

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

In Re: Residency of  
Student R. Doe

### DECISION

**Held:** The Appellant has not proven that her daughter has established school residency in Coventry. Student Doe lives with grandparents in Coventry in order to keep her safe from individuals who have utilized the internet to harass and threaten her. The primary reason she lives with her grandparents during the school week is to enable her to enroll in high school in Coventry where her mother feels her school environment will be safer than it is in Warwick where she is currently enrolled. Warwick school officials stand ready to work with the family and the local police to put in place measures to increase her safety at school and going to and from school. Until a safety plan is put in effect, home tutoring will be made available to Student Doe.

Dated: January 4, 2016

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

Mrs. Doe filed a request for a hearing with Commissioner Ken Wagner on December 11, 2015. She is seeking an order directing the Coventry School Department to enroll her since she lives during the school week with her grandparents who are Coventry residents. The matter was assigned to the undersigned on December 14, 2015 and scheduled for hearing on December 23, 2015. At the hearing, Mrs. Doe and her daughter appeared pro se and counsel for the Warwick and Coventry school departments appeared on behalf of their respective clients. Since Student Doe has not attended school in approximately three weeks, the decision in this matter has been expedited.

### **Findings of Relevant Facts:**

- Until recently, Student Doe attended Veterans Memorial High School in Warwick<sup>1</sup> where she is currently enrolled as a junior.
- Several students who also attend various public schools in Warwick began harassing her both in person and through the use of the internet, in approximately mid-November of this year. The motivation for their actions is unclear.
- This harassment has escalated to threats of physical harm against Student Doe and her mother.
- Mrs. Doe contacted school officials and filed a number of police reports with the Warwick police department. She and her daughter have also “blocked” their receipt of internet and telephone messages from these individuals.
- After the Assistant Principal at Veterans Memorial High School received Mrs. Doe’s report of harassment and threats from these students,<sup>2</sup> he contacted staff at all of the schools involved and in concert they addressed these issues with the alleged perpetrators. The intervention was informal and consisted of warnings that such behavior would not be tolerated. As a result, in-school harassment ended.

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<sup>1</sup> Part of her school day is in the career and technical education program located at Pilgrim High School.

<sup>2</sup> The mother of one of these individuals has also made threats and disparaging remarks to Student Doe and Mrs. Doe.

- Despite the cessation of in-school “bullying” Student Doe continued to receive harassing and threatening messages through the internet and her phone until she blocked contact with these individuals.
- Student Doe continues to be fearful for her physical safety. She has moved to live with her grandparents in Coventry during the school week and returns to her parents’ home in Warwick on the weekend. She has limited contact with friends and spends most of her time with her mother.

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

#### **Appellant:**

The Appellant argues that her daughter’s current living situation was put in place to ensure her daughter’s physical safety. Despite the reports she has made to the police, there have been no charges against these individuals and she fears retaliation if charges are ultimately brought against them. She requests “authorization” to enroll her daughter in Coventry so that she can remain safe and attend school in a safe environment. She emphasizes that it is her daughter’s safety, and not school attendance, that has caused her to send her daughter to live with grandparents in Coventry.

#### **Coventry School Department:**

Counsel for the School Department takes the position that Student Doe is living with her grandparents in Coventry during the school week primarily so that she can enroll in school there. Although the parent may argue that her daughter’s overall safety is increased by her current living situation, it is the desire to change the school environment that is the more likely rationale. Counsel points out that it is impossible to “create a wall” around Doe in Coventry and Rhode Island is such a small state that it is not likely that her living just a few miles from Warwick will permanently prevent all contact by those who have expressed these threats against her. Implicitly, the district argues that the mother’s plan for increased overall safety is not attained by her daughter’s move

to Coventry for part of the week. The purpose for such living situation truly lies in her desire to change schools and thereby increase the safety of the school environment. Unfortunately, laws applicable to school residency do not establish that Student Doe is a school resident of Coventry under these facts.

**Warwick School Department:**

In mid-November, Warwick school officials responded immediately and in a concerted way to reports made by Mrs. Doe concerning bullying of her daughter by students enrolled at several different schools. In-school harassment and threats ceased at that point in time. The district takes the position that any continued internet threats that do not occur “at school” as defined by the Safe Schools Act (R.I.G.L. 16-21-33 et seq.) cannot form the basis for school discipline of these students. However, the district recognizes its ongoing responsibility to provide a safe school environment for Student Doe. Warwick school officials stand ready to take any additional steps, including the development of a school safety plan that will help to ensure her safety. The safety plan will include measures to protect her going to and from school.

The district does not see that under this set of facts it has any responsibility to pay tuition for Student Doe to attend school elsewhere, including in Coventry.

**DECISION**

Although we can understand the fearfulness of Student Doe and her mother in light of the threats they have received in Warwick, applicable law does not facilitate the solution that Mrs. Doe seeks to put in place to insulate her daughter from harm. The facts here are that Student Doe is living in Coventry with her grandparents primarily so that she might attend Coventry schools. Although Mrs. Doe submits that an increase in her daughter’s overall safety is the primary reason for her daughter’s move to her grandparents’ home during the week, there is no evidence that a measurable and long-term increase in Doe’s overall safety is attained by a move from Warwick to Coventry, Rhode Island. There is good reason to conclude that obtaining a different school environment,

one in which Student Doe will feel safe from any harm, is the primary objective to be accomplished by her part-time residence with her grandparents in Coventry. This purpose of Doe's residence during the week in Coventry does not establish her school residency there.

This conclusion is consistent with R.I.G.L. 16-64-6 and established precedent in prior decisions of the Commissioner.<sup>3</sup> Under Rhode Island school law, "a child shall be deemed to be a resident of the city or town where his or her parents reside". In situations not specifically covered by the language of R.I.G.L. 16-64-1, the statute provides that school residency will be determined in accordance with the applicable rules of common law. Under the common law, a child living apart from his or her parents can establish residency for school purposes only by (1) actually residing in the town and (2) demonstrating that the move to the town was not made for the purpose of going to school there. In the Matter of Priscilla H., decision of the Commissioner dated September 7, 1983.

For the foregoing reasons, the appeal is denied. Mrs. Doe and her daughter should meet as soon as possible to work with Warwick school officials to put in place an appropriate safety plan, including measures that will ensure her safety going to and from school. Consistent with our prior decisions, home-tutoring must be made available to Student Doe until such plan is in place.

For the Commissioner,

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Kathleen S. Murray  
Hearing Officer

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Ken Wagner, Ph.D.  
Commissioner of Education

Dated: January 4, 2016

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<sup>3</sup> See In the Matter of Jane A.K. Doe, decision of the Commissioner dated March 6, 1996; In Re: Residency of Jane A.X. Doe, decision of the Commissioner dated April 25, 1997; but see: In Re: Residency of Student L. Doe, decision of the Commissioner dated August 31, 2015 in which a "totality of the evidence admitted at hearing relative to physical and psychological peer bullying and harassment of the Student during the 2013-2014 and 2014-2015 school years" established a substantial reason for the student's move to Cumberland with grandparents. We assume that the facts in the aforementioned decision in 2015, although unspecified, were distinguishable from the longstanding precedent in this area of school law.