

**STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS**

COMMISSIONER OF EDUCATION

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Student C.T. Doe

v.

East Providence School Department

.....

DECISION

Held: Student C.T. Doe is properly a resident of East Providence because he is living there, apart from his parent, for a substantial reason other than to attend the public schools of East Providence.

Date: April 2, 2010

Jurisdiction and Travel of the Case

This is a residency case. Jurisdiction is present under R.I.G.L.16-39-1, R.I.G.L. 16-39-2, and R.I.G.L. 16-64-6.

Positions of the Parties

Position of the East Providence School District

The East Providence school district contends that the student in this case should be attending school in Providence, where his mother lives. The East Providence school district agrees that the student is presently living in East Providence with a family that is distantly related to the student's mother. The East Providence school district argues, however, that the student is not living with the family for a "substantial reason" other than to attend the public schools of East Providence. It therefore submits that the student is not properly a resident of East Providence for school purposes.

Position of the Parent

The parent now contends, before the Commissioner, that her son is living with her relatives in East Providence because she cannot control his behavior. The family he is now living with, she submits, is able to exercise the control this student's needs. She submits that her son is therefore living in East Providence for a substantial reason other than to go to school there.

Conclusions of Law

1. This case falls under that portion of R.I.G.L. 16-64-1 which states: "In all other cases a child's residence shall be determined in accordance with the applicable rules of the common law."
2. Under the common law of school residency, a student who is not living with his parents must show two things before he or she can go to a school in a town where his or her parents are not residing. These are: (1) that the student is in fact living apart from his parents in the other town; and (2) that the student is living in that town for a substantial reason other than to go to school there.¹

Findings of Fact

1. The fifteen year old student who is the subject of this case has "behavioral issues."² He defies his mother.³ She "cannot handle" him.⁴ He has attended Harmony Hill School, a school which specializes in dealing with students who have significant behavioral issues.⁵ This student has been before the Family Court.⁶

¹ *Laura Doe vs. Narragansett School Committee*, April 17, 1984

² Tr. Pages 5, 6, and 25

³ Tr. Page 6

⁴ Tr. Page 45

⁵ Tr. Page 7

⁶ Tr. Page 16.

2. The parent in this case lives in Providence. She is able and resolute. She is also short in stature, with a thin frame. She has a number of medical difficulties which cause her difficulties in keeping up with her son⁷
3. On November 18, 2009 the student's mother sent him live with her daughter in Virginia but the student continued his defiant ways and the daughter was not able to handle the situation.⁸ The student was returned to Rhode Island
4. Her son now lives with a family in East Providence.⁹ One of the members of this family is a distant relation of the petitioning parent.¹⁰ The mother testified that this family was more successful in controlling the student's behavior. We credit this testimony.
5. It has been two years since the student has been living with his mother.¹¹
6. We find that this student is living in East Providence for a substantial reason other than to go to school there. This finding is premised on our conclusion that the record before us (e.g. the placement at Harmony Hill School and the testimony of the student's mother that she could not control his behavior) demonstrates by clear evidence that this student has substantial "behavioral issues" and the student's mother is not able to cope with these issues, while her relatives in East Providence can.

Discussion

We recognize that in her initial dealings with the East Providence school system the student's mother offered various explanations for why her son was not living with her in Providence and that these explanations made no mention of the difficulties she had in controlling the behavior of her son.¹² While this lapse in being forthcoming is not laudable, we think this lapse was occasioned more by the mother's reluctance to paint a negative picture of her son's behavior, rather than on any intent on her part to, in some way, deceive the East Providence school department.

Conclusion

We find that this student is properly a resident of East Providence because he is living there, apart from his parent, for a substantial reason other than to attend the public schools of East Providence.¹³

APPROVED:

Forrest L. Avila, Hearing Officer

Deborah A. Gist, Commissioner

April 2, 1010
Date

⁷ Tr. Page 4.

⁸ Tr. Page 18

⁹ Tr. Page 4.

¹⁰ Tr. Page 22: the parent described this relationship as being that of "my mother's niece."

¹¹ Tr. Page 5.

¹² Exhibit B

¹³ *Laura Doe vs. Narragansett School Committee*, April 17, 1984