

STATE OF RHODE ISLAND

COMMISSIONER OF EDUCATION

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E. DOE

v.

EAST PROVIDENCE SCHOOL DEPARTMENT  
-----**Decision on Remand**

On October 11, 2011, we issued a decision in this case finding the East Providence School Department responsible for the tuition of student Doe while she attended the Jacqueline Walsh School in Pawtucket during the 2011-12 school year.

On June 7, 2012, the Board of Regents remanded the matter for

. . . more discussion and findings from the Commissioner involving the statutory or regulatory reference that requires the burden of paying the tuition to be placed on the community where the child resides when that community does not wish to pay.<sup>1</sup>

Our statutory and regulatory analysis begins with the original enactment of Rhode Island General Law 16-45-1. The 1964 statute authorized the Board of Regents to “establish and maintain regional schools for vocational and technological training and instruction . . .” From 1967 to 1976, a network of 9 area vocational-technical centers were developed, and in 1981 the Board of Regents promulgated vocational-technical regulations.<sup>2</sup> In 1987, §16-45-1.1 was added to the statute. Entitled “Declaration of Policy,” it states in subsection (a) that

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<sup>1</sup> Decision of June 7, 2012, pp. 1-2. The parties submitted written argument following the remand.

<sup>2</sup> “Administrative plans” among the school districts and the state were approved in 1967 and 1975. *See*, “Foreword” to the Regulations of the Board of Regents Governing the Management and Operation of Area Vocational-Technical Centers in Rhode Island, July 19, 1990.

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,” as defined in subsection (b) of §16-45-1.1, consists of “state-approved program[s].”

In 1990, the Board of Regents adopted new vocational-technical education regulations. Those regulations continued to provide “public vocational-technical education . . . through a comprehensive network of nine area vocational-technical centers . . .”<sup>3</sup> In 2005, §16-45-5 was enacted, which describes career and technical education programs as “a critical component of the state’s public education system . . .” In March 2012, the Board of Regents adopted new regulations governing career and technical education in Rhode Island, to take effect on July 1, 2012.

The visual arts, dance, music and theater programs at the Jacqueline Walsh School received state approval in May 2011. They were precursors to programs envisioned by the new Board of Regents’ regulations. Those regulations authorize the delivery of career and technical education “in a wide array of settings including but not limited to traditional classrooms, comprehensive high schools, work- and field-based settings, career and technical centers, and virtual and electronic media.”<sup>4</sup> As noted in the Regents’ remand, the East Providence School Committee must pay tuition for resident students who enroll in career and technical programs at the Jacqueline Walsh School beginning with the 2012-13 school year.

This case concerns the 2011-12 school year. Our original decision framed the question presented as whether Doe’s statutory right of access to vocational programming under §16-45-1.1(d)(1)(i) is limited to the programming offered by area career-technical centers. We articulated the question in this manner so as to reflect the “overall mission” of the statute. While we again acknowledge that the state-approved music program at the Jacqueline Walsh School did not conform to the vocational-technical education system contained in the 1990 regulations, we cannot overlook the fact that the regulations serve

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<sup>3</sup> *Ibid.*, p. i.

<sup>4</sup> Regulations of the Board of Regents Governing Career and Technical Education in Rhode Island, Section 2.0.

to implement the statute and effectuate its “overall mission” of developing programs that can be accessed by public school students. The statute is the controlling legal authority. The 1990 regulations cannot subvert its purpose. Furthermore, it is clear from the statutory sections quoted above that “vocational education” consists of public school programs for public school students. It must be available without cost to public school students.

Given the timing of this appeal, we interpreted the statute in light of the changing circumstances regarding the delivery of career and technical education. The music program at the Jacqueline Walsh School anticipated these changes by a year. It is a state-approved program and therefore similar to those covered by the 1990 regulations, except that it is not offered at an area career-technical center. Our decision recognized the difference between the means and the mission of the statute during this time of transition. Providing this East Providence public school student with tuition-free access to a state-approved career and technical public school program in an adjacent city is the logical interpretation of the statute in light of its expressed mission.<sup>5</sup> To differentiate between similar programs solely on the basis of the programs’ settings does not advance that mission. Instead, it creates a meaningless distinction that, for students living outside of Pawtucket, converts the program at issue into a private-school program that can be accessed only by those who can afford to pay the tuition. This is not consistent with the mission of the statute or the fact that we are dealing with “a critical component of the state’s public education system.” It is, however, the result that is reached when the regional delivery system described in the 1990 regulations is treated as the statutory goal.

The regulations derive their authority from the statute. Because the statute is designed to provide public vocational programs to public school students, the regulations should not be interpreted to impair access to state-approved programs unless there is a significant reason to do so. We do not believe that the location of a state-approved program is such a reason. We therefore do not agree with the School Department’s argument that it is not obligated under the statute to pay student Doe’s tuition for the 2011-12 school year, nor do we agree with its claim that the Commissioner exceeded her

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<sup>5</sup> Because student Doe is not seeking transportation to or from the Jacqueline Walsh School, it is not under consideration here.

authority under the statute. As explained above, our holding is based upon a logical interpretation of the terms and the mission of the statute in light of the circumstances that existed during the 2011-12 school year. We are fulfilling, not exceeding, our authority to interpret Title 16 by concluding that Doe, as a public school student, was entitled to access the music program at the Jacqueline Walsh School for the 2011-12 school year.

Based on the discussion above, we affirm our decision of October 11, 2011.

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Paul E. Pontarelli  
Hearing Officer

Approved:

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Deborah A. Gist  
Commissioner of Education

Date: August 27, 2012