

Judge orders boy back in school

1st grader to be allowed in class during dispute

Chicago Tribune - Chicago, Ill.

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Date: Feb 8, 2008

Start Page: 1

Section: Metro

Text Word Count: 444

Document Text

First-grader Sebastian Fortson gets to stay in school -- at least until his case is back in court later this month.

Sebastian, a student at Willow School in Homewood, was granted a reprieve Thursday as Cook County Circuit Judge Mary Rochford ordered that the youngster be allowed to attend class while his residency case is pending.

Not letting Sebastian remain in school until the dispute is resolved would cause the boy "irreparable harm," Rochford said. "[Homewood] argued that the student could enroll in some other school, but I don't know where that would be."

Homewood School District 153 contends the boy is fraudulently enrolled because he does not spend enough evenings within its boundaries.

"The judge is making a decision just to hold things in place before she even looks at the facts," said John Izzo, a lawyer for the district.

"It is gratifying to know that the family will owe the back tuition if the district ultimately prevails," he added.

The 6-year-old was "disenrolled" Dec. 10, but returned Wednesday when Gov. Rod Blagojevich stepped in after reading about Sebastian's case in the Tribune.

Blagojevich wanted to see the boy back in school, said Matt Vanover, a spokesman for the Illinois State Board of Education, which covered two days of Sebastian's tuition at Willow until Rochford could make her decision. Homewood agreed to the request.

Sebastian's parents divorced in 2005 and have an amicable relationship. Jennifer Fortson, who lives in Homewood, is the residential parent, according to the divorce decree.

But because she works several nights a week as a neonatal nurse, the boy spends some nights with his father, Sean, in Beecher and other nights with his grandmother in Harvey. The law bases residency on "primary fixed night time abode" -- it's where you lay your head that counts.

"The evidence at the [district] hearing showed that Sebastian was not living in Homewood," the district said in a written statement. "That is what the investigation showed based on numerous facts. ... Whether that was a correct decision will eventually be decided by a court of law -- not the Governor, not the state and not the media."

The statement said the family got a fair hearing before "an unbiased hearing officer" in November.

However, Jack Carriglio, one of the Fortsons' attorneys, called the hearing "tainted" because the hearing officer is a partner in the law firm that represents the district.

The next court date is Feb 22. Until then, Sebastian's parents are relieved.

"This is what we wanted all along," Jennifer Fortson said. "We didn't think we could take him being bounced out again."

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Abstract (Document Summary)

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