

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

Student B. Doe

vs.

Cranston School Department

COMMISSIONER'S DECISION

Held: The petitioner has not established a right to issuance of an order that requires the school district to permit a student's enrollment in a school outside his home school district.

DATE: September 15, 2015

Travel of the Case:

The petitioner is the parent of Student B. Doe, hereafter identified as the Student, who seeks enrollment of her child in Cranston High School West (Cranston West), a Cranston secondary level school located outside the Student's home school district.¹ The Commissioner received an appeal on August 18, 2015, challenging the decision of the Cranston School Committee to deny the parent's request that her son be allowed to attend Cranston High School West (Cranston West) as an exception to the Cranston School District's (Cranston) Revised Policy Number 5117(a) (the Policy). (See District's Exhibit D) Following a telephonic prehearing conference on August 26, 2015, this matter was continued for hearing on September 2, 2015 under R.I.G.L. Section 16-39-2.

Facts:

The parent is a resident of the City of Cranston, however, she lives with her child outside of the home school district for Cranston West. As a result, under the district Policy and in the absence of one of the exceptions provided under the Policy,² the Student would be required to attend Cranston East. In seeking a decision that allows the Student's attendance at Cranston West despite geographic ineligibility under the policy, the parent has submitted a doctor's note dated August 14, 2015, indicating a diagnosis of ADHD and "significant anxiety issues." (See Student's Exhibit 1) The doctor's note also contains a request that the Student "be allowed to attend Cranston High School West, where he will feel less anxious, already knowing many students from his middle school." The parent also testified that the Student is prescribed medication to treat anxiety disorder and has confined himself to his bedroom for the previous one and one-half weeks. Nevertheless, Cranston has concluded that the doctor's note alone does not provide an adequate basis for allowing the issuance of a non-home school district permit and, accordingly, has denied the parent's request allowing the Student's enrollment and attendance at Cranston West. Cranston does accede to a reconsideration of its denial if its district physician or IEP or

¹ The home school district high school for Student B. Doe is Cranston High School East.

² The Policy states in pertinent part: "2. Documentation must accompany any request for a permit based on a medical condition and may be reviewed by the nursing supervisor for Cranston Public Schools, district physician for Cranston Public Schools and /or appropriate IEP or 504 team for consideration. Any child granted a permit based on medical need, must submit current medical documentation related to the permit request every year to the assistant superintendent." Additionally, the Policy cites as an exception that "[t]he placement is required pursuant to an IEP or 504 Plan."

504 team is given an opportunity to review the Student's medical records and/or consult with the Student's physician; however, and without explanation, at the time of hearing no such medical review had been undertaken.³

Positions of the Parties:

The parent of the Student takes the position that under the terms and medical exceptions of the Policy, her child is entitled to enrollment out-of-district at Cranston West. In essence, the parent's position is primarily dependent upon the doctor's note and the parent's belief that beginning the ninth grade at Cranston West would benefit her child both in terms of his education and his mental health. See Student's Exhibit 1.

Cranston argues that the facts of this particular case afford no basis in support of deviating from its Policy which, in previous decisions by the Commissioner of Education, has been vindicated in similar challenges. See Students N.D.M. Doe vs. Cranston School Committee (Commissioner's Decision, dated August 28, 2013); Student A. Doe vs. Cranston School Department (Commissioner's Decision, dated September 23, 2014.) Although acknowledging that the Policy's limited criteria, especially those relating to medical conditions, affords the district the discretion to issue non-home school permits, the parent in this case has not offered sufficient evidence to sustain her burden of establishing a medical basis for the granting of her request for the issuance of a permit to allow her son to attend high school outside his home school district.

³ During a telephonic prehearing conference on August 26, 2015, Cranston agreed to direct its physician to confer with the Student's physician upon the execution of a consent form by the Student's parent in order to reconsider the issuance of a non-home school permit on medical grounds. The conference between physicians did not occur prior to the hearing on September 2, 2015. However, it is notable that the Commissioner of Education issued a decision (B. Doe v. Cranston School Committee (Commissioner's Decision dated, August 28, 2013)) involving this same student that ordered Cranston to convene an evaluation team prompted by the parent's appeal of the district's decision to retain him in the 7th grade. The Commissioner ruled that although the Student's retention was supported by the evidence, the record also warranted a reconsideration of Cranston's finding that the Student did not have a disability that contributed to his truancy and poor academic success. See District's Exhibit B. Although the ordered evaluation determined that the Student was eligible for special education services, the parent rejected such services and instead opted to homeschool the Student. The parent reiterated her intention to homeschool the Student during the hearing in this appeal if a non-home school permit was not issued nor otherwise ordered as a result of this appeal.

Decision:

We have previously had the opportunity to review Cranston's non-home school permit policy and affirmed its implementation in previous decisions. The Policy's objectives clearly fall within the Cranston School Committee's duty to exercise authority in the "care, control, and management of all public school interests" and, specifically, "to develop education policies to meet the needs of the community." R.I.G.L. Section 16-2-9.

Although the facts and issues in the instant matter are distinguishable from those in our earlier decisions, we maintain that the Policy is a reasonable exercise of local authority and is "designed to bring optimal educational opportunities to all its students by means of 'a fair and orderly approach to managing individual school enrollment.'" Student A. Doe vs. Cranston School Committee, *id.*, at page 6 (quoting Students N.D.M Doe vs. Cranston School Department, *id.*, at page 4.) In order to fulfill its public responsibilities and, in particular, deliberate fairly over issues raised under the Policy by students and families seeking circumvention of the restrictive rules governing out-of-district school enrollment in a manner that is neither arbitrary, capricious, discriminatory nor otherwise unreasonable, it must by necessity be provided a relevant and material basis for purposes of making an informed decision relative to requests for enrollment in non-home schools.

The parent's concerns about her son's anxiety issues appear to be genuine; however, the evidence that she has provided at hearing, mainly the doctor's note (Parent's Exhibit 1), does not provide an adequate basis to conclude that the Student's attendance at Cranston West, as opposed to Cranston East, will be educationally or medically necessary or in any event beneficial to the Student. The record developed in this case only allows us to speculate as to whether the Policy's exception based on the Student's medical condition may support the issuance of a non-home school permit. Accordingly, in its totality the evidence presented is uncertain and ambiguous and, consequently, is insufficient for finding that the Student's medical condition and, in particular, his anxiety symptoms are an index of his school environment. Accordingly, the parent's appeal of Cranston's decision to deny her application for a non-home school permit is denied and dismissed. However, in light of Cranston's willingness to pursue further inquiry into the Student's medical condition and the possible causal relationship of his anxiety disorder to enrollment at his current home school (Cranston East), we encourage the parties to cooperate with each other and make a concerted effort to obtain relevant and material medical information from competent sources for the purpose of allowing an informed decision that will close the gulf that may exist between the Student's educational and medical needs.

Conclusion:

The request for an order requiring Cranston to issue a non-home school district permit allowing Student A. Doe to enroll at Cranston High School West is denied and dismissed.

For the Commissioner

George M. Muksian, Hearing Officer

Ken Wagner, Commissioner

DATE: September 15, 2015