015-16

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

DEPARTMENT OF CHILDREN,
YOUTH AND FAMILIES,
Petitioner,
v.
FOSTER-GLOCESTER REGIONAL
SCHOOL COMMITTEE and
NORTH PROVIDENCE SCHOOL
COMMITTEE
Respondent
In Re: Student N.M.

DECISION

Held: The Foster-Glocester School Committee must reimburse DCYF for the expenses of N.M.'s education during the period of time he was placed at St. Mary's and Meadowridge.

The Family Court placed N.M. at both of these facilities for behavioral/mental health treatment and not for educational purposes. There has been no determination that his receipt of educational services at these facilities denied him a free appropriate public education (FAPE). The inconsistency between the IEP drafted for N.M. by Foster-Glocester and his receipt of educational services in a private residential treatment facility where he was placed for mental health reasons, does not, in and of itself, establish a denial of FAPE or preclude the Commissioner from directing reimbursement to DCYF pursuant to RIGL 16-64-1.1 and 16-64-1.2.

DATE: June 22, 2016

Travel of the Case:

DCYF's original Request for an Interim Order and Residency Determination was filed with the Commissioner on February 20, 2014. When the hearing was convened by the undersigned on April 10, 2014, counsel for the Foster-Glocester Regional School Committee presented a Motion to Consolidate this case with four other matters that raised the same legal issues pending before another hearing officer. One of these other pending cases was decided on July 7, 2014 and a Ruling on the Motion to Consolidate[1] was then issued on October 2, 2014.

The matter was then scheduled for hearing by agreement of the parties on January 5, 2015 at which time Foster-Glocester presented a Motion to Dismiss the case. Also filed was a Motion In Limine requesting that DCYF be precluded from offering into evidence only a single selective document from its file in support of its claim: a Family Court order designating Foster-Glocester as the responsible LEA for N.M. Subpoenas were also served upon the Clerk of the Family Court, DCYF's Keeper of Records and N.M.'s Educational Advocate, seeking all records related to N.M. Objections to the subpoenas were placed on the record. The hearing proceeded with some initial testimony from N.M.'s social caseworker. On January 9, 2015, the hearing officer ruled on the Motion to Dismiss and Motion In Limine.

On February 3, 2015 the hearing reconvened. Motions to Quash/Vacate outstanding subpoenas were filed just prior to the hearing and consideration of these motions was deferred and the hearing proceeded as scheduled. The North Providence School Department was joined as a party at this time.[2] A ruling on all Motions to Quash/Vacate outstanding subpoenas was issued by the hearing officer on April 30, 2015. Two additional days of hearing were held on August 28, 2015 and November 5, 2015. In the interim, on September 16, 2015 DCYF filed an Amended Request, expanding its reimbursement claim to cover the period of time when N.M. was placed at St. Mary's Home for Children (May 11, 2013-February 1, 2014) in addition to its claim for his

[1] Foster-Glocester sought in the alternative to have the hearing deferred until a ruling in one of the other cases was issued to provide guidance/precedent on the central legal issue in this matter.

[2] North Providence sought a dismissal from this matter on March 11, 2015, following its counsel's receipt of a copy of an Order entered by the Family Court designating Foster-Glocester as the LEA responsible for N.M. The Order had apparently been entered by the Court on February 6, 2015.

current educational expenses at Meadowridge. The record in this matter closed on February 18, 2016[3].

Jurisdiction to hear and decide this matter lies under RIGL 16-64-6.

ISSUES

- Is Foster-Glocester or North Providence, or both, responsible for payment of a per pupil special education cost to DCYF and for ensuring that N.M. receives a free appropriate public education?
- Is the Commissioner violating IDEA and the Board's Regulations Governing the Education of Children With Disabilities by designating a responsible LEA for a child in DCYF custody who is placed by Order of the Family Court in a residential treatment program?

Findings of Relevant Facts:

- N.M. is currently fifteen (15) years old. He is a child with a disability and has had an Individualized Education Program for a number of years. The IEP's developed for him since January of 2013 have called for his placement in a special education class integrated in a school district building. S.C. Ex. 2.
- N.M. has been committed to the care and custody of DCYF because of his mental health needs since at least December 12, 2011. DCYF Ex. B, Affidavit of Matthew Gunnip, (attached Ex.A[4]); Testimony of Gunnip, Tr. Vol.II p.28.

