

STATE OF RHODE ISLAND
COMMISSIONER OF EDUCATION

STUDENTS A. DOE and J.DOE, by their
mother, Ms. Doe,

Petitioners,

v.

CUMBERLAND SCHOOL DISTRICT and
PAWTUCKET SCHOOL DISTRICT,

Respondents.

RIDE No.: 22-053-S

DECISION AND ORDER

Held: Appeal of Cumberland School Department's decision to withdraw students' enrolment on the basis of Department's determination that students were not residents of Cumberland is denied where the students' mother, who has custody of the students, resides in Pawtucket.

DATE: February 7, 2023

On September 26, 2022, Petitioner, Ms. Doe, requested a hearing to determine the residency for school purposes of her children, Students A. Doe and J. Doe (collectively, the “Students”), who were enrolled and both attending sixth grade at North Cumberland Middle School in Cumberland. Ms. Doe, the Students’ mother, alleged that although she frequently stays with her boyfriend who resides in Pawtucket, she and the Students reside in Cumberland with her mother (and the Students’ grandmother) (the “Grandmother”), and thus the Students were legally entitled to continue attending North Cumberland Middle School.

I. Jurisdiction and Burden of Proof

The Commissioner has jurisdiction under R.I. Gen. Laws § 16-64-6 and the petitioner – here, the parent, Ms. Doe – has the burden of proof.

II. Facts and Law

On December 6, 2022 an evidentiary hearing was conducted by the undersigned Hearing Officer and was attended by Ms. Doe, who appeared pro se; Jackie Cooper, Residency Officer for the Cumberland School District (“Cumberland”) together with counsel for Cumberland; and counsel for the Pawtucket School District.

1. On September 21, 2022, the Cumberland School Department issued a letter to Ms. Doe informing her that it was determined that her children were not eligible to attend school in Cumberland as they were residents of 31 McCabe Avenue, #2, in Pawtucket and accordingly they would be withdrawn from the Cumberland Public Schools as of September 27, 2022.
2. On September 26, 2022, Ms. Doe filed a petition appealing this residency determination.
3. Ms. Doe has two children in the Cumberland school system – Student A. Doe, who is 12 years old and Student J. Doe, who is 11 years old. Both children are in the 6th grade.
4. The children have been enrolled in the Cumberland School Department since kindergarten.

5. In her testimony, Ms. Doe referenced several times that she stays with her boyfriend, who resides in Pawtucket, but claims that she does not live there.

6. She also claims that the children reside with her mother in Cumberland, and that her adult son brings the children to her in Pawtucket at 5:00 A.M., and she then brings them to school.

7. Ms. Doe claimed that her residence for the last 25 years was her mother's house located in Cumberland.

8. Ms. Doe admitted that her boyfriend resides at 31 McCabe Avenue, Pawtucket.

9. When asked by the Hearing Officer how often she stays at her boyfriend's house, Ms. Doe responded "[w]hen I feel like it." Hr'g Tr. at 12, December 6, 2022.

10. She claimed that the children stay with her at the boyfriend's house sometimes and sometimes will stay at her mother's house "with her mother and her oldest son." When asked how many nights the children stay with her at her boyfriend's house, she stated "three, four, give or take, depending on their mood and who they want to stay with." *Id.* at 13. Notably, when stating that her adult son takes the children to her in the morning before going to work, she says he ". . . brings them *home* in the morning before he goes to work. . ." *Id.* at 12.

11. When the Hearing Officer asked her whether she has moved into the location with her boyfriend, Ms. Doe stated, "I have stuff there, but it's not completed . . ." *Id.* When asked to describe further, she admitted that the children have beds of their own at the Pawtucket residence.

12. When the Hearing Officer asked how many nights a week she stays in Pawtucket, Ms. Doe replied "Me, almost every night, but I don't go to school in Cumberland, I work." *Id.*

13. When asked by counsel for Cumberland how long she had been residing at the Pawtucket address, Ms. Doe responded "[o]ver the summer is when I started bringing stuff there and buying stuff for there to be there also." *Id.* at 14.

