

State of Rhode Island  
And  
Providence Plantations

Commissioner of Education

Student G. Doe

v.

Johnston School Committee

#### DECISION

Held: Although Student Doe's application for admission to the Cranston Area Career and Technical Center ("CACTC") was not submitted by March 15<sup>th</sup> and the Johnston School Department was not notified of Student Doe's acceptance by April 15<sup>th</sup> of this year, Student Doe is nonetheless entitled to attend the CACTC for the upcoming school year. Student Doe was enrolled in private school during school year 2009-2010, did not transfer into the public schools until this summer, when the family's circumstances changed. He did not know, nor should he have known, of the dates applicable to the admission process at career and technical schools.

DATE: September 9, 2010

### **Travel of the Case:**

Student Doe's mother filed a request for an expedited hearing with Commissioner Deborah A. Gist on August 26, 2010. Ms. Doe sought to have her son begin attending the Cranston Area Career and Technical Center on Tuesday August 31, 2010 (the first day of school) and Superintendent DiLullo had notified her that the district would not approve his attendance there because of budgetary constraints. The undersigned was designated to hear and decide this matter on August 26, 2010 and the hearing was scheduled by agreement for August 30, 2010. At that time testimony and documentary evidence were taken. The district supplemented the record with an additional exhibit (a section of the 2010-2011 fiscal year budget of the Johnston School Department) on August 31, 2010. The record was closed at that time.

The applicable time for issuance of a decision is five (5) working days from the close of the hearing (for interim order relief under R.I.G.L. 16-39-3.2) and fifteen (15) days from the date of receipt of the appeal when a student is denied placement in an area vocational-technical center (Regents' Regulations Sec. IV (H)(5)). The Regents' Regulations state that such appeals shall come directly to the Commissioner. In any event, Student Doe is a sophomore and needs to know as soon as possible the school that he will be attending during this school year.

### **Issue**

Is Student Doe entitled to attend the Cranston Area Career and Technical Center even though he did not submit his application for admission prior to March 15<sup>th</sup> and the Johnston School Department did not receive his name on a list of accepted students provided by the CACTC by April 15<sup>th</sup> ?

### **Findings of Relevant Facts<sup>1</sup>:**

Student Doe and his mother are residents of the town of Johnston.

- Since third grade Student Doe attended private school, but in July of this year, the family's circumstances changed and his mother registered him in public school at that time. When he applied to the Cranston Area Career and Technical Center ("CACTC")<sup>2</sup>, and was accepted there, she was told that he could not attend because there was insufficient money contained in the district's budget. Appellant's Ex.1.
- The tuition for Johnston students who attend the CACTC is approximately thirteen thousand (\$13,000.) per year.

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<sup>1</sup> The findings of fact are based on the hearing officer's notes, Appellant's Ex.1 and the section of the budget forwarded by Superintendent DiLullo on August 31, 2010, marked as District Ex. A.

<sup>2</sup> The CACTC services Johnston students.

- No later than April 15<sup>th</sup> each year the School Department receives a list of Johnston students accepted to the CACTC and the programs in which they will be placed. This year Johnston received notice prior to April 15, 2010 that forty-nine (49) of its students would be attending the CACTC and the Superintendent budgeted \$653,250 to cover the cost of the tuition that would be owed to the Cranston School Department<sup>3</sup>.
- Student Doe and his mother did not become aware of the dates applicable to the admissions process for career and technical schools in Rhode Island until his family's circumstances changed this summer and the decision was made in July that he would no longer attend the private school in which he had been in attendance for several years.

### Position of Ms. Doe

Student Doe's mother submits that the program at the CACTC into which he has been accepted will provide him with the best possible education and she feels that he would benefit greatly from his attendance there. She understands that the district did not have him on the list provided by the CACTC to the Johnston School Department in April of 2010 and therefore did not count him in budgeting monies for tuition in its 2010-2011 budget. However, she argues that extenuating circumstances caused this situation in that there was a change in the family's financial circumstances that placed his continued attendance at a private school out of reach. This situation did not unfold fully until July of 2010, well after the date student applications are supposed to be submitted, after the date the district is supposed to be notified of all students accepted, and even after the date that the school budget is fixed. Ms. Doe argues that the time limits that counsel for the district describes as "deadlines" should not be applied to her son to preclude his attendance in a career and technical program that would be a good match for him.