- While in DCYF custody, N.M. was placed at Arcadia Children's Home. Following a period of time in which he was hospitalized, a determination was made that he needed a higher level of care to meet his behavioral/mental health needs. He was placed at St. Mary's Home for

[3]Foster-Glocester was inadvertently not provided with a copy of DCYF's memorandum when it was filed on December 30, 2015 and did not receive a copy until February 8, 2016. The District's Reply to DCYF's Memorandum was filed on February 18, 2016.

[4] The Gunnip Affidavit refers to two different documents as Exhibit A. The documents that were attached as Exhibit A, and to which we refer, are the certified copies of Family Court records of all proceedings relative to the residential placement of Nicholas Mizzoni from May 11, 2013 to the present.

Children in North Providence, Rhode Island on May 11, 2013. DCYF Ex. B[5] (attached Exhibits A and B); Testimony of Gunnip, Tr. Vol.II pp. 36-38.

- The clinical team at St. Mary's determined that N.M.'s behavior was so unsafe that he could not leave the campus for any reason, including to attend school. Tr. Vol.II p.38.
- N.M. remained at St. Mary's until February 1, 2014 when, after a series of hospitalizations at Hasbro and Bradley Hospital, it was determined that he would be placed at Meadowridge School in Swansea, Massachusetts. A Motion for Emergency Review was heard by the Family Court on March 5, 2014 and the Court granted DCYF discretion to place N.M. out of state at Meadowridge. The Motion for Emergency Review cited the facts that N.M. would be "aging out" of St. Mary's and that serious behavioral issues had arisen there. His social worker testified that his mental health needs[6] and his age combined for a need to transition him to a different level of care. DCYF Ex. B (attached Exhibits A and B); Tr. Vol.II pp.45-47.
- On April 1, 2014 N.M. was placed at Meadowridge; He remained there until October 9, 2015 when he was discharged. He is living with his father in Foster, Rhode Island and attending a public high school. DCYF Ex. B; Stipulation of the parties, November 5, 2015.
- N.M.'s parents are divorced; at all times relevant to this proceeding, his mother has resided in North Providence, Rhode Island and his father has resided in Foster, Rhode Island. Stipulation of the parties, November 5, 2015.
- According to DCYF records, since April of 2010, whenever N.M. has resided at home it is the home of his father. Since September of 2010, his father has resided in Foster, Rhode Island. DCYF Ex. B (attached Exhibit B "living Arrangements").
- According to the testimony of his social worker, N.M is committed to the custody of DCYF. His understanding is that N.M.'s parents (previously) had joint custody, but that the child was placed with his father through a domestic court order. Tr. Vol.II pp. 75-76. The DCYF petition to have N.M. committed to state custody listed both of his parents and both parents

[5] Exhibit B attached to Mr. Gunnip's affidavit would indicate a move to St. Mary's ARTS Program at an earlier date of April 22, 2013, with a transfer to the "Mauran Unit" of this facility on May 11, 2013.

[6] Mr. Gunnip testified that returning a child in DCYF custody to his or her home is always considered when transitioning placements, but that N.M.'s needs were such that he needed serious treatment (at Meadowridge) before he would be able to go back home. Tr. Vol.II p.47.

have attended court hearings and participated in case planning with DCYF. Stipulation of the parties November 5, 2016.

- Since March of 2014, N.M. has had an educational advocate. The educational advocate would testify that both of N.M.'s parents have attended all education-related meetings and both parents have actively participated and continue to participate in his educational process. Stipulation of the parties, November 5, 2015.
- During May of each fiscal year relevant to this dispute, the State of Rhode Island, through the Commissioner of the Rhode Island Department of Elementary and Secondary Education, has submitted an Application for funds under Part B of the Individuals with Disabilities Education Act (IDEA). The Application includes written assurances that our state has policies and procedures in place, as required by IDEA, including a policy that:

> To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20USC. 1412(a)(5)(A)-(B); 34CFR§§300.114-300-120. S.C. Ex. 1 and 3; (Stipulation of the parties November 5, 2015).

- In accepting Part B funds, the Foster-Glocester Regional School Department (through its agent) agrees to comply with all of the assurances provided and the operational requirements under IDEA, Part B-funded programs. S.C. Ex. 4.
- A February 27, 2013 Decision of the Commissioner involving monies owed to Harmony Hill School included in its "Findings of Relevant Facts" a fact stipulated by the parties to that

case.[7] The fact was: "Student N.M. is a Foster resident who entered DCYF custody and was placed at Harmony Hill School from December 13, 2010 to June 21, 2012."

