

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Mark M.

v.

North Providence School Committee

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DECISION

Held: The appellant resides with his son in the town of North Providence. His son is a resident of North Providence for school purposes, and entitled to enrollment upon completion of the registration form and submission of evidence of immunization as required by R.I.G.L. 16-38-2.

DATE: November 20, 2000

Travel of the Case

This matter was appealed to Commissioner Peter McWalters on November 2, 2000. As a dispute involving school residency, on the motion of any party such matters proceed directly to the Commissioner for hearing and resolution. The matter was assigned to a hearing officer on November 3, 2000 and hearing was scheduled for November 8, 2000 by agreement of the parties. On that date both parties appeared to present evidence and argument on the issue of whether Mark M. and his son resided in North Providence and whether the child was eligible to attend North Providence schools.

Jurisdiction over this appeal arises under R.I.G.L. 16-39-1 and 16-64-6.

Findings of Relevant Facts

- Mr. M. and his son live in North Providence in an apartment rented to Mr. M.'s sister, and have lived there for approximately three weeks.
- Mr. M. recently separated from his wife, who lives in Connecticut with the couples' other two children.
- Until he gets settled personally and professionally, Mr. M. plans to live with his sister in her North Providence apartment.
- The landlord of this apartment has refused to provide school officials with a letter verifying Mr. M.'s residence there because it is leased only to Robin M. and he does not wish to have children residing there.
- Mr. M. has attempted to enroll his son Matthew, who is seven years old, in the North Providence school system, but because he was unable to provide a lease or written documentation from the landlord confirming his residence, his request to enroll his son has been denied.

Positions of the Parties

The Appellant:

Mr. M. argues that he established residency in North Providence over three weeks ago, yet his attempts to enroll his son in the local public school have been denied simply because he has been unable to secure the required letter from the landlord of the apartment complex in which he lives with his son and sister. The other documentation required by the district, i.e. the registration form and proof of immunization have not been submitted because the attendance officer will not process this documentation without the accompanying proof of residency in North Providence. Mr. M. argues that his son is entitled to admission to North Providence schools despite his inability to provide written verification of his residency from the landlord who owns the apartment complex.

North Providence School Committee

The district, through its counsel, denies any obligation to admit this student to North Providence schools until written documentation of residency is submitted. No such documentation has been submitted, nor does the district have proof of Mr. M.'s custodial rights to this child. Additionally, our General Laws require that upon school entrance, parents submit proof that their child has received all immunizations required by the Rhode Island Department of Health. In this case, immunization records have not been submitted. Therefore, the district is not obligated to admit Matthew into school at this point.

DECISION

We understand the caution exercised by school districts in admitting new students, and the need to verify residence within the district prior to admitting a student. School districts are entitled to obtain reasonable documentation from those who hold themselves out as new residents so that they may make the necessary decision that they do in fact have the legal responsibility to educate such child. Equally important is

securing proof that the child has received immunization from certain communicable diseases.

Such vigilance is exercised to protect the district's taxpayers and to ensure the health and safety of the students in the district. However, it is not always possible for a bona fide resident to obtain the precise documentation required, as in this case. Perhaps because the landlord does not wish to sanction violation of a written or unwritten policy with respect to children living in this particular apartment complex, but for whatever reason, Mr. M. has been unable to secure the letter requested by the district to verify his residence at the Smithfield Road apartments. In any event, his testimony, which is perfectly credible, remains uncontradicted that he has in fact lived at this address with his son for over three weeks. The North Providence school department offered no information to contradict this basic fact which brings with it the right to enroll Matthew in North Providence schools. See R.I.G.L. 16-64-1. Our school residency law does not require that residency be established for a certain minimum period of time, or that it be intended to be permanent in order for a child residing in the district to attend school. While Mr. M. was willing to complete the required forms and submit proof of Matthew's immunizations, this did not happen because the district made proof of residency a precondition to presentation of this other documentation .

Given the uncontradicted evidence of the residency of both Mr. M. and his son within the town of North Providence, he is entitled to enrollment there immediately upon submission of the registration forms and proof of immunization. The appeal is sustained and our final decision in this matter is also entered as an interim order.

APPROVED:

Kathleen S. Murray, Hearing Officer

Peter McWalters, Commissioner

November 20, 2000

Date