### Position of the Johnston School Department

Counsel for the district argues that there are important fiscal reasons for the dates specified in the Regents' Regulations for the submission of students' applications (prior to March 15<sup>th</sup>) and for timing of the notice to participating districts (prior to April 15<sup>th</sup>) of how many students will be enrolled in career and technical programs. It is the list of Johnston students who have been accepted into specific programs at the CACTC that provides the necessary information for a computation of the tuition that Johnston will owe to Cranston during the upcoming fiscal year. It is this calculation that the Superintendent inputs to formulate the School Committee's overall budget request to the town, and an appropriation is made in reliance, in part, on this amount. Counsel for the School Department submits that the dates described in Section IV of the Regulations, particularly Subsection H (2) and its April 15<sup>th</sup> date for "notice" of the number of students accepted to the "participating school" (district) must be construed as deadlines. Students who do not submit a timely application and who are therefore not on the list submitted by the April 15<sup>th</sup> deadline, are not entitled to attend even if they have been accepted.

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<sup>3</sup> This amount may provide for tuition for as many as fifty (50) students to attend the CACTC, one more than the forty-nine (49) of which the district was notified by April 15, 2010, if the tuition does not substantially exceed the \$13,000 figure.

Without firm deadlines applicable to the admissions process, there will be a system of “rolling admissions” that would wreak havoc on the budgetary process. Counsel notes that once a fiscal-year appropriation is made for the operation of schools, it becomes a fixed and final amount. Unanticipated obligations, such as would be incurred here for Student Doe’s tuition at the CACTC (and possibly for other students similarly situated) would undoubtedly have a negative impact on other programs operated by the School Department. Stated another way, if the Commissioner interprets the Regulations to permit a student who has not made timely application and who was not on the April 15<sup>th</sup> list of students to enroll, funds needed to pay additional tuition will of necessity be diverted from other equally-important programs. Thus, the district argues that its interpretation of the regulations is consistent with sound educational policy.

### **DECISION**

This is a case in which a School Committee argues that the timelines applicable to the admissions process for students seeking enrollment in an area career and technical center are mandatory, not directory, in nature. The Commissioner is asked to apply the Regents’ Regulations so as to constrict a student’s access to the vocational program of his choice, and to which he has been accepted, despite the broad “access” language contained in both R.I.G.L. 16-45-1.1(d) and Section IV(G)<sup>4</sup> of the Regents’ Regulations. The statement in the Regulations that “Applications may be submitted at any time during the year...<sup>5</sup>” must, counsel submits, be read in context with other, more proscriptive statements in the Regulations. Johnston directs our attention specifically to Section IV (H) (2) and its language that the participating school district “shall be notified by April 15<sup>th</sup>” of the list of students for whom tuition will be required. The district advances very logical arguments as to why the date of application by students and the date of notice to the participating school districts (of the list of students) should be interpreted as mandatory “deadlines.” The point is well-taken that compliance with these dates produces information necessary in building a school district budget for the subsequent fiscal year.

We would note, however, that the Regulations do not describe these dates as “deadlines” nor do the Regulations contain other statements one would expect to find to support an interpretation that these dates are mandatory in nature. Not to be found in the cited sections is language indicating that applications submitted after the applicable date “will not be considered” or that students whose names are not on the April 15<sup>th</sup> list “shall be precluded from attending” the vocational-technical program to which they have been accepted for the next school year. Although we would be inclined to rule that the dates in the Regulations are directory, not mandatory, we need not reach that issue in this case because it may be resolved on the issue of notice.

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<sup>4</sup> EVERY STUDENT WHO CHOOSES VOCATIONAL-TECHNICAL EDUCATION AND WHO IS QUALIFIED FOR ADMISSION SHALL HAVE ACCESS TO SUCH PROGRAMS AND SHALL BE PROVIDED FREE ATTENDANCE BY THEIR LOCAL SCHOOL COMMITTEE, I.E., TUITION AND TRANSPORTATION.

<sup>5</sup> The full statement in the Regulations is “Applications may be submitted at any time during the year, but only applications received at the area center prior to March 15 shall be guaranteed consideration for placement the next September.” This section ( Subsection F “Application Procedure”) goes on to say “Applications submitted at participating schools shall be forwarded as and whenever received to the area vocational-technical center.”

The facts here demonstrate that there was no actual notice to Student Doe of the applicable dates governing his admission to the CACTC. Neither this student nor his mother knew (or should have known) about the dates applicable to the admissions process prior to July when his family decided that he would not be returning to the private school he had been attending. By the time the family became aware of the dates, the “deadlines” had already passed. Constructive notice of these dates, argued by the district to be sufficient, is insufficient to preclude this student’s right of access to the vocational-technical program of study into which he has been accepted for the 2010-2011 school year.

For the foregoing reasons, Ms. Doe’s appeal is sustained and the Johnston School Committee is ordered to approve and pay for his enrollment in the CACTC and provide him with any necessary transportation. This order is entered as both a final order and an interim protective order under R.I.G.L. 16-39-3.2.

For the Commissioner,

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Kathleen S. Murray

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Deborah A. Gist

September 9, 2010  
Date

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