

State of Rhode Island
and
Providence Plantations

Commissioner of Education

Students B.C. Doe and R.C. Doe

v.

Johnston School Committee

DECISION

Held: Although both of these Johnston students did not submit their applications for acceptance into specific career and technical programs at the Cranston Area Career and Technical Center prior to March 15, 2010, their acceptance by the CACTC on August 16, 2010 was nonetheless valid. Neither state law nor Board of Regents' Regulations establishes a deadline for admission or restricts a participating district's obligation to pay tuition and provide transportation to those students who submit applications to career and technical centers or programs prior to March 15th of the fiscal year.

DATE: December 23, 2010

Travel of the Case:

The parent of Students B.C. and R.C. wrote to Commissioner Deborah A. Gist on August 30, 2010 requesting a hearing with respect to her children's entitlement to attend the Cranston Area Career and Technical Center (the "CACTC"). Although both children had applied for admission to specific career and technical programs at the CACTC in mid-June and were accepted into those programs, officials in the Johnston School Department had indicated to their mother that the children had "missed the deadline" for applying. When their mother met with the Assistant Superintendent, she was told that her children would not be able to attend the CACTC for the 2010-2011 school year. Despite this, upon receiving written notification of their acceptance on August 16, 2010 and receiving an invitation to orientation and a "welcome barbecue" on August 25, 2010, the children began the school year at the CACTC, and were in attendance there at the time of the hearing.

An expedited hearing was held on September 13, 2010 and September 23, 2010. The transcript was received on October 20, 2010. Upon receipt of the memorandum filed by counsel for the Johnston School Committee¹, the record in this matter closed.

Regents' Regulations Governing the Management and Operation of Area Vocational-Technical Centers state that disputes shall come directly to the Commissioner or her designee for resolution. When a student is denied "placement" in a program, there is also the right to a direct appeal to the Commissioner. Although these students have not technically been denied "placement" in a program, it is clear that a dispute exists with respect to funding for their placement, and that this dispute involves the students, their parents, and the Johnston School Committee. The issues in this dispute also implicate the Cranston School Department.²

Issue

Are Students B.C. and R.C. entitled to attend the Cranston Area Career and Technical Center even though they did not submit their applications for admission prior to March 15th and the Johnston School Department did not receive their names on a list of accepted students provided by the CACTC by April 15th?

Findings of Relevant Facts:

- Student B.C. and R.C. reside in Johnston with their parents. They were enrolled as freshmen at Johnston High School during school year 2009-2010. After touring the CACTC in February of 2010 and learning about the school, they both decided to apply for admission for September of 2010. Tr. p.6. They filled out applications and signed them, and their mother signed as well. Johnston Ex. C and D; Tr. p. 6, 9-10.

¹ Counsel apparently emailed the memorandum to the hearing officer and the parent on November 4, 2010. A hard copy of the memorandum was forwarded after the hearing officer notified the parties on December 6, 2010 that she had not yet received the memorandum of the school district.

² Neither of the parties has taken the position that the Cranston School Committee is an indispensable party to this dispute.

- Because of “hectic schedules” during the week in which applications were supposed to be filed (the form itself says March 1st, but mother testified that they thought the deadline was March 15) the children did not hand in the forms on time, and when they went to their Guidance Counselor at Johnston High School, she indicated it was too late to apply. The children did not tell their mother because they knew they would be in trouble. Tr. pp. 6-7.
- In late May when Mrs. Doe found out that neither of the children had turned in the applications on time, she immediately contacted Johnston High School and was told there was nothing she could do and that it was too late to submit the applications. Tr. pp. 6, 11-16.
- When Mrs. Doe contacted the Director of the CACTC, Suzanne Coutu, she was advised that there was no deadline for applying to the school and students could apply for admission at any time, so she filled out and submitted applications for both children and submitted them to the CACTC on June 15 or 16, 2010. Johnston Ex. C and D; Tr. p. 20.
- Throughout the summer she attempted to “get a signature” from the Superintendent in Johnston because she knew that her school district would be obligated to pay tuition for both of the children to attend at the CACTC and that the signature would indicate that there were funds available to do so. Tr. pp. 21-22.
- When both of her children received notices from Ms. Coutu some time after August 19, 2010 that they were accepted into the specific programs for which they had applied, Mrs. Doe decided that she would send them to the CACTC and later learned that she could appeal to the Commissioner the issue of Johnston’s obligation to pay their tuition. Tr. pp. 28-48.
- At the time of hearing, both B.C. and R.C. were in attendance at the CACTC. Tr. p.48.
- On August 20, 2010 the Director of the CACTC listed the names of Students B.C. and R.C. on a list sent to Johnston of students from the town who would be attending the CACTC during the 2010-2011 school year. Tr. p.77-78; letter of Suzanne Coutu dated September 28, 2010³.
- The total number of Johnston students attending the CACTC in school year 2010-2011 is fifty-five (55). Letter of Suzanne Coutu dated September 28, 2010.
- The baseline tuition for out-of-district students to attend the CACTC is thirteen thousand (\$13,000.00) dollars. Tr. p.68.

