

**0019-09**

State of Rhode Island  
And Providence Plantations

Commissioner of Education

**In Re: Residency of  
Students M. M. Doe I  
and M. M. Doe II**

**Interim Order Decision**

Held: Mother proved by a preponderance of the evidence that she and two of her children live with her in Pawtucket. Although they evidently moved out of the attendance area for Shea High School into that of Tolman at the end of the 2007-2008 school year, given mother's testimony that the move was due to the loss of her job and the need for her to share an apartment with her own mother, both students are entitled to remain in their "school of origin" –Shea - pending their move to permanent housing.

Date: August 31, 2009

### **Travel of the Case:**

The mother of these students filed a request for a residency hearing before Commissioner Deborah A. Gist on August 18, 2009. She requested that her two high school-age children be permitted to continue to attend Shea High School in Pawtucket where they are about to enter their senior and junior years, respectively. Counsel for the Pawtucket School Committee requested that Providence be notified of this residency dispute and appropriate notice was given to counsel for the Providence School Department.

On August 26, 2009, the hearing was convened by the undersigned and testimony and documentary evidence was received. Mrs. M. appeared pro se and the Pawtucket and Providence school departments were represented by their legal counsel. Decision in this matter has been expedited because school is to begin early next week. Although the transcript will be forthcoming, the hearing officer's decision is based on notes taken at the hearing and the documentary evidence submitted at that time. Jurisdiction to hear this matter arises under R.I.G.L. 16-64-6.

### **Issue**

Are Students M.M. Doe I and M.M. Doe II residents of the city of Pawtucket  
And if so, are they entitled to attend Shea High School even though their  
Current residence may be in the attendance area for Tolman High School?

### **Findings of Relevant Facts:**

- Both of these high school students (Student M.M. Doe I and M.M. Doe II) reside with their mother in their grandmother's apartment in Pawtucket, Rhode Island.
- Student M.M. Doe I and M. M. Doe II moved to this address in May or June of 2008 when their mother lost her job and financial circumstances required her to move in with her mother.
- Until the time of their move to their grandmother's apartment, these students lived with their mother in Pawtucket in the attendance area designated for Shea High School.

### **Positions of the Parties:**

#### **Pawtucket School Committee**

The School Department submits that since the time that Mrs. Doe moved from the address that qualified her children to attend Shea High School at the end of the 2007-2008 school year, she has not been truthful as to where she and her children are living. She

submitted residency documentation to Pawtucket in August of 2008 in which she falsely claimed that she and the children continued to live at the prior Pawtucket address so that they were eligible to attend Shea High School, even though she had not lived there since June of 2008. A statement was made to a bus driver by Mrs. Doe's eight year old son in April of 2009 that the family would be moving to Providence<sup>1</sup>. On June 16, 2009, the school attendance officer briefly visited the second Pawtucket address and was unable to confirm that Mrs. Doe, or her youngest son, lived there. In a June 19, 2009 memo to the Superintendent, the attendance officer expressed his belief that the youngest son resided with his mother somewhere in Providence. At a recent meeting at the school department, a member of the school staff saw an envelope in Mrs. Doe's possession that indicated a Providence address for Student M.M. Doe I (her son who is about to be a senior at Shea). The staff member testified that Mrs. Doe expressed concerns about enrolling her two high school age students in Providence and offered to have her youngest son, who is currently in an out of district special education placement, live with his father in Providence, if Pawtucket would agree to allow her two other children to continue to attend high school at Shea. Based on these facts, the school committee contends that Students M.M. Doe I and M.M. Doe II are residents of Providence. Even if they do reside in Pawtucket, they should be attending Tolman and not Shea High School.

### **Providence School Board**

Counsel for the School Board argues that there is no competent evidence that either of the students whose school residency is in dispute live anywhere other than Pawtucket.

### **Mrs. Doe**

Mrs. Doe admits that she provided false information to the district on her childrens' residence in August of 2008 and that she had already moved in with her mother at the start of the 2008-2009 school year. She explains that she did so because she wanted her two high school age children to continue to be eligible to attend Shea High School, even though their grandmother's apartment is in the attendance area for Tolman. She contends that she and her two middle children, who have completed their sophomore and junior years, respectively, continue to reside with her in their grandmother's apartment in Pawtucket. She produced various documents (including correspondence from the Social Security Administration and the Department of Education) indicating her current address in Pawtucket at her mother's apartment. She takes the position that she and her two middle children are Pawtucket residents, that they are entitled to attend Pawtucket schools and requests that they be allowed to continue to attend Shea, for continuity purposes and because of certain incidents that have occurred in the area around Tolman.

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<sup>1</sup> Mrs. Doe testified that her eight year old son did in fact move and currently lives in Providence with his father.

## DECISION

Mrs. Doe has proved by a preponderance of the evidence that she and her two high school age children are Pawtucket residents. Although there is an indication in the record that the residence at which they currently reside would place them in the attendance area of Tolman High School, because of the circumstances under which they moved and are now living, i.e. their mother's loss of employment caused her to move the family in with her mother to share her apartment, the state Regulations on the Education of Homeless Children and Youth (December 2005) would apply. These Regulations entitle them to continue to attend their "school of origin"<sup>2</sup> which in this case is Shea High School- until they secure permanent housing.

We must observe that the evidence of Pawtucket residency in this case was not clear and convincing. The School Committee had several "leads" on which it had not followed up at the time of the hearing. None of the witnesses presented by the school department had made observations of Mrs. Doe and these two children residing anywhere other than their grandmother's apartment in Pawtucket. Questions as to residency were certainly raised. The district is left to its proof in the future should it obtain newly-discovered evidence that Mrs. Doe or her children have taken up residence outside the city of Pawtucket. Based on this record, Student M.M. Doe I and M.M. Doe II are residents of Pawtucket for school purposes and entitled by the cited Homeless Regulations to continue to attend Shea High School. Our decision is entered as an interim and final order, so that it might be enforceable pending any appeal of this decision.

For the Commissioner,

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Kathleen S. Murray, Hearing Officer

APPROVED:

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Deborah A. Gist, Commissioner

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August 31, 2009

Date

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<sup>2</sup> And would entitle them to stay in their school of origin as long as they continued to be homeless, even if they had moved out of Pawtucket.