

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

Parents of Student J.R. Doe

v.

Warwick School Committee

DECISION

Held: The Warwick School Department has established and implemented a policy which permits enrollment in kindergarten only for students who have attained the age of five (5) on or before September 1st. The petitioner has not proven that the district is required to make an exception to its policy to permit her four (4) year old child to enter kindergarten in Warwick.

DATE: September 7, 2006

Travel of the Case

On August 18, 2006 Mrs. A. E. Doe appealed to Commissioner Peter McWalters from the determination made by Warwick school administrators that her daughter did not meet the age eligibility requirements for kindergarten enrollment. Although the matter had not yet been brought to the Warwick School Committee for hearing and decision, the parties proceeded before the Commissioner's designee because of the impending start of the school year and the School Committee's meeting schedule¹. The undersigned was designated to hear and decide this appeal on August 22, 2006 and hearing was scheduled by agreement for September 5, 2006. At the time of hearing, Mrs. Doe appeared pro se, and the School Department was represented by its counsel. Given the need for an expedited decision, the decision in this matter is based on the hearing officer's notes and the exhibits introduced at the time of the hearing.

Issue

Is Student Doe entitled to be enrolled in kindergarten in Warwick ?

Findings of Relevant Facts

- On or about June 28, 2006 Mrs. Doe filled out registration forms for her daughter's attendance at kindergarten at the Hoxsie School in Warwick, Rhode Island. H.O.notes; Warwick Ex.1.
- At the time she filled out the forms² Mr. and Mrs. Doe resided in Cranston, but had purchased a home in Warwick and anticipated the family's move there just prior to the beginning of the 2006-2007 school year. H.O. notes.
- Student Doe is four (4) years old and will be five (5) on November 9, 2006. Warwick Ex.1.
- The written policy ("Entrance Age") adopted by the Warwick School Committee on April 29, 2004 conditions a child's admission to kindergarten on the child's attainment of the age of five (5) on or before September 1 of the same calendar year. Warwick Ex. 3.
- Since the adoption of the aforementioned policy, the Warwick School Department has implemented it consistently, and, in fact, no exceptions are known to have been made for any reason, including a young child's exceptional maturity or extraordinary level of school readiness. H.O. notes; testimony of Robert Bushell, Director of Elementary Education for the city of Warwick.

¹ There was no mention made of any decision of the School Committee which may have been issued in the time between the appeal to the Commissioner and the hearing of this matter on September 5, 2006. We infer that the School Committee has not yet acted on Mrs. Doe's request.

² Mrs. Doe actually filled out registration forms for two of her children. Her other child is a first grader at the Hoxsie School.

- In a discussion³ of her child's age eligibility for kindergarten with the school secretary at the Hoxsie School in late June of 2006, Mrs. Doe mentioned pending legislation⁴ that would have affected the statutory eligibility for kindergarten attendance. The pending legislation would have entitled children who would not attain age five (5) by September 1st to enroll in public kindergartens under certain conditions, such as the child's exceptional level of readiness and space available in the classroom. H.O. notes.
- The secretary at the Hoxsie School accepted the registration packet that Mrs. Doe filled out for Student Doe on or about June 28, 2006. H.O. notes.
- In late June of 2006 Mrs. Doe, who had been following the legislation on changes in kindergarten age eligibility, learned through her contact with representatives of the General Assembly that the legislation was not enacted into law. H.O. notes.
- On August 18, 2006⁵ the secretary at the Hoxsie School notified Mrs. Doe that the legislation they had discussed had not been enacted into law, and that her daughter would thus remain ineligible to attend kindergarten this fall. H.O. notes.

Positions of the Parties

Mrs. Doe

Although she did not use the words "waiver" or "estoppel", Mrs. Doe's claim that her four year old daughter is entitled to attend kindergarten in the Warwick school system is based on these theories. We construe her claim to be that the conduct and statements of a representative of the school department when she accepted the registration forms for Student Doe in late June of this year entitle her daughter to enrollment despite Warwick's policy on entrance age for kindergarten. According to Mrs. Doe's account of the conversation she had with the school secretary at that time, the school secretary – after indicating that she knew about the pending legislation which would "change the rule" – accepted the registration packet for Student Doe. From that point on, until August 18, 2006 when her move to Warwick was imminent, Mrs. Doe assumed that her four year old daughter would be attending school this fall because she had not been notified otherwise.