- On February 6, 2015 a decree was entered by the Family Court in N.M.'s case. The decree includes as a finding of fact that the residence of the custodial parent(s) of (N.M.) on the date the child was placed into DCYF care and custody is the city/town of Foster. The Court further decreed that the town of Foster is designated as the child's residence for school purposes pursuant to R.I.G.L. §16-64-1.2.

Positions of the Parties:

DCYF:

DCYF cites RIGL 16-64-2 "Retention of Residence" for the proposition that N.M.'s residence had been determined to be the town of Foster after his parents' divorce and after his mother had relocated to North Providence. Counsel submits that the Commissioner "determined" that he was a resident of Foster for school purposes in the February 27, 2013 decision involving Harmony Hill. Absent evidence that N.M.'s residence was subsequently established in another city of town and that he has been enrolled in another school system, he retains school residency in Foster. When the Foster-Glocester school district took the position that this child is no longer a resident of Foster, it had the opportunity to petition under RIGL 16-64-6 for a redetermination of school residency, but it did not. Instead, the district has simply unilaterally denied its responsibility for the statutory financial contribution for this student's education. In this proceeding, Foster-Glocester has failed to meet its burden of proof and in fact has not provided any evidence that there has been a change in N.M.'s residency for school purposes.

In addition, DCYF relies on the Family Court Decree entered on February 6, 2015 as prima facie evidence of the parent's residence in Foster and that town's responsibility for N.M.'s education. The Court's Decree is consistent with the facts here. N.M.'s father was granted sole legal custody in April of 2010.[8] In terms of actual custody, the father's role has been consistent with that of the custodial parent and when N.M. was discharged from Meadowridge, he was released to

[7] The parties were Harmony Hill School, DCYF, and the Foster School Committee.

[8] DCYF cites Paragraph 19 of its amended Request as the basis for this fact. We must point out that Paragraph 19's assertion with respect to the father's receipt of sole legal custody of N.M. is based "upon information and belief". There was no evidence submitted as to legal custody, other than the custody obtained by DCYF.

his custodial parent- his father. Although there may be evidence that his mother participates in education and family court proceedings, she is not, and has not been the custodial parent. Her visits with her child have been restricted. Evidence of mother's involvement in court proceedings and educational planning do not rebut the evidence of father's status as the custodial parent.

Based on the facts here, DCYF requests an Order from the Commissioner to the General Treasurer to deduct the per pupil education costs for N.M. during his placement at St. Mary's and Meadowridge and to pay that sum directly to DCYF.

North Providence:

Counsel for North Providence echoes DCYF's arguments concerning both the 2013 Commissioner's decision in which N.M. was determined to be a resident of Foster and the February 6, 2015 Decree of the Family Court designating Foster as his residence for school purposes. Both should be dispositive in this case. Despite arguing that North Providence is N.M.'s residence, Foster-Glocester has not proven that a change of residency has occurred. North Providence focuses on the fact that at all relevant times, N.M. and his custodial parent have been residents of Foster. The residence of his non-custodial parent (his mother) in North Providence creates no legal responsibility for this town. No matter how "involved" his non-custodial parent may be in his life, there is no evidence that mother shares custody with the father. The rules that determine the school residency of a child are clearly stated in RIGL 16-64-1. When a child's parents reside in different cities or towns, the child shall be deemed a resident of the city or town in which the parent having actual custody resides. If factors such as the extent of parental participation were to play a role in a determination of a child's school residency, this clear rule would be compromised.

It is true that there is no reference to the residence of the "custodial" parent in either R.I.G.L. 16-64-1.1 or 16-64-1.2, both of which designate the residence of the parent(s) as the responsible LEA. Nonetheless, in making a determination of residence for school purposes, the Family Court resolved any uncertainty by placing financial responsibility on the town in which N.M.'s custodial parent lives, i.e. Foster -Glocester. The Court's determination and designation of residency based on the residence of the parent with actual custody is based on (a) the language of R.I.G.L. 16-64-1 and (b) recognition of the difficulties inherent in determining a "responsible" LEA based on other factors, such as the extent to which the non-custodial parent remains involved in his or her child's

life. The clearly-enunciated principle for determining school residency- the residence of the parent having actual custody- must prevail. Application of this rule must result in the Commissioner's affirming the Family Court's designation of Foster-Glocester as the district responsible for N.M.'s education.