14. When asked who else lives at the Cumberland address, Ms. Doe stated that she, Students A. Doe and J. Doe, her mother and her mother's boyfriend, her adult son, and his girlfriend.

15. When asked by the Hearing Officer if she had any other witnesses or information to enter on the record, Ms. Doe stated "I don't feel that I need to have any other witnesses. I'm 41 years old. I can sleep wherever I want to sleep. That has nothing to do with where the kids go to school." *Id.* at 16.

16. Ms. Doe mentioned that the children will stay with their father in Woonsocket when they visit with him, however she admitted to having custody of them.

17. The Cumberland School District presented substantial testimony and evidence including, *inter alia*, testimony from Residency Officer Jackie Cooper detailing the findings of her investigation into the residency of Ms. Doe and the Students and a televised news report featuring Ms. Doe speaking as a resident of 31 McCabe Avenue in Pawtucket. The evidence presented by Cumberland was gathered in connection with an investigation which it conducted over the course of several weeks in order to determine the residency of the children.

18. Section 16-64-1 of the Rhode Island General Laws provides, in pertinent part, that:

[e]xcept as provided by law or by agreement, a child shall be enrolled in the school system of the city or town where he or she resides. *A child shall be deemed to be a resident of the city or town where his or her parents reside.* If the child's parents reside in different cities or towns 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.

R.I. Gen. Laws § 16-64-1 (emphasis added).

III. Positions of the Parties

A. Ms. Doe

Ms. Doe argues that she has been living in her mother's house, located at 13 Plant Street in Cumberland, for 25 years and that her children, A. Doe and J. Doe, over whom she has custody, reside there with her. Ms. Doe further argues that it should not matter that she stays at her boyfriend's house in Pawtucket because the children reside with her mother at her mother's house.

B. Cumberland School District

Cumberland argues that the investigation conducted by the Residency Officer over the course of a two-week period was sufficient to show that Ms. Doe in fact resides at 31 McCabe Avenue in Pawtucket. Cumberland also argues that statements made by Ms. Doe under oath in her own testimony on the record amounted to an admission that she resides with her boyfriend in Pawtucket.

IV. Decision

The plain language of R.I. Gen. Laws § 16-64-1 (quoted above) makes clear that “a child shall be enrolled in the school system of the city or town where he or she resides,” and “[a] child shall be deemed to be a resident of the city or town where his or her parents reside.” *Id.* Under this general rule, is it clear that the Students reside, for school purposes, in the city or town where Ms. Doe resides. Accordingly, the question as to which city or town the Students reside turns on the determination of where Ms. Doe resides.

Notably, during the course of her testimony, Ms. Doe effectively admitted to residing with her boyfriend at the Pawtucket residence as she acknowledged, *inter alia*, staying there “almost every night.” Hr'g Tr. at 12. Therefore, it is clear by her own admission under oath that Ms. Doe resides at the residence located at 31 McCabe Avenue in Pawtucket. Accordingly, Students A. Doe and J. Doe, are deemed to reside at that location for school purposes as well.

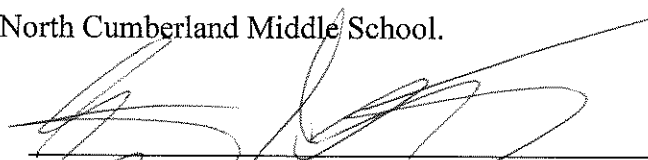
V. Order

For all of the above reasons:

1. The Petition of Students A. Doe and J. Doe, by their mother, Ms. Doe, is hereby denied;

and

2. Students A. Doe and J. Doe are hereby found to be residents of Pawtucket for school purposes and may be disenrolled from North Cumberland Middle School.



SERGIO A. SPAZIANO, ESQ.
Hearing Officer for the Commissioner



ANGÉLICA INFANTE-GREEN,
Commissioner

Dated: 02/07/2023