

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

RHODE ISLAND DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION

v.

WOONSOCKET SCHOOL COMMITTEE

ORDER

This matter came on for a “show cause” hearing to determine the necessity of an order from the Commissioner to the General Treasurer under R.I.G.L. 16-5-30 to withhold payment of additional portions of state education aid that has been or may be apportioned to the City of Woonsocket and pay such funds to the Rhode Island Department of Elementary and Secondary Education so that IEP services to certain disabled Woonsocket students will not be discontinued. The Commissioner previously entered an order dated April 4, 2012 authorizing the General Treasurer to withhold approximately one hundred and eighty-five thousand (\$185,000.00) dollars from the City of Woonsocket’s state education aid payments for April, May and June to ensure that services would continue to a number of disabled students enrolled at private schools not included in these proceedings.

The hearing held on May 10, 2012 concerned the potential discontinuation of special education services provided to Woonsocket students enrolled at The Groden Center, Inc., St. Mary's Home for Children, the Paul J. Primavera Center¹ and the Wolf School. Notice was given to the Woonsocket School Committee, the City of Woonsocket and to the four special education service providers who had notified RIDE that cessation of services was imminent because of unpaid balances for services provided to these students.

Prior to the expedited hearing held on May 10, 2012, the hearing officer proposed that these matters be consolidated for purposes of hearing and decision. At the time of the hearing, there was no objection to this proposal. Although the focus of the hearing was on tuition payments for the remaining months of the school year, counsel representing the above-listed entities, all of which are owed substantial amounts of overdue tuitions, reserved the rights of their clients to claim retrospective amounts in any appropriate forum.

The following facts are not in dispute:

- The Groden Center, St. Mary's Home for Children and the Wolf School are private schools that operate RIDE-approved special education programs and deliver programs of instruction and other services to disabled Woonsocket students pursuant to their Individualized Education Programs. The Paul J. Primavera Center is operated by the Bellingham Public Schools and provides such services to six (6) Woonsocket students;
- Payments for services rendered by these schools to Woonsocket students are in arrears. The Woonsocket School Department currently owes The Groden Center approximately \$119,000; St. Mary's Home for Children, approximately \$247,000; the Wolf School, \$31,075; and the Paul J. Primavera Center, \$76,800;
- Tuition for the months of May and June for Woonsocket students at these facilities is as follows: The Groden Center, \$11,318.48 for May and \$11,318.48 for June; St. Mary's

¹ The Paul J. Primavera Center is an alternative school for 25 students operated by the Bellingham (MA) Public Schools.

Home for Children, \$56,265 for May and \$39,902 for June; the Wolf School, \$5,634 for May and \$1,537 for June; The Paul J. Primavera Center, \$11,550 for May and \$11,550 for June;

- It is unlikely that these schools will be able to provide services beyond May 30, 2012 because of the financial difficulties brought about by the tuition arrearages incurred with the Woonsocket School Department; they will forthwith cease to provide services if monthly tuitions are not forthcoming and a plan to pay arrearages is not implemented as soon as possible;
- The Woonsocket School Department is unable to make monthly tuition payments or bring its accounts with these schools current at this time and does not have an alternative plan to provide or maintain special education services to these Woonsocket students; the financial position of the School Department hinges on the approval of the General Assembly of a supplemental tax and the appropriation of additional funds for education of Woonsocket students;
- Since the Commissioner issued her order of April 4, 2012 to withhold state education aid to enable the Department of Education to pay other providers of special education services, the financial situation of the Woonsocket School Department has worsened. It is described as “bleak, dire and unprecedented”. The Woonsocket School Department does not have sufficient funds to enable it to operate for the balance of the school year. The Superintendent has received the cooperation of many creditors of the School Department who have continued to provide services to the school system despite substantial arrearages. With the limited funds that have been available, the Superintendent determines on a day to day basis which creditors to pay and how much to pay them in order to keep the system operating.

Based on these facts, the following conclusions of law may be made:

- The State Education Agency has a legal obligation to ensure that services are provided to a Local Education Agency’s (LEA’s) students with disabilities if it determines that the LEA is unable to establish and maintain programs of a free appropriate public education

that meet the requirements of federal and state law. The primary responsibility to provide FAPE is with the LEA of residence, in this case Woonsocket.

- The Woonsocket School Department is currently unable to maintain the programs described herein that are necessary to provide these students with a free appropriate public education.
- In order for RIDE to fulfill its responsibility to ensure that the Woonsocket School Department provides students with disabilities a free and appropriate public education under 20 USC §1413 (g) and 34 CFR §300.227, it is necessary for state education aid to be withheld under R.I.G.L. 16-5-30 and paid to RIDE so that monthly tuitions to these schools can be paid directly. This will help to ensure that these students will be maintained in their current programs. The record is devoid of evidence of other sources of state, federal, or local funding available to meet these expenses at the present time.
- The Woonsocket School Committee's position that the state or RIDE should take over responsibility for special education of Woonsocket students and/or take control of Woonsocket's school system is premature;
- The Woonsocket School Committee's argument that the direct payment of special education providers by RIDE constitutes preferences to certain creditors of the Woonsocket School Department raises an issue over which the Commissioner lacks jurisdiction;

NOW, THEREFORE, it is hereby: ORDERED

That the General Treasurer of the State of Rhode Island shall withhold approximately eighty-five thousand (\$85,000.00) dollars (in addition to the one hundred and eighty-five thousand (\$185,000.00) dollars previously ordered on April 4, 2012) from the City of Woonsocket's state education aid payment for the month of May, 2012 and sixty-five thousand, five hundred (\$65,500.00) dollars (in addition to the one hundred and eighty-five thousand (\$185,000.00) dollars previously ordered on April 4, 2012) from the City of Woonsocket's state education aid payment for the month of June, 2012. Upon submission of appropriate documentation by RIDE, the General Treasurer shall pay said amounts to RIDE for the purpose

of enabling RIDE to pay validated monthly invoices for services provided to Woonsocket students by The Groden Center, St. Mary's Home for Children, the Wolf School, and the Paul J. Primavera Center during the months of May and June. Said invoices shall be provided by these schools to RIDE's Office of Finance and shall reflect the current monthly charges for services provided to Woonsocket students.

Entered on this 16 day of May, 2012.

Kathleen S. Murray
Hearing Officer

Approved: _____
Deborah A. Gist, Commissioner