Foster-Glocester:

Counsel for the district emphatically argues that the Commissioner cannot comply with the assurances upon which RI's receipt of IDEA Part B funds is conditioned and at the same time order payment as requested by DCYF. Funding N.M.'s education at residential facilities violates both his substantive and procedural rights under IDEA. At all relevant times, Foster-Glocester has been ready, willing and able to provide him with a program of instruction developed for him each year by his IEP team and deliver such instruction in a special class integrated in a school district building. Foster-Glocester submits that N.M. could have been transported from St. Mary's and Meadowridge each day to school in Ponaganset. N.M. could have been educated in a less restrictive environment than that of a residential facility. It is only in this way that he could receive a free appropriate public education.

RIDE has committed that it will ensure that students will receive FAPE pursuant to an IEP and in the least restrictive environment, and provides assurances each and every year as a condition of Rhode Island's receipt of federal funding under Part B. Yet, for students like N.M. who are in DCYF custody and placed in residential facilities, these promises are not consistently fulfilled. Designating Foster-Glocester, or any other LEA, to pay for a program that is not set forth in the IEP and not delivered in the least restrictive environment violates the assurances that RIDE has provided to the U.S. Department of Education. For the Commissioner to order Foster-Glocester to fund such a placement ensnares Foster-Glocester in a violation of its own assurances of compliance.

Counsel for Foster-Glocester argues that RIDE must acknowledge that federal requirements preempt RIGL 16-64-1.1(c). Rather than facilitating violations of FAPE, RIDE should meet its obligation to ensure that children in public and private institutions receive FAPE in the least restrictive environment- by entering into agreements with these institutions, when necessary. To

issue the order requested by DCYF would only add to a series of (incorrect) decisions of the Commissioner that deny children in state care their rights under federal and state law.

Detailed state regulations also govern the education of children with disabilities. They provide that every special education student have an IEP and be educated in the least restrictive environment. State regulations can and should be read in pari materia with other provisions of state law. It is possible to harmonize Rhode Island's special education regulations and 16-64-1.1(c) by construing the statute to require a school district's payment of a special education per pupil cost only when the IEP team has determined that a residential placement is necessary for the child in DCYF custody. In all other cases, DCYF must retain financial responsibility subject to the right of the child's parent or educational advocate to challenge the IEP team's determination.[9] This is one of the rare cases in which the district and DCYF disagree on the need for a residential placement. Foster-Glocester does not challenge its obligation under R.I.G.L. 16-64-1.1 (c) when it knows that it cannot provide a FAPE in a public school. In this case, however, the district contends that N.M. could have attended the middle school in-district and been provided FAPE.

Putting aside its arguments that FAPE is at issue here, Foster-Glocester argues that there are actually two districts responsible for N.M's. education, given the facts of this case. State law identifies the responsible LEA as the "residence of the parent(s) of a child placed in the care and custody of the state." When a child's parents reside in different cities or towns, the parents can make the choice of where the child will attend school. In numerous decisions of the Commissioner, divorced or separated parents have established more than one school residence for their child and then been permitted to make a choice of where the child will actually attend school.

Counsel argues that traditional principles of school residency should not be discarded in this case. The Family Court Order determining that Foster-Glocester is N.M.'s residence for school purposes under R.I.G.L. 16-64-1.2 constitutes a "rebuttable presumption" in the case before the Commissioner. Counsel notes that it was some months after filing a petition requesting the

[9]Perhaps we are misunderstanding the district's argument here, but such a construction of the law would countenance what Foster-Glocester has argued as a denial of FAPE for the child in DCYF custody, as long as no district was required to contribute its per pupil cost and DCYF retained full financial responsibility. We find it implicit in Foster-Glocester's argument that (a) a difference between the placement called for in the IEP and the child's "placement" at a residential facility is not, in and of itself, a violation of FAPE and (b) the ability of the parent or educational advocate to challenge the IEP team's determination averts any potential forfeiture of the student's right to FAPE.

Commissioner to designate a responsible LEA that DCYF first approached the Family Court for an Order on this same issue. Based on ex parte communications in a proceeding in which Foster-Glocester was not allowed to participate, the Family Court made its (incorrect) designation of Foster-Glocester as the responsible LEA. DCYF is now attempting to "bootstrap" the Court's determination of residency. Since it was requested ex parte by DCYF at a time when an administrative proceeding was pending in which all interested parties were presenting evidence and arguments on this precise issue, the court's order should not be given the customary weight. DCYF should bear the usual burdens of persuasion and proof in this case.

