

0023-09

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

IN THE MATTER OF: RESIDENCY OF M. DOE

Decision

Held: Evidence fails to prove that a student living apart from his parents was doing so for a substantial reason other than school attendance.

Date: November 09, 2009

Introduction

This is a request by the Jamestown School Department for a determination of a student's residence for school enrollment purposes.¹

Background

Student Doe is an 8th-grade student in the Jamestown school system.

Doe has attended Jamestown schools since pre-school. His family moved to North Kingstown in June 2009. Between work and spending time with his friends, Doe spent most of the summer on Jamestown. While three of Doe's siblings were enrolled in the North Kingstown school system for the 2009-10 school year, Doe's enrollment remained in Jamestown. During the week he lives with his CYO coach's family in Jamestown.² Doe spends Thursday night, Friday night and Saturday morning with his family in North Kingstown. He spends Saturday afternoons at the Jamestown Teen Center. He returns to his family's North Kingstown home Saturday night, but travels to Jamestown Sunday morning for church school and services. He has Sunday lunch in North Kingstown and Sunday dinner with his coach's family in Jamestown.

Doe's mother testified that Doe does not handle change well and that he has experienced extreme panic attacks.³ In describing Doe's community ties in Jamestown, Doe's mother mentioned the CYO basketball team, the school cross-country team, church, church school, the recreation department, working at a pizza parlor and, most of all, the Jamestown Teen Center. Doe visits the Teen Center after school and on Saturdays. He is a member of the advisory board for the Teen Center's substance abuse task force, participates in the Teen Center's Invisible Children program,⁴ and raises funds for the Teen Center. Doe's summer job was at the Teen Center.

¹ The Commissioner of Education designated the undersigned hearing office to hear and decide the request. A hearing was held on September 29, 2009. Additional evidence was submitted and placed into the record shortly thereafter.

² A petition to make the coach Doe's guardian is currently pending. Under R.I.G.L. 16-64-4, the appointment of a guardian does not change a child's residence for school enrollment "unless the child takes up residence with the guardian and unless the guardian has been appointed for a substantial reason other than to change the child's residence for the purpose of enrolling the child in another school system."

³ No documentation of medical or treatment history was produced at the hearing.

⁴ The program deals with the effects of the longstanding war in Uganda.

A letter from a coordinator at the Teen Center describes Doe's extensive involvement in and leadership at the Teen Center. The letter mentions Doe's initial concerns of not being welcome at the Center when his family moved to North Kingstown, but Center staff and Doe figured out the bus schedule so Doe could continue to participate in Teen Center programs. According to the letter, Doe's "involvement is always positive. The Teen Center and Jamestown schools allow [Doe] to thrive. It would be a concern if [Doe] were to be removed from this environment."

Upon completion of the 8th grade, Jamestown public school students continue their education at North Kingstown High School.

Positions of the Parties

Doe's parents contend that Doe is very secure in the Jamestown community. He is familiar with, and therefore comfortable with, his fellow students and extra-curricular activities in Jamestown. Doe's parents are fearful of panic attacks and anxiety if Doe were to be moved to an unfamiliar environment. Doe's community ties in Jamestown are essential to his well-being. Doe does not have any of these ties in the much-larger North Kingstown community, and his parents have serious concerns about his ability to adapt.

The Jamestown School Department contends that Doe's continued presence in Jamestown is for the purpose of attending school there. It argues that the evidence shows that Doe has and can continue to participate in Teen Center activities while living with his family in North Kingstown. It therefore is school attendance, not Teen Center participation, which accounts for Doe's present living arrangement in Jamestown.

The North Kingstown School Department was provided notice of the hearing but did not attend.

Discussion

Under R.I.G.L. 16-64-1, school enrollment is governed by the student's city or town of residence. The statute contains a rebuttable presumption that a child is a resident of the city or town where his or her parents reside. Except for situations specifically mentioned in the statute, which are not applicable here, "a child's residence shall be determined in accordance with the applicable rules of the common law." Under the

common law, a child living apart from his or her parents can establish residency for school enrollment purposes by (1) actually residing in the city or town for which enrollment is sought and (2) demonstrating that the move to the city or town was not made for the purpose of going to school there.⁵ The party seeking to establish a school residence different from that of the parents bears the burden of proving these two elements. The reason for the child living apart from his or her parents must be substantial and unrelated to school attendance.

There is no dispute in this case that student Doe is actually residing in Jamestown for most of the week. The dispute concerns the reason for his Jamestown living arrangement.

Doe's mother testified about her son's difficulty coping with change and his history of panic attacks. No documentation from a health professional was offered at the hearing, however. On this record, we are unable to find that a health-related reason accounts for Doe's living apart from his parents.⁶

Doe's community ties to Jamestown primarily concern his social life. It appears that Doe could continue to engage in many of the activities mentioned if he were living with his family in North Kingstown.⁷ It is clear, however, that the Jamestown Teen Center is a major part of Doe's life. His involvement in the Center and its programs is admirable. But again, the evidence in this matter does not show that Doe would be precluded from visiting the Teen Center or participating in its programs if he were living in North Kingstown. The amount of time Doe could spend at the Teen Center would no doubt decrease, but there are other ways for Doe to stay in touch with his Jamestown friends. Family relocations to different cities and towns are a fact of life and happen often. Established friendships and activities are inevitably affected. Individuals usually make adjustments and take advantage of new opportunities. The record in this case does

⁵ In the Matter of Priscilla H., Commissioner's decision of September 7, 1983, p. 17.

⁶ In the case of In Re: Residency of Jane A.X. Doe, we stated that "[w]ithout documentation by a mental health professional, we are unable to find that [a mental health concern] was substantial and superceded the school-related reasons [for the student living with her aunt]." (emphasis in original; footnote omitted). [Commissioner's decision of April 25, 1997, p. 6].

⁷ The family already travels to Jamestown on Sunday for church services. The church school and the CYO basketball team are church-sponsored activities. Doe can visit the pizza parlor on weekends. Doe's Jamestown school's cross-country team is a school activity and therefore not a valid reason to support a residence apart from his parents.

not show that Doe is incapable of handling the non-educational effects of his family's move to a neighboring town.

Viewing the evidence in its entirety, we find that school activities were involved in the decision to have Doe remain in Jamestown, and that Doe's parents failed to establish that their son is living in Jamestown for a substantial purpose other than to attend school there.⁸

Conclusion

For school enrollment purposes, student Doe became a resident of North Kingstown in June 2009. We therefore order Doe's parents to immediately enroll Doe in the North Kingstown school system. The Jamestown school system is to cooperate with North Kingstown in the enrollment process.

Paul E. Pontarelli
Hearing Officer

Approved:

Deborah A. Gist
Commissioner of Education

Date:

November 9, 2009

⁸ Given the fact that Jamestown students attend North Kingstown High School after completing the 8th grade, we find it regrettable that an arrangement could not have been made to permit student Doe to finish the 8th grade in Jamestown. It is clear that student Doe's best interests would be served by such an arrangement. However, it is our duty in this proceeding to apply Rhode Island law regarding student residency. To the extent any discretion can be exercised in this matter, it rests with the school district.