³ Counsel for the Johnston School Department requested information on the total number of out of district students at the CACTC and the date that Johnston had included B.C. and R.C. on the list of Johnston students who had been accepted at the hearing in September 23, 2010. It was agreed at that time that a letter documenting this information would be provided to the hearing officer by letter from Ms. Coutu.

- The total amount contained in the School Department budget for out of district tuition for Johnston students who attend charter schools and the CACTC for the 2010-2011 fiscal year is six hundred and fifty-three thousand, two hundred and fifty (\$653,250.00) dollars. Johnston Ex. F.

Positions of the Parties:

Mrs. Doe:

At the time of the hearing, Mrs. Doe professed her confusion as to how her two children could be accepted into the career and technical programs to which they applied in mid-June, receive written confirmation of their acceptance and yet Johnston officials have repeatedly said that they are not entitled to attend and that the district is not obligated to pay their tuition, at least for this year. She explained that she initially was aware of a “deadline” of March 15th for the submission of applications to the CACTC and learned in late May that her children had failed to turn in their applications on time. In following up, she received conflicting information- from representatives of the Johnston School Department that it was “too late” and from the Director of the CACTC that applications could be submitted at any time. Upon receipt of a formal letter of acceptance for each of her children on or about August 19, 2010, she proceeded to send her children to the school they had chosen to attend. She submits that she does not understand Johnston’s position in this matter.

Johnston School Committee:

Counsel for the School Committee submitted a memorandum summarizing his arguments on behalf of the district. He argues that because the applications of B.C. and R.C. were not submitted until after the March 15 deadline contained in the Regulations and because Johnston did not receive the names of B.C. and R.C. on the list of accepted students submitted by the CACTC by the April 15 date also provided for in the Regulations, the Johnston School Department is not obligated to fund their attendance at the CACTC. The dates imposed in the Regulations are mandatory deadlines, which must be adhered to in the course of the vocational school application process. If the dates contained in the Regulations are not construed as deadlines, then the CACTC admission process would essentially allow “rolling admissions.” Failure to adhere to the deadlines in the Regulations would undermine the entire budget process followed in Johnston because it would require the School Department to reduce funds appropriated to other equally-important educational programs in order to cover the unanticipated costs of these out of district tuitions. Counsel notes the Superintendent’s testimony that the school budget must be presented to the School Committee before May 1st, according to the town’s charter. The Superintendent also indicated that the line item for tuitions for CACTC students is based upon information the School Department has received from the CACTC regarding how many Johnston students have been accepted for the following school year. Reliance on the number of students in the April 15th notice from the CACTC is critical to the budget process and is necessary for Johnston schools to operate within the appropriation it receives each fiscal year.

Johnston submits that it would be contrary to sound public policy to permit students such as B.C. and R.C., who either forgot to submit their applications by the deadline or did not have a

strong interest in attending the CACTC, to be relieved from the obligation to comply with the Regulations as they pertain to the admissions process. RIDE should not force the School Department to make exceptions for each student who does not follow the process prescribed in the Regulations. In this case, both students and their mother were well aware of the applicable deadlines, yet they failed to adhere to them⁴.

