

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

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**In Re: Student A. Doe**

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**DECISION**

Held: Although Student Doe's failure of her vocational course would ordinarily require her to transfer back to her "home" high school, Cranston East High School, for her junior and senior years, she has presented sufficient evidence to warrant a "special permit" to permit her to continue in attendance at Cranston High School West.

DATE: September 28, 2006

## **Travel of the Case**

This matter was appealed to Commissioner Peter McWalters on September 14, 2006. Student Doe's mother requested a hearing on the issue of her daughter's entitlement to be granted a special permit to continue in attendance at Cranston High School West even though she had failed to meet the academic requirements to remain in attendance at the Cranston Area Career & Technical Center. Students enrolled in the Cranston Area Career and Technical Center take their academic course work at the adjacent Cranston High School West. In late summer, Mrs. Doe had been notified of her need to register her daughter at Cranston High School East.

The matter was assigned to a hearing officer and an expedited hearing was held on September 18, 2006 at the administrative offices of the Cranston School Department. Because it was Mrs. Doe's position at that time that Student Doe's physician had made a recommendation to her with respect to her daughter's placement for the upcoming school year, the record in the case was left open to September 22, 2006 to enable Mrs. Doe to submit documentation of the recommendation she referenced at the hearing.<sup>1</sup> Mrs. Doe submitted medical documentation from her daughter's pediatrician on September 21, 2006, and counsel for the Cranston School Department submitted his comments with respect to this additional evidence on September 22, 2006. After being notified that the parties did not wish to reconvene the hearing for purposes of cross-examining the Student Doe's doctor, the record in this case closed.

Since Student Doe has not yet attended school because this dispute as to her entitlement to remain at Cranston West has been pending, the decision has been expedited. The hearing officer's decision is based on her notes of testimony received at the September 18, 2006 hearing, together with the exhibits received into evidence at that time and the arguments made by the parties at the close of the hearing. The record is further supplemented by the letter from Student Doe's doctor dated September 21, 2006 and counsel's response to this letter dated September 22, 2006.

## **Issue**

Should Student Doe be granted a permit to continue in attendance at Cranston High School West?

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<sup>1</sup> Purported evidence of the doctor's recommendation was rejected at the time of the hearing because, among other reasons, it could not be identified with sufficient specificity and was not identified as a letter originating from a physician who had treated Student Doe. Previous medical documentation submitted by Mrs. Doe to school administrators stated only the conclusion that it would be in Student Doe's "best interests" to remain in the same school for the remainder of her high school years.

## **Findings of Relevant Facts**

- Student Doe, a resident of Cranston, was enrolled at Cranston High School West during her freshman and sophomore years. During her sophomore year, she applied and was selected for enrollment in the Cranston Area Career & Technical Center. Cranston Ex. A; H.O. notes.
- Student Doe's ongoing attendance in this vocational program was conditioned upon her receipt of a passing grade<sup>2</sup>. H.O. notes.
- Student Doe failed her vocational program for the year. Cranston Ex.B.Report Card issued June 29, 2006.
- On or about July 25, 2006 Mrs. Doe received<sup>3</sup> written notification that because her daughter had not maintained a grade of "C-" in her vocational program, she could no longer continue in attendance at the Cranston Area Career & Technical Center and was required to return to her "local" comprehensive high school, i.e. Cranston High School East. King Ex.2.
- Thereafter, Mrs. Doe requested that her daughter be issued a special permit which would permit her to remain in attendance at Cranston High School West for her junior and senior years. Her request for the special permit was denied on September 11, 2006. King Ex.1.
- According to the letter from Assistant Superintendent Peter L. Nero, budgetary and population demands, as well as (the lack of) "space available" were the criteria for his denial of the requested permit. In his testimony, Mr. Nero described other factors that played a role in his decision. These factors were the very low grades obtained by Student Doe in all of her subjects (except English) and Student Doe's very poor attendance record (absent sixty-four days). His professional judgment was that the change to Cranston High School East would provide Student Doe with a "fresh start" and might have a positive impact on her attendance and school performance. H.O. notes; King Ex.1.
- According to Student Doe's doctor, she suffers from a serious mental health condition which has created difficulties for her both at home and school over the past year. This condition persists. In the doctor's opinion, a change in her school environment could be detrimental to her mental health. Letter from Student Doe's doctor dated September 21, 2006.
- Documentation of Student Doe's medical condition was not available to the members of the school administration when they considered Mrs. Doe's request that she be granted a special permit to remain in attendance at Cranston High School West. H.O. notes.
- The general policy in the granting of special permits for attendance "out of district", i.e. from Cranston High School East to Cranston High School West (or vice versa) is that there must be a good and substantial reason for such attendance, such as the presence of a disability or a mid-year change in residence. H.O. notes.

