

STATE OF RHODE ISLAND

**COUNCIL ON ELEMENTARY
AND SECONDARY EDUCATION**

Enclosure 2a
September 22, 2014

G. DOE :
 :
 :
 vs. :
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 :
 CUMBERLAND SCHOOL :
 DISTRICT :

DECISION

This is an appeal by G. Doe (“Doe”) from the decision of the Commissioner, dated March 18, 2014, whereby the Commissioner determined that the Cumberland School District may legally charge tuition fees for summer programs and courses in order to earn academic credits not accrued during the regular school year.

Doe appealed from the Cumberland School District’s imposition of tuition fees and charges for participating in summer school classes, seeking a determination that such fees are unauthorized for any public school student under Rhode Island law. After a hearing on January 17, 2013, in a written decision issued May 21, 2013 the Commissioner determined that the proper question was whether state and federal law require a free special education for students with an Individualized Education Program and therefore prohibit the imposition of summer school tuition and fees for Doe. A new hearing was ordered by the Commissioner to take evidence on the question of whether Doe was denied access to a free appropriate public education under state and federal special education laws. Petitioner appealed the Commissioner’s decision to order a new hearing to this Board. On appeal, this Board determined that the Commissioner’s decision to order a new hearing was in error and remanded to answer the

question of whether they could charge Doe for summer school courses irrespective of special education protections.

On remand both parties declined to appear before a hearing officer to offer additional evidence, instead resting on the submission of supplemental written arguments. In a written decision issued March 18, 2014, the Commissioner noted that there were no laws or regulations requiring summer programs or courses, along with no legal authority allowing a school district to compel attendance at summer school. Finding that the summer program is outside of the scope of the school year and not subject to the standards and requirements of the Basic Education Program, the Commissioner determined that the Cumberland School District may legally charge tuition fees for its summer programs and courses. The Commissioner noted that the decision is based strictly on the facts in this case.

The Board reviewed the briefs and considered the well-presented arguments of both parties at oral argument. We find that the Commissioner's decision, that the charging of a fee to a student for summer school programs and courses in order to earn academic credits not accrued during the regular school year by the Cumberland School District is lawful, is consistent with Rhode Island law. The decision is in no way "patently arbitrary, discriminatory, or unfair" which is the standard of review for Appeals brought to the Board of Education. *Altman v. School Committee of the Town of Scituate*, 115 R.I. 399, 405 (1975).

For the reasons stated herein, the decision of the Commissioner is affirmed.

The above is the decision recommended by the Appeals Committee after due consideration of the record, memoranda filed on behalf of the parties and oral arguments made at the hearing of the appeal on July 22, 2014.

Council on Elementary and Secondary Education

Patrick A. Guida, Chair

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Karin Forbes, Appeals Committee Chair

_____, 2014