



INDIANA STATE BOARD OF EDUCATION

BEFORE THE INDIANA STATE BOARD OF EDUCATION

In Re the Matter of:)
Fort Wayne Community Schools)
)
Petitioner,)
)
v.)
)
South Newton School Corporation,)
Respondent.)

Cause No.: 09-052018

Determination of Amount of Transfer Tuition

Pursuant to I.C. 20-26-11-15

COMBINED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED DETERMINATION

Procedural History

Fort Wayne Community School Corporation (“Petitioner”) asserts that it is seeking transfer tuition costs for J.H., a student who received education services from Crossroad Children’s Home (“Crossroad”) while he had legal settlement within South Newton School Corporation’s (“Respondent’s”) district. The Indiana State Board of Education (“Board”) received Petitioner’s request for a hearing. The undersigned was appointed as hearing examiner, and the parties were so notified. The parties were notified of the hearing date and advised of their rights by notice sent via certified mail. The Respondent notified the hearing examiner they would participate in the hearing via teleconference.

After consideration of the testimony and exhibits, the hearing examiner makes the following findings of fact, conclusions of law, and recommended orders:

Findings of Fact and Conclusions of Law

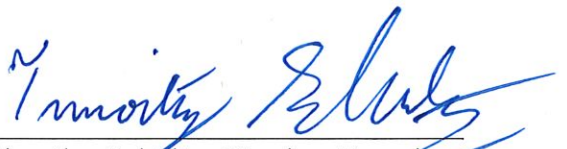
1. The Board has jurisdiction to determine the right to attend school in any school corporation. IC 20-26-11-15(a).
2. The Petitioner asserts that, for the 2013-2014 school year, J.H. was placed at Crossroad by Benton County Department of Children’s Services. Crossroad is serviced by Petitioner and located in the Petitioner’s school corporation.
3. The Petitioner contends that at the time of the J.H.’s placement, the student’s mother resided within Respondent’s district.

4. Additionally, Petitioner has provided information regarding the collection letters sent to Respondent seeking transfer tuition payments.
5. In total, Petitioner has determined that Respondent owes Petitioner a total of \$496.20.
6. Pursuant to the materials submitted to the hearing examiner by the Petitioner, it appears that the Petitioner is asserting that it is entitled to transfer tuition under Indiana Code § 20-26-11-8(a). Subsection (a), which applies to placements by or with the consent of the Department of Child Services (“DCS”) or a court order, reads as follows:
 - (a) A student who is placed in a state licensed private or public health care facility or child care facility:
 - (1) by or with the consent of the department of child services;
 - (2) by a court order; or
 - (3) by a child placing agency licensed by the department of child services;may attend school in the school corporation in which the facility is located. If the school corporation in which the facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.
7. In response to the Petitioner’s assertions, the Respondent provided the hearing examiner with transfer tuition materials that provide a summary of the student’s Membership and Attendance Reports and a Notification of Change of School Placement from Petitioner. Respondent also provided documentation placing J.H.’s legal settlement within the Benton Community School Corporation.
8. Although the Petitioner has claimed that J.H. was placed in Crossroad at the direction of DCS, no documentation of DCS’s action has been presented such as an order from a court or DCS. Nor is there any documentation from DCS or a court confirming J.H.’s legal settlement.
9. Therefore, without documentation of DCS or court action, the Petitioner is not entitled to transfer tuition from Respondent.

RECOMMENDED ORDER

Petitioner has not provided evidence of legal settlement deemed acceptable by the hearing examiner. Thus, Respondent shall not be required to pay Petitioner a total of \$496.20 for tuition support associated with J.H.

Dated: October 30, 2018


Timothy Schultz, Hearing Examiner
for the State Board of Education

RIGHT TO APPEAL

Any party wishing to file objections to this recommended decision may do so in writing by Wednesday, November 7, 2018. The basis of any objections must be stated with particularity. A party must cite to any Finding of Fact, Conclusion of Law, or Order with which the party takes exception. Objections must be sent via electronic mail to TSchultz1@sboe.in.gov. Additionally, any party filing objections or responding to same must provide a copy of such written objections to the representative of the other party. If objections are timely submitted, the materials will be provided to the Board for consideration prior to any final action. The Board will vote to adopt this proposed determination during the November 14, 2018, Board meeting. Further, either party may attend the Board meeting and address the Board directly, regardless of whether an objection is filed.

Copies to (via electronic mail):

Petitioner:

Fort Wayne Community Schools
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Respondent:

South Newtown School Corporation
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