Rhode Island law generally presumes that a child is "a resident of the city or town where his or her parents reside." R.I.G.L. 16-64-1 Under the plain language of this statute, the questions become who are N.M's parents and where do they reside? Foster-Glocester argues that both biological parents still actively function as N.M.'s his parents. Thus, under the presumption created by R.I.G.L. 16-64-1, N.M. is a resident of two districts for school purposes. Since his mother lives in North Providence and his father lives in Foster, both districts are responsible LEA's. There is no question, since the parties have stipulated to these facts, that N.M.'s parents have both remained involved in his life and his education. Even after the appointment of an educational advocate, both of his parents continued to attend IEP meetings and treatment planning sessions. The facts here confirm that N.M. is a school resident of two districts and the cost of educating N.M. should be divided equally between these two local educational agencies. Therefore, DCYF's petition should be denied in part and the costs be divided equally between Foster-Glocester and North Providence.

DECISION

In this case, there is a dispute as to which Rhode Island school district, if any, should reimburse DCYF for the costs of N.M.'s education. A claim was raised directly by DCYF against Foster-Glocester and Foster-Glocester subsequently requested that North Providence be added as a party, based on an assertion that N.M.'s mother still functioned as his parent and resided in that town. The defenses raised by the two districts involved in this dispute are quite different. While Foster- Glocester raises a host of issues with respect to obstacles to the Commissioner's determining a responsible LEA, counsel for North Providence focuses entirely on state law. Unlike

Foster-Glocester, North Providence premises none of its arguments on IDEA nor does it assert that the Commissioner is precluded from effectuating a "funding mechanism" for a placement that is argued to violate N.M.'s right to a free appropriate public education. Because the discussion of relevant issues will be very different, depending on which LEA is responsible, it makes logical sense to first determine which of these districts would be assigned financial and educational responsibility for N.M. under applicable state law.[10]

R.I.G.L. 16-64-1.1 (c) provides that:

> Children placed by DCYF in a residential treatment program, group home, or other residential facility, whether or not located in the state of Rhode Island, which includes the delivery of educational services, provided by that facility…shall have the cost of their education paid for as provided for in subsection (d) of this section and §16-64-1.2. The city or town determined to be responsible to DCYF for a per-pupil special education cost pursuant to §16-64-1.2 shall pay its share of the cost of educational services to DCYF or to the facility providing educational services.

R.I.G.L. 16-64-1.2 states that the "residence of the parent(s) of a child placed in the care and custody of the state" shall determine "the city or town to be responsible for the per-pupil special education cost of education to be paid…pursuant to §16-64-1.1(c)." R.I.G.L. 16-64-1.3(b) states that "[t]he city or town responsible for payment under §16-64-1.1(c) …shall be responsible for the free, appropriate public education, including all procedural safeguards, evaluation and instruction in accordance with" the Board of Education's special-education regulations.

Counsel for Foster-Glocester correctly points out that Rhode Island law generally presumes that a child is a resident "of the city or town where his or her parents reside." R.I.G.L. 16-64-1. He argues that because N.M. has two parents who have remained active in his life and participated in meetings regarding his education, he is a school resident of both Foster-Glocester and North

[10] If North Providence is the responsible LEA, it would not be necessary to reach and address the arguments/ defenses that Foster-Glocester seeks to raise under IDEA.

Providence. The cost of educating N.M. should, he asserts, be divided equally between these two local education agencies.

Counsel for North Providence has argued, however, that R.I.G.L. 16-64-1 also states that "if the child's parents reside in different cities or towns[11] the child shall be deemed to be a resident of the city or town in which the parent having actual custody of the child resides." In this case, the facts are that N.M.'s parents have resided in two different towns during the entire time relevant to this proceeding. Furthermore, according to child welfare records submitted into evidence, this child has resided and continues to reside exclusively with his father when not placed outside his home.[12] It is true that a child can be a school resident in two different towns, and his parents can choose the district in which he/she will be enrolled, but only when both parents "are exercising actual custody" over the student and "sharing responsibility for his care, shelter and education."[13] Thus, while theoretically the parents of a child in DCYF custody could share "actual custody" thus implicating two different school districts as responsible LEA's, such is not the case here. We find that Foster-Glocester is the LEA responsible for payment of the per-pupil special education cost for N.M.'s education. It is also the LEA responsible for his free, appropriate public education to which he is entitled under federal and state law.

