

0001-10

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

IN THE MATTER OF: RESIDENCY OF STUDENT R. DOE

Decision

Held: Cumberland is no longer responsible for the education of a child who is living with his mother in Providence.

Date: January 13, 2010

Introduction

This is a parent's request for a student residency determination.¹

Background

Student Doe is a second-grader at a Cumberland elementary school. He completed kindergarten and first grade at the same school. Doe receives special-education services.

School officials learned this fall that Doe is living with his mother in Providence. Doe's mother admits that she and her son are living in Providence. In fact, she testified that because of her health problems and financial difficulties, Doe has not lived in Cumberland since October 2008.²

Positions of the Parties

Doe's mother contends that she has been unable to afford housing in Cumberland and that it is in her son's best interest to remain at his current school. He is well-behaved, does not require transportation, and is benefitting from his individualized education program. Cumberland receives property taxes from Doe's aunt. A mid-year transition to Providence schools would be difficult for Doe, particularly while he is adjusting to his medication. Doe's mother asks that Doe at least be allowed to finish the school year in Cumberland.

The School Department argues that, under Rhode Island law, residency determines where children are to be enrolled in school. A city or town must educate only those children who actually reside within its borders. Families do not have the right to choose schools based on property ownership in a city or town. Cumberland is not responsible for Doe's education while he is living in Providence.

Discussion

Under Rhode Island General Law 16-64-6, when a school district "denies that it is responsible for educating a child on the grounds that the child is not a resident of the school district . . . the dispute shall, on the motion of any party to the dispute, be resolved" by the Commissioner of Education or the Commissioner's designee. Because Cumberland is denying

¹ A hearing was held in this matter on January 6, 2010.

² Doe's kindergarten enrollment address was that of his aunt's in Cumberland.

any responsibility to educate Doe, and Doe's mother is disputing Cumberland's determination, we are called upon to perform our statutory duty to decide the matter according to state law.

Rhode Island General Law 16-64-1 states that "[e]xcept as provided by law or by agreement, a child shall be enrolled in the school system of the city or town where he or she resides." There is no dispute in this case that Doe is residing in Providence. No exception to §16-64-1 applies to this case. Doe's mother contends that, despite her son's residence in Providence, it would be best for him to remain in Cumberland, at least for the remainder of the 2009-10 school year. As we stated in the case of In Re: Residency of Andrew V. (July 24, 2001), "school residency is not aligned to the best interests of the student, but rather to the district in which he or she resides."³ We stated further:

While we are appreciative of the family's present circumstances and the fact that Andrew would be well served by finishing his high school career in North Kingstown, any arguments as to flexibility in the terms under which this student would be allowed to continue in attendance, despite his present ineligibility, are more properly presented to the members of the School Committee.⁴

Absent the return of Doe and his mother to Cumberland or the intervention of the Cumberland School Committee, state law requires that Doe be disenrolled from Cumberland and enrolled in the Providence school system.

Conclusion

Student Doe is a resident of Providence for school-enrollment purposes.

Approved:

Paul E. Pontarelli
Hearing Officer

Deborah A. Gist
Commissioner of Education

Date: January 13, 2010

³ Decision, p. 3.

⁴ Ibid.