

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JANE K. DOE

vs.

CHARIHO SCHOOL
DISTRICT

INTERIM ORDER

G.L. 16-39-3.2

April 30, 1990

At the time this dispute began the student was in a program of regular education. Under the "stay put" provision (20 U.S.C. 1415 (e)(3)) this student would, absent an agreement between the parent and the school district, have remained in a regular education placement pending completion of all administrative and court hearings.

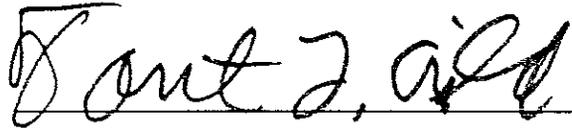
By agreement, however, between the parent and the school district this student's placement was changed to a home tutoring program. This agreement was the result of a mediation process supervised by the Rhode Island Department of Education. The mediation agreement provided that: "The placement decision made in mediation supercedes all previous planning and placement team decisions" and "This agreement shall not be construed as an admission or determination as to the adequacy or inadequacy of previous evaluations or programs provided for (the student)." We think that the language just quoted establishes that the tutoring program now being provided is the "status quo placement" which must be maintained until exhaustion of the applicable administrative and judicial remedies. (20 U.S.C. 1415(e)(3))

We are aware that the school district has challenged the adequacy of the tutoring program provided to this student and that the district has prevailed at a local level hearing. The parent has appealed the decision to a state level hearing officer. We think, however, that the tutoring program is now the status quo placement which, under the law, must be maintained until the review process is completed. (20 U.S.C. 1415(e)(3)). Furthermore we do not think that any of the situations where a state level agency may act to change the status quo are applicable to the case. See: e.g. Blazejewski v. Board of Education of Allegany Central School District (560 F.Supp.701).

In saying this we also recognize that a court, despite 20 U.S.C. 1415 (e) (3), does have authority to change a student's placement even over the objections of a parent. Honig v. Doe, 108 S.Ct. 592 (1988).

Conclusion

The Chariho School District is ordered to provide tutoring services to Student Doe pending completion of the appellate process or until a court of competent jurisdiction orders otherwise, whichever comes first.



Forrest L. Avila, Esq.

Hearing Officer

Approved:



J. Troy Earhart

Commissioner of Education

April 30, 1990