

STATE OF RHODE ISLAND
PROVIDENCE, SC.

DEPARTMENT OF EDUCATION

IN RE: C.S.
PORTSMOUTH SCHOOL DISTRICT

LL 13-21

ADMINISTRATIVE DECISION

/s/ Maureen A. Hobson
MAUREEN A. HOBSON, ESQ.

AUGUST 24, 2015

HELD: Petitioner has
“aged out” of public
education and her com-
plaint is therefore
denied and dismissed.

LEXICON

Student:

[REDACTED]

District:

Portsmouth/Newport County Regional

Student Representative:

Martha McVicker, Edc. Advocate

District Representative:

MaryAnn Carroll, Esq.

Hearing Officer:

Maureen A. Hobson, Esq.

HISTORY AND TRAVEL

The student's father filed a request for a due process hearing with the RI Department of Education on December 7, 2013. The student's mother is deceased. In his petition, the father states that the student is in the custody and care of RI DCYF as a result of a voluntary petition because of her special needs. The petition further states that the student is attending the Latham School in Brewster, MA. The Latham School, according to its online profile, is a private educational facility specializing in the care and education of developmentally delayed children. It is a residential facility. The petition alleges that the parent received information from the Portsmouth School District on December 6, 2013 that his daughter would be issued a high school diploma on December 7, 2013. He filed his complaint to RIDE alleging that the award of a high school diploma constituted a change in placement that required he be given 10 days advance notice. The father further alleged that his daughter's education was not complete.

The student's parent listed his address as 391 Orchard Street in New Bedford, MA.

On January 17, 2014, I advised the parties that a pre-hearing conference was being scheduled for January 27, 2014 (later re-scheduled to February 7, 2014). I further notified the parties that the student was required to participate in the process, inasmuch as she had attained the age of 18 years.

In response to the notice of pre-hearing, I received communication from Attorney Martha McVicker who indicated that she was the child's appointed educational advocate. Attorney McVicker provided me with a copy of an Interim Decision entered by the RI Commissioner of Education dated February 2, 2012. In that decision, the hearing officer acknowledged that the student and her father had left the state of RI and were living in Massachusetts. However, he found that since the private school placement (Meadowridge School at that time) was made by the RI Family Court, the school district was obligated to continue paying the cost until otherwise ordered by the Family Court or the commissioner of Education.

On January 21, 2014, the Portsmouth School district filed a Motion to Dismiss the request for a due process hearing with the Department of Education. At the pre-hearing conference, Attorney McVicker appeared on behalf of the student. The parent who filed

the request for due process did not appear. The parties agreed that the Motion before RIDE was still pending hearing. It was further agreed that if it were determined at the RIDE hearing that the student was not a resident of RI, the within due process would be moot.

With the agreement of the parties, this hearing was held in abeyance pending a decision by RIDE on the district's Motion to Dismiss.

As far as I am aware, RIDE has not issued any decision despite the passage of 1 ½ years.

FINDINGS AND CONCLUSION

At the time at which the student's father filed his request for due process, the student was still attending the Latham School and she had just turned 20 years of age. She was seeking to remain in school with services being provided until such time as she felt that she was ready to graduate. The district claimed that she qualified for graduation without further services. In the meantime, the student reached age 21 in November of 2014.

Under IDEA, individuals are entitled to receive a free appropriate education tied to their individualized needs at public expense from the ages of 3 through 21, unless they complete the requirements for graduation from high school before attaining age 21. There are early intervention services for those children with an identified need from birth through age 3, and there are transition services that are available for students between the ages of 18 and 21. There are no available services under IDEA once a student has attained age 21. In the instant case, the Petitioner student reached age 21 on November 26, 2014. That being the case, the district is no longer responsible for the provision of educational services to the Petitioner. Therefore, the claim of entitlement to a due process hearing is hereby denied and dismissed.

/s/Maureen A. Hobson

8/25/15

CERTIFICATION

I certify that a copy of the within was sent via e mail to Martha McVicker and MaryAnn Carroll and by regular mail to the Portsmouth Superintendent of Schools and **the Special Education Director for the Newport County Regional special Education Program** on the 25th day of August 2015.

s/s Maureen A. Hobson