

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

.....

**Kingston Hill Academy &
Compass Charter School**

v.

Chariho Regional School District

.....

INTERLOCUTORY DECISION

HELD: This case involves charter school tuition reimbursement claims against the Chariho school district.

DATE: March 1, 2010

Jurisdiction and Travel of the Case

This case involves charter school tuition reimbursement claims against the Chariho school district. These claims are being brought by the Compass Charter School and the Kingston Hill Academy. Jurisdiction is present under R.I.G.L.16-39-1, R.I.G.L. 16-39-2, and R.I.G.L. 16-5-30. This matter is now before the Commissioner for disposition of the following interlocutory issues:

1. Is the Commissioner disqualified from hearing this matter?
2. Should this matter be expedited?
3. Should the claims of the Compass Charter School and the Kingston Hill Academy be consolidated for hearing?
4. Should a Chariho “counter claim” against the Compass Charter be severed for the purposes of an independent hearing?

Discussion

1. The Motion to Disqualify the Commissioner from Hearing this matter.

Chariho contends that because an employee of the Department of Education expressed an opinion about one of the legal issues in this case the Department of Education is now barred from hearing this matter. This argument is completely without merit and is therefore hereby dismissed from further consideration. *Jennings v. Exeter-West Greenwich School Committee*, 352 A.2d 634, 116 R.I. 91 (1976)

2. The Motion to Expedite this Matter.

We believe that this case may be decided with some dispatch if we focus on its controlling issue. This controlling issue is the interpretation of the term “reference year” contained in R.I.G.L. 16-77.1-2. This term governs the determination of operating costs for charter public schools. The determination of this issue does not involve any evidentiary issues and it may be subject to a decision based on memoranda of law to be submitted by the parties. Computation issues may be left to the parties or these issues may be resolved at a separate hearing. We therefore see no need to specifically expedite this matter since we are confident that it can be promptly decided in the normal course of business.

3. The Motion to Consolidate.

It is evident to us that the interpretation of the term “reference year” as used in R.I.G.L. 16-77.1-2 is dispositive of the claims of both the Compass Charter School and the Kingston Hill Academy. It is therefore obvious that their claims should be consolidated for purposes of a hearing.

4. Chariho's "Counter Claim"

Chariho is attempting to assert something in the nature of a counter claim by contending that that the Kingston Hill Academy is not in compliance with some aspects of the *Regulations of the Board of Regents Governing the Education of Children with Disabilities*. Assuming that Chariho has standing to raise such an issue, it is apparent to us that this issue, whatever its merits, is tangential, at best, to the tuition reimbursement claims which are at the heart of this matter. We therefore elect sever this non-compliance issue for a separate hearing at a later date. By severing this claim we can reach the essentials of this case in a timely matter.

Interlocutory Order

1. The motion to disqualify the Commissioner from hearing this matter is denied.
2. The motion to explicitly expedite this matter is denied because we are confident that this matter may be decided promptly in the normal course of business.
3. The motion to consolidate is granted.
4. The regulatory non-compliance issue against the Kingston Hill Academy is hereby severed for a hearing at a later date.
5. The parties are requested to inform the hearing officer within 5 days, based upon the interlocutory order we have issued today, whether this matter is in order for disposition based upon the submission of memoranda of law.

Forrest L. Avila, Hearing Officer

APPROVED:

Deborah A. Gist, Commissioner

March 1, 2010

Date