

State of Rhode Island  
and  
Providence Plantations

Commissioner of Education

RE: Students N.D.M. DOE

vs.

Cranston School Department

DECISION ON  
REQUEST FOR EXPEDITED ORDER

Held: The Petitioner has not demonstrated entitlement to issuance of an order requiring that the Cranston School Committee permit an intra-district transfer from his home school to another school within. At this time there exists no legal basis for the issuance of such an order.

DATE: August 28, 2013

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

The Petitioner is the parent of a child, herein referred to as N.D.M. Doe, who is enrolled to enter kindergarten at his home school, the Chester Barrows School. On August 13, 2013, Commissioner Deborah A. Gist received an appeal on behalf of the Petitioner from a denial by the Cranston School District (Cranston) of a request to permit the child to transfer from his home school to the Waterman School which is situated in a different section of the City of Cranston.<sup>1</sup> The matter has been delegated to the undersigned for hearing and decision.

### **Stipulated Facts:**

- Student N.D.M Doe lives with his family in Cranston, Rhode Island and will be entering kindergarten for the 2013 – 2014 school-year. His home school is the Chester Barrows School; The family’s residence was severely damaged in March 2010 as a result of flooding and thereby required significant repairs. Joint Exhibit A.<sup>2</sup> The child’s parents filed a Notice of Voluntary Interest in the Federal Emergency Management Agency (FEMA) dated August 13, 2013 with the City Plan Commission for purposes of “indicating their interest in participating in an acquisition program” in the event that grant funding was allocated to said program. Joint Exhibit B.
- It is the intention of the child’s parents to move from their present residence “as soon as possible” and to acquire a home located in the Waterman School District of Cranston (Stipulated Facts paragraph 6 and 8); however, at this time there exists no guarantee that FEMA and/or grant funding will be forthcoming and available to them (Stipulated Facts paragraph 7).
- Relative to the foregoing, the child’s parents presented to the school district a timely application for a permit authorizing that the child be allowed to transfer to the Waterman School for the 2013 – 2014 school-year. In a decision dated July 25, 2013, issued by Assistant Superintendent

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<sup>1</sup> After a telephone prehearing conference between the parties and designated hearing officer on August 14, 2013, it was agreed that no material facts were in dispute and that this matter could be determined on the basis of stipulated facts and attendant joint exhibits. A formal statement of stipulated facts and exhibits were submitted on August 15, 2013 and entered as the full record in this matter, and unless otherwise noted this decision is factually based on said stipulated facts and joint exhibits.

<sup>2</sup> The content of Joint Exhibit A includes photographs of the severely damaged home and invoice statements and proposals from construction and technical contractors.

Jeannine Nota-Masse, said request for a permit was denied on the grounds that “the reason(s) stated in [their] communication to this office does not meet the acceptable criteria set forth in School Committee [P]olicy #5117.<sup>3</sup> Joint Exhibit C.

- Though Cranston had previously exercised a consistent practice of allowing students in the school system to transfer to schools outside their home school district as a matter of courtesy, in recent years the request for such transfers had “grown exponentially”, thereby resulting in formal amendment to the policy by the establishment of expressed limiting criteria. See *General Policy Statement*, Joint Exhibit D.
- The child’s parents appealed the school district’s denial to the Cranston School Committee. The matter was heard on August 8, 2013, and the School Committee affirmed the denial of the permit request and so informed the parents in a letter from the School Committee Chairperson dated August 9, 2013. Joint Exhibit E.

### **Positions of the Parties:**

The child’s parent argues that the circumstances evolving from the March 2010 flooding and consequential residential damage has directed his application for participation in the community’s acquisition program. The parent further states that it is the family’s intent to move from the current home school district to the Waterman School district of Cranston. Given the certainty of the family’s intention to make such a move, it would be in the child’s best interest begin kindergarten in what will eventually become his new home school district.

Counsel for Cranston submits that despite the honest representations of the parent’s intention to relocate the family to the Waterman School district, the plan remains a matter of speculation at this time. Without the necessary grant funding through the acquisition program or even a particular Waterman School district residence identified for purchase, the School Committee must adhere to the criteria set forth in School Committee Policy 5117 and therefore is constrained to deny the request for the transfer permit.

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<sup>3</sup> School Committee Policy 5117 was in effective as of July 1, 2013, and thereby was applicable at the time of the parents’ request for a permit to Cranston.

## DECISION

In seeking to bring stability to his child's maiden educational venture by means of obtaining a transfer permit from his current home school district to the Waterman School district, the parent's objective is understandable. However, Cranston's School Committee Policy 5117, which enumerates limited criteria for the approval of school transfer permits, reflects a fair and orderly approach to managing individual school enrollment in the Cranston school system. School Committee Policy 5117, entitled "Permit to Attend Non-Home School Policy," does not yield the same flexibility<sup>4</sup> that previously governed requests for a school transfer permit. Though the child's parent avers that anticipation of the family's imminent residency relocation warrants the issuance of the permit by the School Committee, such change in residency is not imminent enough to circumvent the limiting criteria of School Committee Policy 5117, none of which are applicable to the facts of the instant matter. Though the parent's argument has focused on the application for participation in the acquisition program and the family's intentions to relocate, it is not certain that even the presentation of a signed purchase and sale agreement documenting the family's anticipated purchase of a home in another part of the City of Cranston would result in a favorable disposition.<sup>5</sup>

The record does not show that Cranston school officials acted arbitrarily, capriciously or in an unreasonable manner in the application of its policy. The record does not demonstrate that the child's parent has made an adequate showing of circumstances that fall within the district's permit criteria. The decision to deny the child's intra-district transfer from his home school to the Waterman School is, therefore, reasonable. If and when the family takes up residency in the Waterman School district, the child will then be entitled to assignment in that public school.

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<sup>4</sup> School Committee Policy 5117 was prefaced with a General Policy Statement providing that: "Over the past several years, requests for permits for children to attend schools not assigned to them by geography, also known as the 'home school,' has increased greatly, and is especially prevalent at elementary schools. [Cranston] granted yearly permits to students so they may attend a school other than their home school. This practice which started as an exception based on courtesy has grown exponentially and has diverged from the original permit criteria. Joint Exhibit D.

<sup>5</sup> The Permit Criteria is limited to the following: a) timely submission of a permit application (by May 1); b) reasons related to "a medical condition"; c) as required "pursuant to an IEP or 504 Plan"; d) "programming not offered in [the student's] home school; e) as required by "documented legal reasons . . . (i.e. restraining orders or custody agreements)"; f) "[t]student's sibling(s) attend(s) a school outside of his/her home school in the district for special service placements (i.e. ELL or special education) or due to clustering." Joint Exhibit D.

The request for an order requiring Cranston to issue a transfer permit is denied.

For the Commissioner,

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George M. Muksian, Hearing Officer

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Deborah A. Gist, Commissioner

DATE: August 28, 2013