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<sup>2</sup> There is evidence that additional criteria for continued attendance in the vocational program may have existed, i.e. passing grades in "70%" of the student's (other) coursework, no major disciplinary infractions, and good attendance. See Cranston Ex.A. Violation of these other conditions for continued participation in the vocational program did not come under discussion at the hearing.

<sup>3</sup> Mrs. Doe testified that she did not receive this written notice until much later in the summer, but her testimony on this point was not persuasive.

## **Positions of the Parties**

### Position of Student Doe

Student Doe's mother argues that her daughter needs stability during a difficult time in her life and that another change, i.e. to a new high school, would not be good for her daughter at this time. Another factor is that Student Doe's sister is attending Cranston High School West this year<sup>4</sup>, and to have her sister at a different school would have a negative impact on Student Doe, who has admittedly struggled with her attendance and grades. Mrs. Doe doesn't agree that a "fresh start" would be good for her daughter right now, and argues that staying put at Cranston West, a school she has "settled into" would be better. She also asks that her daughter receive extra help with her coursework to enable her to succeed.

### Position of the Cranston School Department

On behalf of the school administration, counsel argues that Student Doe has clearly not met the conditions for her continued attendance at the Cranston Area Career & Technical Center. Not only did she fail all but one subject, but her attendance was very poor and some disciplinary issues arose as well. In considering her request for permission to remain at Cranston High School West, school officials have carefully considered issues such as space availability as well as Student Doe's own academic record. In light of her poor performance, frequent absences and class-cuts, school officials are convinced that starting out her junior year at a new school will be helpful to her.

If it is a doctor's opinion that remaining at Cranston High School West would be in Student Doe's best interests, school administrators question the validity of that opinion and question whether it takes into account the poor academic record Student Doe had last year and her troubling attendance record while at Cranston West. With respect to the issue of the alleged negative impact any change in schools might have on Student Doe's mental health, counsel points out that until the morning of the hearing, there had been no mention by either Student Doe's mother or father, who also met with school officials, that Student Doe had mental health issues. Specifically with respect to the letter submitted by Student Doe's doctor on September 21, 2006 counsel notes that the letter is not from a psychiatrist, and the doctor's opinion that a change in school environment would be detrimental to Student Doe's mental health stands unexplained. Furthermore, the letter does not indicate that the doctor has knowledge of the relevant facts related to Student Doe's school performance last year – or any facts which would undermine the notion of a "fresh start" which those who are familiar with Student Doe are convinced would be helpful to her. For these reasons, the School Department requests that her appeal be denied.

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<sup>4</sup> We infer from this fact that Student Doe's sister has either been accepted into the Vocational Technical Center, or has qualified for an attendance waiver. Her attendance at Cranston High School West is not in issue.

**DECISION**

On this record it is clear that a system has been developed, and fairly administered by school officials, for determining when a student who lives in the district served by Cranston High School East may attend Cranston High School West, and vice versa. Testimony in this case establishes that a good and substantial reason, such as a recent move of parents, or a student’s disabling condition, warrant the issuance of a “special permit”. In this case, school officials knew nothing about a mental health condition which might have affected their decision on issuing a special permit to allow Student Doe to remain in attendance at Cranston High School West. Their application of district policy on such special permits and their analysis of the facts in Student Doe’s case led to the conclusion not only that Student Doe was not entitled to a special permit, but that her transfer to Cranston High School East would have a positive impact on her school attendance and performance.

As is many times the case with expedited appeals at the Commissioner’s level, the record for decision-making is somewhat different from the facts school administrators have relied upon. In this case there are some deficiencies which exist as to the factual basis and reasoning for Student Doe’s doctor’s opinion that a change in her school environment at this time could be detrimental to her mental health. Nonetheless, time and circumstances do not allow for further examination of this opinion. The opinion of her doctor is sufficient on this record to provide a good and substantial reason for the issuance of a special permit for Student Doe to remain at Cranston High School West. For this reason Mrs. Doe’s appeal is sustained.

Clearly from the record in this case, there is a need to refer Student Doe immediately for an evaluation to determine if she suffers from a disability which would warrant special education services or a plan under Section 504 of the Rehabilitation Act of 1973. In moving forward to address issues which may have affected Student Doe’s academic performance last year, the parties are encouraged to work together to help her achieve the very good grades she was able to achieve at the beginning of her sophomore year.

For the Commissioner,

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Kathleen S. Murray, Hearing Officer

APPROVED:

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Peter McWalters, Commissioner

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September 28, 2006  
Date