

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

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**Residency of Student C.R. Doe** :  
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**INTERIM ORDER**  
**DECISION**

Held: The sole issue before us in this interim protective order hearing is the making of a preliminary determination as to which Rhode Island school district has administrative responsibilities concerning the provision of educational services to this student.

DATE: June 15, 2006

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

This is an interim protective order case. Jurisdiction is present under R.I.G.L.16-39-1, R.I.G.L.16-39-2, and R.I.G.L.16-38-3.2. The sole issue now before us in this interim protective order hearing is the making of a preliminary determination as to which Rhode Island school district has the present obligation to provide this student with educational services, and to respond to any pending request for a special education hearing concerning this student. For purposes of this present hearing we do not have to decide which school district, or state agency, may be ultimately responsible for paying for educational services for this child. If necessary, payment questions can be addressed at a hearing on the merits and accounts can be retrospectively adjusted.

## **Position of the Parties**

The present parties in this case are the Rhode Island Department for Children and Youth and Their Families, the Bristol-Warren school district, and the North Providence school district. The parties may have a later dispute concerning which of them may be responsible for paying for the education of this student, but at this time the parties are only seeking a preliminary determination concerning administrative responsibilities concerning the provision of educational services to this student.

## **Findings of Fact**

1. This student was last enrolled in the public schools of the Bristol-Warren school district.
2. This student entered Bradley Hospital under her own medical insurance. She later moved to a “step-down” program at another placement in Rhode Island.
3. The parent in this case has requested a special education hearing, but this hearing cannot take place until it is determined, at least on an interim basis, which Rhode Island school district, or agency, is responsible to attend this hearing and to provide educational services to this student.
4. At one point this student was receiving special education services from the Bristol-Warren school district until it was mutually agreed that these services should end.
5. The parent in this case is now seeking a special education hearing to determine whether or not the student in this case is in need of special education.

## Conclusions of law

1. The General Laws of Rhode Island state in pertinent part:

**R.I.G.L.16-64-2. Retention of residence.** – A child shall be eligible to receive education from the city or town in which the child's residence has been established until his or her residence has been established in another city or town and that city or town has enrolled the child within its school system, unless the commissioner of elementary and secondary education, pursuant to § 16-64-6, has ordered otherwise. Nothing contained in this section shall be construed to prohibit a city or town in its own discretion from enrolling a child within its school system before a child has established technical residency within the city or town. The commissioner of elementary and secondary education shall promulgate any rules that may be needed to implement the educational provisions of the Stewart B. McKinney Homeless Assistance Act (P.L. 105-220), 42 U.S.C. § 11431 et seq.

2. The General Laws of Rhode Island also state in pertinent part:

**§ 16-39-3.2. Interim protective orders.** – In all cases concerning children, other than cases arising solely under § 16-2-17, the commissioner of elementary and secondary education shall also have power to issue any interim orders pending a hearing as may be needed to ensure that a child receives education in accordance with applicable state and federal laws and regulations during the pendency of the matter. Hearings on these interim orders shall be conducted within five (5) working days of a request for relief and the decision shall be issued within five (5) working days of the completion of the hearing. These interim orders shall be enforceable in the superior court at the request of any interested party.

3. Issues concerning whether or not this student is in need of special education are not presently before us. We also do not have to decide in this hearing which state agency or school district may ultimately be responsible for paying for this student's education. Our sole task is to determine which entity has at least the interim responsibility to provide educational services to this student.

## Discussion

There is no dispute that this student was last enrolled in the Bristol-Warren school district and that she has not yet been enrolled in any other school district. Therefore, under R.I.G.L.16-64-2, it is clear that the Bristol-Warren school district has at least interim responsibility to provide educational services to this student. At any hearing on

the merits accounts may be adjusted to reflect any final determination concerning this student's residency for school purposes.

**Conclusion**

The Bristol-Warren school district has interim responsibility to provide this student with educational services during the pendency of this matter and to respond to the request for special education hearing which is now pending in another forum.

APPROVED:

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Forrest L. Avila, Hearing Officer

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Peter McWalters, Commissioner

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June 15, 2006  
DATE