Consistent with the statute creating an entitlement to vocational education, R.I.G.L. 16-45-1.1 and in keeping with the requirement that all students who choose vocational education must be provided with “access” to those programs, B.C. and R.C. had opportunity to apply to the CACTC. The fact of the matter is that they did not comply with the reasonable conditions to that access, i.e. submitting their applications by the deadline provided in the Regulations. These dates are mandatory, not directory, in nature. The discretionary language that permits an area center to elect to accept applications after the deadline set forth in the Regulations does not mandate that the respective school district in which the student resides must then agree to provide the required tuition. Superintendent DiLullo rightfully refused to sign the application of these students because they had not adhered to these deadlines and he had therefore not allocated monies in the budget for payment of their tuitions. Counsel for the district requests that the Commissioner rule that B.C. and R.C. must attend Johnston High School for the 2010-2011 school year, without prejudice to their reapplying to the CACTC for the 2011-2012 school year.

DECISION

Counsel for the School Committee makes several strong arguments that the application date (March 15th) and date for notice of “accepted students” (April 15th) are mandatory “deadlines” such that the failure to comply precludes a student’s attendance in a career and technical education program. However, a review of the specific language used by the Board of Regents in Section IV (F) “Application Procedure” does not indicate a deadline for the submission of applications. The pertinent discussion is as follows:

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. Students may submit applications either through their participating school guidance counselor or directly to the area center. Applications submitted at participating schools shall be forwarded as and whenever received to the area vocational-technical center. (Regulations at page 41)

Giving this language its plain and ordinary meaning, a student interested in enrolling at an area vocational-technical center may clearly apply “at any time” during the school year; however, in order to be **guaranteed consideration for placement** (in the specific program (s) to which the student is applying) the application must be received by the area center prior to March 15. The additional language in this section requiring that applications submitted at participating schools

⁴ We infer from this argument that the district seeks to distinguish this case from the case of Student G. Doe v. Johnston School Committee, decision of the Commissioner dated September 9, 2010 a case in which there was no actual notice to the student or his family of the applicable dates governing admission to the CACTC.

“shall be forwarded as and whenever received to the area vocational-technical center” implies that action of some sort will be taken on the student’s application once it is received at the area center. Otherwise, there would be no point in forwarding the application and one would expect that this section would indicate that applications submitted after March 15 will be held at the participating school until the next admissions cycle in the subsequent year. The more logical construction of this section, taken as a whole, is that a student may be disadvantaged in submitting an application after March 15 in terms of being placed in the career and technical program of his/her choice, but not disqualified from applying altogether.

As pointed out in the Commissioner’s decision in Student G. Doe v. Johnston School Committee⁵ the word “deadline” does not appear anywhere in this entire section of the Regulations. Also not present in this section is language that typically is used to describe the failure to adhere to a mandatory cut-off date, e.g. that applications submitted or received after the date of March 15 “will not be considered” or that students who do not submit applications by March 15 “will be precluded from attendance” or, (stated more positively) that “those applying after the date of March 15 will be considered for admission for the subsequent school year.” We must assume that the drafters of the language under scrutiny here knew how to describe a deadline and to state the effect the failure to comply with a deadline would have. On the basis of the language that is utilized in the Regents’ Regulations, we find that the March 15 date for receipt of applications at the area center⁶ is directory, and not mandatory, in nature.

Although the budgetary and fiscal implications of a “rolling admissions” process have been succinctly argued by counsel for the School Committee, we must assume that the Regents were well aware of these issues and balanced competing interests in devising the admissions process for students in career and technical education programs, centers and schools.

For the foregoing reasons, the appeal of Students B.C. and R.C. is sustained and the Johnston School Committee is ordered to approve and pay for their enrollment at the CACTC and provide them 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,

Kathleen S. Murray

December 23, 2010

Date

Deborah A. Gist

⁵ Decision of the Commissioner dated September 9, 2010

⁶ As well as the April 15 date for notice to be provided by the area center to the participating school with the list of accepted students and the programs in which they will be placed.