



State of Rhode Island and Providence Plantations
BOARD OF EDUCATION
255 Westminster Street
Providence, Rhode Island 02903-3400

Eva-Marie Mancuso, Esq.
Chair

Enclosure 8e
November 13, 2013

Antonio Barajas, M.D.

Michael Bernstein

Colleen A. Callahan, Ed.D.

November 13, 2013

Karin Forbes

TO: Members of the RI Board of Education

Jo Eva Gaines

FROM: Karin Forbes, Appeals Committee Chair

Michael Grande, CPA

Patrick Guida, Esq.

RE: Appeals Committee Recommendations

William Maaia, Esq.

Lawrence Purtill

Mathies Santos

The Appeals Committee of the Rhode Island Board of Education met on October 30, 2013 to hear oral argument on the appeal of the Commissioner's decisions of John E. Doe v. East Greenwich School Committee and Student L. Doe v. South Kingstown School Department.

Attached is a copy of the recommended decisions of the Appeals Committee.

John of E. Doe v. East Greenwich School Committee

RECOMMENDATION: THAT, in the matter of John E. Doe v. East Greenwich School Committee, the Decision of the Commissioner is affirmed, as presented.

Student L. Doe v. South Kingstown School Department

RECOMMENDATION: THAT, in the matter of Student L. Doe v. South Kingstown School Department, the Decision of the Commissioner is affirmed, as presented.

STATE OF RHODE ISLAND

RHODE ISLAND BOARD OF EDUCATION

JOHN DOE

vs.

EAST GREENWICH SCHOOL COMMITTEE

:
:
:
:
:

DECISION

This is an appeal by John Doe from the decision of the Commissioner, dated April 10, 2013, whereby the Commissioner granted the Motion to Dismiss requested by the East Greenwich School Committee on Doe’s appeals requesting (1) that the Commissioner order the East Greenwich School Department to correct or retract a letter in his son’s “education records”; and (2) that the Commissioner compel the East Greenwich School Department to provide a full account of the process and justification for its prior decision to withhold information on his son’s behavior problems in school.

Doe filed a request for hearing on November 19, 2012. On January 17, 2013 a hearing officer was designated and requested a brief written statement of the remedy requested from the Appellant. On March 1, 2013 counsel for the East Greenwich School Committee filed a Motion to Dismiss the appeal for lack of jurisdiction. The Appellant responded in writing on March 5, 2013 arguing in support of jurisdiction.

On April 10, 2013 the Hearing Officer issued a written decision addressing the issues in the Motion to Dismiss of whether the Commissioner has “jurisdiction to hear a parent’s complaint that (a) in 2008 a school psychologist employed by the East Greenwich School Department wrote false statements in a letter supporting the reinstatement of counseling services

to Appellant's son and (b) the school district made a decision to withhold information from the Appellant concerning his son's behavior problems in school . . . “

Taking the appeals in turn, the Commissioner determined that the request to compel the East Greenwich School Committee was not made to the Commissioner under R.I.G.L. §16-39-1 and §16-39-2 within a “reasonable time”. The passage of four (4) years before an appeal was brought to the Commissioner and a hearing requested barred the Appellant's claim. The Commissioner also noted that the Appellant's ability to overcome this unreasonable delay was further eroded due to the existence of another remedy for the Appellant.

Next, the Commissioner concluded that Doe was not entitled to a hearing regarding the decision to fail to turn over information. The Appellant noted that the decision is “fortunately not currently operational”. As such, the issue is not a current controversy and was dismissed as moot.

By letter dated April 15, 2013 the Appellant notified the Board of Education of his Appeal of the Commissioner's decision. The Board reviewed the briefs and considered the well-presented arguments of both parties at oral argument. We find that the decision of the Hearing Officer as adopted by the Commissioner 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.

Rhode Island Board of Education

Eva Marie Mancuso, Chair

_____, 2013

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 October 30, 2013.

Karin Forbes, Appeals Committee Chair

_____, 2013

STATE OF RHODE ISLAND

RHODE ISLAND BOARD OF EDUCATION

STUDENT L. DOE

vs.

**SOUTH KINGSTOWN SCHOOL
DEPARTMENT**

:
:
:
:
:
:

DECISION

This is an appeal by the South Kingstown School Department from the decision of the Commissioner, dated May 21, 2013, whereby the Commissioner remanded to the local school district for the creation of a new Response to Intervention (“RTI”) plan followed by a new special education evaluation.

Doe appealed a decision of the South Kingstown School Department at a February 2012 eligibility meeting that the student did not have a disability under either federal or Rhode Island law. In March of 2012 Doe filed an appeal with the Commissioner. The designated hearing officer held full evidentiary hearings on December 16, 2012 and April 26, 2013. In a written decision issued May 21, 2013 the Hearing Officer determined that the RTI was not established by the school district and was instead written by a private tutor and employee of the student’s private school in violation of Rhode Island law. The matter was remanded to the South Kingstown School District for the creation of a new RTI plan and a new special education evaluation on the basis of that plan.

The Board reviewed the briefs and considered the well-presented arguments of both parties at oral argument. We find that the decision of the Hearing Officer as adopted by the Commissioner 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.

Rhode Island Board of Education

Eva Marie Mancuso, Chair

_____, 2013

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 October 30, 2013.

Karin Forbes, Appeals Committee Chair

_____, 2013