

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

E. DOE

v.

EAST PROVIDENCE SCHOOL DEPARTMENT

Decision

Held: As the community of residence, East Providence must pay the tuition for student Doe's enrollment in the state-approved career-technical music program at the Jacqueline Walsh School for the Performing and Visual Arts in Pawtucket.

Date: October 11, 2011

Introduction

This is a parent's appeal of the school district's denial of her request that the district pay the tuition for an out-of-district public school enrollment.¹

Background

Student Doe is a resident of East Providence. She is a junior in the music program at the Jacqueline M. Walsh School for the Performing and Visual Arts in Pawtucket ("Jacqueline Walsh School"). Doe's parents enrolled her in the Jacqueline Walsh School for the 9th grade and have paid out-of-district tuition for the past two years.

The Pawtucket School Department website describes the Jacqueline Walsh School as "a public arts high school offering conservatory style arts classes in visual arts, dance, music and theater, as well as rigorous academic courses." The Rhode Island Department of Education website does not list the Jacqueline Walsh School among the 10 career and technical centers in the state.² In May 2011, however, the Department of Education designated the visual arts, dance, music and theater programs at the Jacqueline Walsh School as approved career-technical education programs of study.

Student Doe plays the violin. At the Jacqueline Walsh School, she has an extended school day which allows for varied and in-depth daily study in music.³ East Providence High School has a school band, but no orchestra, and therefore no opportunity to play the violin. The East Providence Career and Technical Center does not offer a music program.

Positions of the Parties

Appellant contends that East Providence is responsible for Doe's tuition at the Jacqueline Walsh School this year because the music program is now an approved career and technical education program of study and East Providence does not offer a similar

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the appeal. A hearing was held on September 1, 2011.

² Pawtucket is a participating school district in the catchment area for the William M. Davies, Jr. Career and Technical School.

³ According to Doe's current schedule, she has 8 music classes and 5 chorus classes per week.

program. Appellant is not asking for transportation to and from the Jacqueline Walsh School.

East Providence denies responsibility for Doe's tuition because the Jacqueline Walsh School is not a state-approved area career-technical center and East Providence High School can provide Doe with an appropriate education.

Discussion

Rhode Island General Law 16-45-1 authorizes the Board of Regents "to establish and maintain regional schools for vocational and technological training and instruction . . ." According to Rhode Island General Law 16-45-1.1(a) and (b),

The overall mission of vocational education in Rhode Island is to develop programs and services from elementary level through secondary, postsecondary, and adult levels to prepare students for productive employment or additional education without prematurely limiting them to a particular occupational or educational choice.

Vocational education is defined as a state approved educational program below the baccalaureate level taught by a properly certified teacher, designed to:

- (1) Prepare individuals for gainful employment in recognized and/ or emerging clusters of related occupations;
- (2) Assist individuals in making informed occupational choices; and
- (3) Upgrade individuals already in an occupational field.

In addition, §16-45-1.1(d)(1)(i) states that "[a]ll youth and adults who choose vocational education shall have access to those programs."

In July 1990, "The Regulations of the Board of Regents Governing the Management and Operation of Area Vocational-Technical Centers in Rhode Island" were approved. The Regulations set forth the specific responsibilities of the Department of Education and school districts with regard to the management and operation of area vocational-technical centers.

Three types of area vocational-technical centers are identified, as well as two types of satellite models.⁴ Staffing, programs, budgets, student admissions and placements are also addressed. Section IV(B)(1) of the Regents' Regulations states, in part, that "[a]rea vocational-technical center and satellite programs shall be established or terminated by the administering school district after consultation with the area coordinating committee and the approval of the Commissioner of Education or the Commissioner's designee." Section IV(C)(7) of the Regulations provides that

If a particular program has no openings or is not available at a student's area center, he/she shall have the right to attend the programs in the center nearest to the student's legal residence offering the program which has an opening and for which he/she is qualified. Tuition and transportation expenses must be provided by the community where the student legally resides.

East Providence correctly points out that the Jacqueline Walsh School is not a Rhode Island "area vocational-technical center." The Jacqueline Walsh School is not a satellite program of an area vocational-technical center, either. Therefore, the Regulations of the Board of Regents Governing the Management and Operation of Area Vocational-Technical Centers in Rhode Island do not apply to this dispute.

Under Rhode Island General Law 16-45-1.1(d)(1)(i), Student Doe has a right of access to vocational programming. The question presented by this case is whether Doe's statutory right of access is limited to vocational programming offered by area career-technical centers. Reviewing chapter 45 of Title 16 in its entirety, we answer in the negative.

Chapter 45 initially authorizes the Board of Regents to "establish and maintain regional schools for vocational and technological training and instruction . . ." The statute then discusses vocational education in terms of state-approved "programs." We find that, while the statute empowers the Board of Regents to provide a delivery system for state-approved career-technical education, it does not state that the regional-school system is

⁴ The two types are the industrial satellite and the school-based/vacated facility satellite. The requirements for the latter include an agreement between the school committees of the administering and participating school districts delineating the respective management and operational responsibilities. No evidence of such an agreement has been presented.

the exclusive source of career-technical programming. Instead, the emphasis is on “programs,” which must be “state-approved” in order to be considered “vocational education.”

The music program at the Jacqueline Walsh School is a state-approved career-technical program of study. From a program perspective, it is similar to the types of offerings available at area career-technical centers. We cannot envision how the nature of the program is significantly affected or somehow altered solely by virtue of the fact that it is conducted at a public high school. As a state-approved career-technical program, it should be accessible to students under §16-45-1.1(d)(1)(i).⁵

Conclusion

Because Student Doe resides in East Providence, the East Providence school district must pay the tuition for her 2011-12 enrollment in the state-approved career-technical music program at the Jacqueline Walsh School. If the East Providence and Pawtucket school districts are unable to agree as to the amount of tuition owed for Student Doe’s 2011-12 enrollment at the Jacqueline Walsh School, this proceeding shall be re-opened in order to determine the tuition amount.

Paul E. Pontarelli
Hearing Officer

Approved:

Deborah A. Gist
Commissioner of Education

Date: October 11, 2011

⁵ In the case of Student J.B. Doe v. Exeter-West Greenwich School Department, issued on December 31, 2009, a West Greenwich parent argued that the Regents’ Area Vocational-Technical Center Regulations obligated the School Department to transport her son to the New England Laborers’/Cranston Public Schools Construction Career Academy in Cranston. We found no merit in the argument because the Academy, “despite its name, is not part of Rhode Island’s system of Regional Vocational Schools established under R.I.G.L. 16-45-1.” [Decision, p. 3]. Unlike the case before us, no evidence was presented in J.B. Doe that the student was enrolled in a state-approved career-technical program of study at the Laborers’ Academy.