This finding is consistent with the prima facie evidence received from the Family Court in the form of the Order of Judge Laureen D'Ambra dated February 6, 2015 (DCYF Ex.A). The Court made a finding of the residence of the custodial parent and designated the town of Foster as the child's residence for school purposes. DCYF has also argued that the Commissioner previously "determined" that N.M. was a resident of Foster for school purposes in a 2013 decision involving Harmony Hill School. Both DCYF and North Providence take the position that N.M. thus retains school residency in Foster unless and until his residence has been established in another city or town and that city or town has enrolled him. Since neither of these events has occurred, they argue that N.M. thus "retains" school residency in Foster. We note that Foster-Glocester was not a party to the 2013 proceedings. In addition, R.I.G.L. 16-64-2 establishes a child's ongoing eligibility to continue to "receive education" from the city or town in which his/her residence has been

[11] As they do in this case.
[12] See DCYF Exhibit B (affidavit of Matthew Gunnip, N.M.'s social caseworker) and attached Exhibit B, a DCYF record describing N.M.'s "living arrangements" during all times relevant to this dispute.
[13] See Residency of M. Doe v. Cumberland School Department, decision of the Commissioner 019-15, dated November 17, 2015.

established. We view this provision as providing continuity for school enrollment purposes, rather than establishing financial responsibility in proceedings initiated by DCYF.

Having found that Foster-Glocester is N.M.'s district of residence, consideration must be given to the arguments advanced on its behalf in this case. As previously summarized, these are that IDEA, RI Special Education Regulations and RIDE's assurances to the U.S. Department of Education for acceptance of Part B funds prohibit Rhode Island from utilizing a "funding mechanism" that "results in placements that violate the least restrictive environment of IDEA." These arguments have been advanced, and rejected, in two prior decisions of the Commissioner.[14] In both cases, the student's placement at a residential treatment facility was for mental health treatment and the Court made findings that such placements were in the child's "best interests." The underlying premise of the district's argument in both cases, as it is here, was that the students' placements violated their right to a free, appropriate public education in the least restrictive environment.

We will not reiterate here the thorough analyses of these arguments made by two different hearing officers in each of these previously-cited decisions. The analyses are thorough and well-reasoned. Both decisions constitute binding administrative precedent in this matter. What the Foster-Glocester School Department has characterized as a string of incorrect decisions, we view as efforts to accommodate students' mental health and safety needs with rights under IDEA. The alleged pattern and practice of disregarding federal and state law would be more aptly characterized as the Commissioner's attempts to harmonize various provisions of federal and state law and to ensure that concerns with respect to a student's placement are raised in the appropriate forum. In the Commissioner's July 7, 2014 decision, Foster-Glocester was directed to raise any concerns about the educational services that Doe was receiving at the Bennington School with the Family Court or RIDE's Office of Student, Community and Academic Supports.[15] In the more recent case involving DCYF and Foster-Glocester the Commissioner stated:

[14] See: DCYF v. Foster-Glocester Regional School District v. Rhode Island Department of Education, decision 009-14, dated July 7, 2014 and DCYF v. Foster-Glocester Regional School Committee (In Re: Student T.P.), decision 021-15, dated December 15, 2015.
[15] See the decision at pages 7-10.

> Like the parents and school committees in these earlier decisions, Student T.P.'s parents and the School Committee remain perfectly free to move to amend the Family Court Order in Family Court, to appeal the Order to the Rhode Island Supreme Court, to raise the issue with OSCAS, and/or to file a due process complaint under the IDEA.[16]

In both of these previous cases, the Commissioner determined that questions with respect to the student's receipt of a free appropriate public education were not an effective defense to DCYF's statutory claim for reimbursement. DCYF's claim in this matter is therefore upheld.

For the foregoing reasons, the Foster-Glocester School Department is found to be financially and educationally responsible for N.M. during the period of time he was placed at St. Mary's Home for Children and the Meadowridge School. Since the record in this matter does not include the amount of Foster-Glocester's per pupil special education cost during the relevant time frame, Foster Glocester is directed to specify such amount(s) forthwith, so that an Order may be prepared from the Commissioner to the General Treasurer to deduct such costs for N.M. from the district's school aid and pay that sum directly to DCYF.

For the Commissioner,

_____
Kathleen S. Murray,
Hearing Officer

_____ DATE: June 22, 2016
Wagner, Ph.D.
Commissioner

[16] See decision 021-15 at page 9.