

State of Rhode Island
And
Providence Plantations

Commissioner of Education

Student F.A. Doe

v.

North Kingstown School Committee

DECISION

Held: The Motion to Dismiss filed on behalf of the North Kingstown School Committee is granted. The Petitioner has not established that she or her son are aggrieved by a decision or doing of the School Committee or that there is a dispute between her and school officials that arises under a law relating to schools or education. Despite being provided with the opportunity to present evidence on the merits of her claim, the Petitioner has not proven that the School Committee, or any members of the North Kingstown School Department, violated her son's legal rights or school department policies.

DATE: June 19, 2010

Travel of the Case

This matter originated with a letter of complaint from a member of the North Kingstown School Committee to a staff member at the Commissioner's office. The letter of complaint was received on or about September 11, 2009. Mr. Douglas Roth, the School Committee member who wrote the letter of complaint indicated that he wrote "on behalf of Student F.A. Doe and his family." When contacted, Ms. Doe indicated that she concurred with the letter and wished to pursue the matter on behalf of her son.

The matter was assigned to the undersigned on September 18, 2009. The hearing officer wrote to the parties to acknowledge receipt of an appeal on September 22, 2009. At that time (and again on September 29 and October 19, 2009) the hearing officer requested that Student Doe's mother submit a letter of appeal setting forth a brief statement of the facts describing the nature of her appeal and a statement of the relief requested, in compliance with the Regents Regulations on Procedures for Appeals to and Hearings Before The Commissioner of Education (Title A Chapter 4). Ms. Doe finally submitted a letter of appeal on October 24, 2009.

At the time the hearing was convened on November 30, 2009, counsel for the School Committee moved to dismiss the appeal on the grounds that there was no matter of education law in dispute under R.I.G.L. 16-39-1 or 16-39-2. Counsel further argued that if a controversy did exist, it was required that it first be submitted to the North Kingstown School Committee for hearing before the Commissioner would have any jurisdiction whatsoever. The hearing officer deferred ruling on the motion to dismiss and indicated that a ruling on the motion would be consolidated with a ruling on the merits of the case. Ms. Doe was provided with the opportunity to present evidence in support of her claims and did so at that time.

Prior to proceeding on the date scheduled to present the School Committee's case, January 4, 2010, counsel for the School Committee filed a written Motion to Dismiss dated December 22, 2009 again asserting the absence of jurisdiction of the Commissioner. The hearing officer again deferred ruling on the Motion to Dismiss and a second hearing was convened in North Kingstown at which time the School Committee presented its witnesses and documentary evidence¹. At the conclusion of the hearing, Ms. Doe requested opportunity to submit a written memorandum in order to summarize her arguments and to respond in writing to the School Committee's Motion to Dismiss. The parties agreed that written memos would be submitted. The School Committee filed a memo summarizing its arguments and reaffirming its Motion to Dismiss on February 22, 2010. The record was left open to permit Ms. Doe additional time in which to file her memo. She did not, and notice that the record in this matter was closed was sent to the parties on March 1, 2010.

¹ Emergencies existing in the school district on November 30, 2009 prevented the School Committee's witnesses from being available to testify.

ISSUE

- Does the Commissioner have jurisdiction over this dispute?
- Have Student Doe's rights been violated or has noncompliance with a policy of the North Kingstown School been proven?

Ruling on Motion to Dismiss

Counsel for the School Committee argues that Ms. Doe's complaints relate to a meeting held at North Kingstown High School on February 23, 2009 to which her son was called after he had sent an email message to the chair of the School Committee. Ms. Doe had been notified of the meeting and asked to attend, but she declined and gave permission for her son to attend the meeting without her. Ms. Doe's contention is that the meeting was punitive in nature, even though she was specifically told that her son was not in any trouble and there was no disciplinary action contemplated or imposed. Ms. Doe also seeks to raise as an issue her contention that her son was upset by the fact that the Chair of the School Committee wore his work uniform² to the meeting. The meeting was held in the afternoon prior to dismissal of students and the chair of the School Committee left work early in order to attend.

Because there is no issue in this case that "arises under a law relating to schools or education"³ and because we find that neither Student Doe nor his mother is aggrieved by a "decision or doing" of the North Kingstown School Committee, the Motion to Dismiss is hereby granted. See R.I.G.L. 16-39-1 and 16-39-2 (the statutes on which the Commissioner's appellate jurisdiction is predicated). There is also no decision of the North Kingstown School Committee presented to the Commissioner for her review.

Frequently, when the Commissioner has no jurisdiction to rule on the merits of a controversy, the Commissioner nonetheless makes findings of fact and analyses the merits of a dispute, to assist the parties or to provide such findings in the event the decision on jurisdiction is overturned on appeal.⁴ We decline to make such findings or analysis in this case. Ms. Doe, when provided full and fair opportunity, failed to demonstrate that she or her son was "aggrieved" by any action of the School Committee or that there was any impropriety on the part of school officials. Although she requested the opportunity to submit a post-hearing memorandum to present her arguments, she did not do so and did not provide her reason or reasons for not following up. To date she has not responded to the School Committee's Motion to Dismiss, either formally or informally, to provide any reasons why this matter should not be dismissed. For these reasons, we decline to make findings of fact or provide an analysis of the facts in this case. We will indicate, however, that a thorough review of the record provides no evidence that any legal right of Student Doe was violated or that school officials acted contrary to any law, regulation, or applicable policy.

² He is a guard at the Department of Corrections.

³ See *Laidlaw Transit, Inc. v. South Kingstown School Committee*, decision of the Commissioner dated April 6, 1992; *Jane A.U. Doe v. Portsmouth Abbey School*, decision of the Commissioner dated February 19, 1997; *Smith v. Tiverton School Committee*, June 26, 2000; *Boss v. North Smithfield School Committee*, April 10, 2008; *Northern Rhode Island Collaborative v. East Providence School Committee*, Decision on Motion to Dismiss dated April 24, 2009.

⁴ See *Laidlaw Transit, Inc.*, *supra*; *Jane A. U. Doe*, *supra*; *Smith v. Tiverton*, *supra*.

For the foregoing reasons, the appeal of Ms. Doe on behalf of her son is denied and dismissed.

For the Commissioner,

Kathleen S. Murray

APPROVED:

Deborah A. Gist, Commissioner

June 19, 2010

Date