction is present under R.I.G.L. 16-29-1, R.I.G.L. 16-29-2, and R.I.G.L. 16-64-6.

Positions of the Parties

Cranston

Cranston argues that the 16-year-old student who is the subject of this case is living with his grandparents in Cranston because his mother wishes to take advantage of the Cranston public school system, and Cranston's special education program.

The Respondent Parent

The Respondent Parent contends that through a change in jobs and resultant financial difficulties, along with the small size of her dwelling, and her son's behavioral issues, caused her to send her son to live with his grandparents in Cranston.¹

West Warwick

West Warwick is prepared to admit this student if he takes up residence with his mother in West Warwick. West Warwick suggests however that, in fact, this student may well be a resident of Cranston for school purposes since the student is living in Cranston for substantial reasons other than to go to school in Cranston.

Findings of Fact

1. The respondent mother now lives with her two daughters and her youngest son in a three-bedroom house in West Warwick. These three children attend the public schools of West Warwick.² Her oldest son, who is 16, lives with his grandparents in Cranston. The father of these four children is deceased.³ Prior to moving to West Warwick the respondent and her family lived in Cranston.⁴

¹ Tr. Page 27.

² These children attend school in West Warwick. Tr. Page 8.

³ Tr. Page 16, 18, 20 and 36.

⁴ Tr. Page 24.

2. The student who is the subject of this case has a history of behavioral problems that his mother is unable to control. The boy's grandfather has had much better success in dealing with this student's behavioral problems.⁵
3. The student who is the subject of this case is enrolled in a private special education school in Pawtucket as the result of a special education placement made by the Cranston public schools.⁶ The student's IEP demonstrates that he has significant behavioral problems.⁷
4. The petitioner in this case has recently changed her job. She has had to accept a position paying considerably less than she was making in order to obtain medical benefits.⁸ Her resultant straitened financial situation, along with the small size of her dwelling, and her son's behavioral issues caused the petitioner to send her son to live with his grandparents in Cranston.⁹ These grandparents provide financial support for their grandson.¹⁰

Conclusions of Law

Rhode Island school residency law recognizes the obvious point that there are times when a child, for various good reasons, is not able to live with his or her parents and so must go to live with a relative or some other person who is legally responsible for the child's welfare and who is willing to be the child's caretaker. For the child to go to school in the town where the child's caretaker lives, it must be shown to local school officials there that (1) the child is, in fact, living in the town with the caretaker and (2) the child is living in the town for a substantial reason other than to go to the public schools of the town. (*Laura Doe vs. Narragansett School Committee*, April 17, 1984; See: *Joel R. v. Board of Education* 686 N.E.2d 650 (1997))

Rhode Island law also provides that a student's prior IEP remains in effect if he enrolls in a different Rhode Island school system, until a new IEP is agreed upon.¹¹

Discussion

In the present case it is evident to us that the respondent's son is not living with his grandparents in furtherance of a surreptitious scheme to enroll him in the public schools of Cranston. Instead the student is living in Cranston because of lack of room in

⁵ Tr. Page 37.

⁶ Tr. Page 7.

⁷ Exhibit 9. "[This student] displays difficulty in his ability to control his impulses, and expresses his frustration and anger in inappropriate ways." The goal of this student's IEP is to "increase his tolerance level and implement appropriate frustration/anger management and coping skills that will assist him in maintaining a safe learning environment."

⁸ Tr. Page 28.

⁹ Tr. Pages 20 and 28.

¹⁰ Tr. Page 20.

¹¹ R.I.G.L. 16-24-1(b)

his mother's house, financial exigency, and behavioral problems that are best controlled by his grandparents.

If this student were to move back into his mother's house in West Warwick, his present IEP, which calls for a private school special education placement in Pawtucket, would remain in effect unless a new IEP was agreed upon.¹² We therefore cannot accept Cranston's argument that there is something unique about Cranston's special education program that is causing this student to live in Cranston.

Conclusion

Since the student who is the subject of this hearing is living with his grandparents in Cranston for a substantial reason other than to attend the public schools of Cranston, he is a resident of Cranston for school purposes.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

January 28, 2005
Date

¹² R.I.G.L. 16-24-1(b)