



INDIANA STATE BOARD OF EDUCATION

BEFORE THE INDIANA STATE BOARD OF EDUCATION

In Re the Matter of:)	Cause No.: 10-052018
Fort Wayne Community Schools)	
)	
Petitioner,)	
)	
v.)	
)	
Adams Central Community Schools,)	
)	
Respondent.)	

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

The Indiana State Board of Education (“Board”) received Fort Wayne Community Schools’ (“Petitioner”) timely written application in which Petitioner asserts that it is seeking transfer tuition payments from Adams Central Community Schools (“Respondent”) in the amount of \$8,878.78 for T.G., a student incarcerated at the Allen County Juvenile Center (“ACJC”) during the 2014-2015 and 2015-2016 school years while he had legal settlement within Respondent’s district.

The undersigned was appointed to serve as hearing examiner, and both parties were notified of the hearing date and advised of their rights in a notice sent via certified mail.

An administrative hearing was held to determine the following:

1. The legal settlement of T.G. during the 2014-2015 and 2015-2016 school years; and
2. The amount of transfer tuition, if any, Respondent owes Petitioner for T.G. during the 2014-2015 and 2015-2016 school years.

Representatives from both parties were present at the hearing. Kim Szobody, Fiscal Affairs Generalist for the Fort Wayne Community School Corporation, appeared on behalf of Petitioner. Audra Snyder and Adam Miller, attorneys representing Petitioner, Dawn Cook, School Treasurer for Adams Central Community Schools, and Meghan Colchin, Guidance Counselor for Adams Central Community Schools, appeared on behalf of Respondent.. At the hearing examiner’s request, the parties submitted supplemental briefs setting forth the parties’ respective positions and identifying the documents upon which the parties relied.

After considering the testimony and exhibits presented at the hearing as well as the supplemental information included in the parties' written briefs, the hearing examiner makes the following findings of fact, conclusions of law, and recommended orders:

Findings of Fact and Conclusions of Law

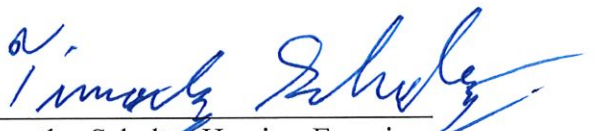
1. Under IC 20-26-11-15(a)(3), the Board has jurisdiction to determine a student's legal settlement as well as the amount of transfer tuition owed to a school corporation.
2. The legal settlement of a student is governed by the provisions set forth in IC 20-26-11-2.
3. Under IC 20-26-11-2(1), if a student is less than eighteen (18) years of age, the legal settlement of the student is in the attendance area of the school corporation where the student's parents reside.
4. Under IC 20-26-11-2(9), if a juvenile court with jurisdiction over a student has made findings of fact concerning the legal settlement of a student, the legal settlement of the student is the attendance area specified as the legal settlement in the latest filings of fact issued by the juvenile court.
5. During the 2014-2015 school year, T.G. was enrolled at Fort Wayne Community Schools for a total of eighty-nine (89) days.
6. During the 2015-2016 school year, T.G. was enrolled at Fort Wayne Community Schools for a total of twenty-four (24) days.
7. At all times during his enrollment at Fort Wayne Community Schools, T.G. was incarcerated at the Allen County Juvenile Center.
8. The educational program at the Allen County Juvenile Center is under the direction of Petitioner.
9. Petitioner provides teachers and other educational support for the educational program at the Allen County Juvenile Center.
10. Petitioner did not receive state funding for T.G. for the 2014-2015 school year.
11. Petitioner did not receive state funding for T.G. for the 2015-2016 school year.
12. During the 2014-2015 and 2015-2016 school years, T.G.'s parents, neither of which had custody of T.G., resided within Petitioner's district.
13. During the 2014-2015 and 2015-2016 school years, the individual identified as having legal custody of T.G. resided within Respondent's district.
14. The individual identified as having legal custody of T.G. was not one of T.G.'s parents.

15. On February 4, 2015, the Allen Superior Court, a juvenile court with jurisdiction over T.G., made findings of fact concerning the legal settlement of T.G. and found T.G.'s legal settlement to be within Petitioner's district.
16. Prior to February 4, 2015, T.G. was under the supervision of the Juvenile Probation Department at Oaklawn – Mishawaka.
17. During the 2014-2015 school year, T.G. was enrolled at School City of Mishawaka on both count days.
18. School City of Mishawaka received state funding for T.G. for the 2014-2015 school year.
19. On March 12, 2015, the Allen Superior Court, a juvenile court with jurisdiction over T.G., made findings of fact concerning the legal settlement of T.G. and found T.G.'s legal settlement to be within Petitioner's district.
20. During the 2015-2016 school year, T.G. was enrolled at MSD Decatur Township on both count days.
21. On May 9, 2018, the Allen Superior Court, a juvenile court with jurisdiction over T.G., made findings of fact concerning the legal settlement of T.G. and found T.G.'s legal settlement to be within Petitioner's district.

RECOMMENDED ORDER

Petitioner seems to believe that T.G.'s legal settlement must be in the attendance area of the school corporation where the individual with legal custody of T.G. resides. However, Petitioner is mistaken. Under IC 20-26-11-2(9), if a juvenile court has made findings of fact concerning the legal settlement of a student, the student's legal settlement is the attendance area specified as the legal settlement in those findings. In this instance, Respondent has provided evidence showing that on at least three separate occasions, the Allen Superior Court found T.G.'s legal settlement to be within Petitioner's district. In addition, the evidence provided by Petitioner is insufficient to support a finding that T.G. had legal settlement in Respondent's district. As such, Respondent is not required to make transfer tuition payments to Petitioner for T.G. for the 2014-2015 and 2015-2016 school years.

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:

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