³ There is a dispute of fact as to what exactly was said in the conversation between Mrs. Doe and the school secretary. Both witnesses testified credibly as to their recollections of this conversation. The school secretary testified that she was unaware of the pending legislation until she learned of it in her conversation with Mrs. Doe and that she accepted the registration forms for Mrs. Doe's four year old with the qualification that "it couldn't hurt" to place them on file with the district until they learned more about the potential change. Mrs. Doe's recollection and testimony was that when she spoke with her the school secretary told her that she already knew about the pending legislation which might affect age eligibility for kindergarten and accepted the registration forms for her four year old daughter without any qualification whatsoever.

⁴ A copy of the legislation referred to was not made an exhibit so the reference to its provisions is that provided by the parties.

⁵ Evidently, the school buildings in Warwick closed for the summer in late June and did not reopen until August 17, 2006.

Despite the information she had received with respect to the status of this legislation⁶ when she checked with members of the Rhode Island General Assembly in late June and her knowledge that the bill had not passed, since she did not hear anything to the contrary throughout the summer, she continued to rely on the fact that her daughter's registration and enrollment had been effectuated for the upcoming school year. To her dismay, school officials notified her just prior to the start of school that, in fact, her daughter was not, and would not be, enrolled in kindergarten. Given her reliance on the unconditional acceptance of her child's registration forms, and the long period over the summer when school officials could have notified her of any change in the district's position, the Warwick school department should be estopped from applying its policy that there are no exceptions to the age requirement for kindergarten enrollment.

Warwick School Department

Counsel for the School Department argues that at no time was there a commitment or promise made to Mrs. Doe that her four year old daughter would be enrolled in kindergarten this fall. Although there was a discussion with the secretary at the Hoxsie School, again there was no reason for Mrs. Doe to come away with the impression that her daughter would be enrolled this fall. The acceptance of the registration forms was not unconditional and did not signify Student Doe's "enrollment" in school. The acceptance of the forms was accompanied by the qualification of the school secretary that it "wouldn't hurt" to place this information on file with the district if the legislation eventually passed. Even if the discussion was consistent with the testimony of Mrs. Doe, the school secretary was not in a position of authority to bind the district on the issue of an ineligible student's enrollment in the district's kindergarten program.

Student Doe's enrollment hinged on passage of the legislation referenced in the June 28th discussion. Mrs. Doe became aware of the fate of this legislation on her own. Given her knowledge that Warwick's age requirement remained unaffected by state law, the fact that she heard nothing further from school officials until August 18, 2006 should not have induced reliance on her part. There was certainly no intent by any employee of the Warwick school department to mislead Mrs. Doe as to the situation with respect to her daughter's eligibility to attend kindergarten, and any delay in the district's notifying her that there was no change in the district's age requirements for kindergarten was due to the fact schools were closed during the summer.

The district submits that there is no proof of facts that would form the basis of an estoppel from application of the district's policy. The Warwick school department is bound to apply its written policy which specifies that there are no exceptions to the age eligibility requirements for kindergarten attendance. Warwick's policy follows the "letter of the law" and reflects the difficulties that would be presented in making exceptions to a

⁶ Mrs. Doe acknowledged that even if passed, the legislation would place certain conditions upon the enrollment of children younger than age five in kindergarten, including space available and school readiness.

uniform age requirement for kindergarten, given the large number of students to whom any system of exceptions would have to be applied. In light of the consistent manner in which the district has applied its “Entrance Age” policy (Warwick Ex. 3) any deviation from the policy would be arbitrary and unfair.

