

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Residency of Ronnie B.

.....

DECISION

Held: Under the Commissioner’s view of applicable law, Burrillville – the school district this student was attending when DCYF placed him in an out-of-state residential placement – is responsible for administering this student’s individualized education plan and for paying a per pupil special education cost towards this child’s education at the Bennington School.

DATE: October 25, 2007

Travel of the Case and Jurisdiction

In this appeal the Department for Children, Youth and their Families (DCYF) is seeking to determine which Rhode Island school district is responsible for paying a per pupil special education cost for a child placed by DCYF in an out-of-state residential placement. Under Rhode Island law this district will also be responsible for developing this child's individual education plan. R.I.G.L.16-64-1.2, Respondents in this appeal include Providence, Warwick, Johnston, Burrillville, Cumberland, and South Kingstown. Jurisdiction is present under R.I.G.L.16-39-1, R.I.G.L.16-39-2, R.I.G.L.16-64-6 and R.I.G.L.16-64-1.2.

Positions of the Parties

DCYF

DCYF submits that a least one of the respondent school districts must be responsible for this child's education.

Respondent School District

The respondent school districts all deny responsibility for the provision of education to this student based upon lack of proof of parental residence in the respective several school districts.

Findings of Fact

1. The father of this student, during the time periods relevant to this case, was a resident of the Adult Correction Institution in Cranston.
2. The mother of this student, during the time periods relevant to this case, was homeless, living "nomadically" at various poorly specified locations in Rhode Island. None of the mother's alleged residences has been proved by a preponderance of the evidence.
3. The student in this case, who has been in the custody of the Department for Children and their Families (DCYF) since 1997, was enrolled in the public schools of Burrillville in 2003.
4. In 2003 DCYF removed this student from Burrillville and placed him in the Bennington School in Vermont.¹ The Bennington School, which is a private school, provides placements for troubled youths who need very structured programs.

¹ Transcript, April 24, 2006, page 14.

Conclusions of Law

1. When DCYF places a student in a private placement, Rhode Island law allows DCYF to recover a per pupil special education cost payment from the child's school district. This payment is to be applied to the educational costs of the child's placement. The same law makes the district paying this per pupil cost responsible for preparing the student's individual education program.²
2. **R.I.G.L. 16-64-1.1 Payment and reimbursement for educational costs of children placed in foster care, group homes, or other residential facility by a Rhode Island state agency.** – *** (c) Children placed by DCYF in a residential treatment program, group home, or other residential facility, whether or not located in the state of Rhode Island, which includes the delivery of educational services, provided by that facility (excluding facilities where students are taught on grounds for periods of time by teaching staff provided by the school district in which the facility is located), shall have the cost of their education paid for as provided for in subsection (d) of this section and § 16-64-1.2. The city or town determined to be responsible to DYCF for a per-pupil special education cost pursuant to § 16-64-1.2 shall pay its share of the cost of educational services to DCYF or to the facility providing educational services. ***
3. The Commissioner has interpreted the applicable laws, R.I.G.L. 16-64-1.1 and R.I.G.L.16-64-1.2, to mean that the Rhode Island public school district in which a student was last enrolled is responsible for paying a pupil special education cost towards the education expenses of a student placed by DCYF in a residential placement. See: *Smithfield School Committee v. Providence School Committee*, Commissioner of Education, March 9, 2001 and *In the Matter of Charles T.*, Commissioner of Education March 9, 2001.
4. We can find nothing in Rhode Island law which suggests that having a parent in the ACI makes Cranston responsible for a student's education.

Discussion

We will not attempt here to delineate all the placements this student has experienced or try to trace the wanderings of this student's troubled mother since such efforts are not needed to resolve the matter before us. Under the Commissioner's view of the applicable law, Burrillville, the school district the student was attending when DCYF placed him at the Bennington School, is responsible for administering this student's individualized education program and for paying a per pupil special education cost towards this child's education. *In the Matter of Charles T.*, Commissioner of Education March 9, 2001. This is because the student's last residence for school purposes prior to

² See: R.I.G.L.16-64-1.1 and R.I.G.L. 16-64-1.2

entering the Bennington School was Burrillville. *In the Matter of Charles T.*, Commissioner of Education March 9, 2001.

Conclusion

The Burrillville school district is responsible for administering this student's individualized education plan and for paying a per pupil special education cost towards this child's education.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

October 25, 2007
Date