DECISION

The Warwick School Committee has adopted a clearly-worded policy which restricts kindergarten attendance to children who have attained the age of five (5) years on or before September 1st. The district’s policy, which is based on its large numbers of students and the potential for a time-consuming process of testing students who might seek exceptions if they were available, has not been shown to be unreasonable. In this case there is also evidence of consistent application of the district’s policy over a substantial period of time. Mrs. Doe has the burden of demonstrating sufficient facts to prevent the district from applying its clear and established policy on the basis of equitable estoppel. The essential elements of equitable estoppel are:

- proof of an affirmative representation or equivalent conduct on the part of the person against whom the estoppel is claimed;
- proof that the statement or conduct was intended to and did induce the other party to act or fail to act in reliance thereon;
- injury or prejudice suffered by the party seeking to assert the estoppel;

See Southex Exhibitions, Inc. v. Rhode Island Builders Ass’n, Inc., 279 F. 3d 94 (C.A.1 R.I. 2002); Retirement Bd. of Employees’ Retirement System of State v. DiPrete, 845 A. 2d 270 (R.I. 2004). This doctrine has been applied in a school law context in In Re: Residency of John C.F. Doe, decision of the Commissioner, July 15, 1997. Based on this record, there are insufficient facts of the elements of equitable estoppel such that the district would be precluded from applying its policy.

Mrs. Doe concedes that there were “no promises made” to her at the time the secretary of the Hoxsie School accepted the registration forms for her four year old daughter in late June of this year. The secretary did accept forms to register Student Doe in the Warwick school system at that time. It may be that in some cases the mere acceptance of forms would be conduct which implied “your daughter is enrolled”; this fact was not implicit in this situation. The discussion, even according to Mrs. Doe’s testimony, clearly referenced the pending legislation as the premise for Student Doe’s potential early entry into kindergarten. We infer from the fact that there was a discussion of the bill, which discussion was initiated by Mrs. Doe, that she must have had some general knowledge⁷ that her daughter’s age would otherwise be an impediment to her enrollment in kindergarten in Warwick this fall. Regardless of the factual dispute as to

⁷ Mrs. Doe testified that she was unaware of the specific policy of the Warwick School Committee that restricted kindergarten enrollment to children who turned five (5) years of age on or before September 1st.

what exactly was said by the school secretary⁸, there is no testimony by either of the parties that the acceptance of registration forms was unconditional or that it constituted enrollment of Student Doe in the school.

Although it may be that Mrs. Doe continued to assume that her four year old would attend the Hoxsie School's kindergarten because she did not hear to the contrary, there is not a preponderance of evidence on this point. In fact, Mrs. Doe testified that she learned in late June, after contacting two members of the General Assembly, that the bill on which her request for enrollment was premised did not become law. In light of this fact, it would be more reasonable for her to have had concerns with respect to her daughter's kindergarten enrollment for this fall, rather than to have relied on the district's acceptance of the registration packet in late June. Under the facts of this case, if there was reliance at all, it was Mrs. Doe's reliance on the passage of a bill that did not receive sufficient votes to become law.

There is no evidence in this case of any action taken by Mrs. Doe or her family in reliance upon a representation or the conduct of any employee or agent of the Warwick school department. Although there is evidence of the family's recent move from Cranston to Warwick, there is no indication that Student Doe's potential enrollment in Warwick, or the Hoxsie School in particular, motivated their relocation or choice of a new home. Similarly, there was no evidence of any detriment, prejudice, or injury suffered by Student Doe or her family as a result of the alleged reliance upon her enrollment at the Hoxsie School. Mrs. Doe expressed her dismay as to the late notice of the rescission⁹ of her daughter's enrollment by the school on August 18, 2006. Although we might infer that any family would be disrupted by a last minute change in plans for one of their young children, there was no specific evidence of the negative impact of the district's notice to Mrs. Doe on August 18, 2006.

In light of the foregoing findings, the Warwick school system is not estopped from the application of its policy on entrance age for kindergarten students to Student Doe. The appeal is denied.

For the Commissioner

Kathleen S. Murray, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

September 7, 2006
Date

⁸ The school secretary recalled an explicit condition placed on her acceptance of the paperwork. Student Doe's mother does not recall the comment about "it won't hurt" to file the registration forms.

⁹ The word "rescission" was used in the letter of appeal dated August 18, 2006.