

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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JOHN J. DOE :  
 :  
 :  
vs. :  
 :  
 :  
JAMESTOWN :  
SCHOOL COMMITTEE :  
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INTERIM PROTECTIVE ORDER

G. L. 16-39-3.2

May 7, 1990

A hearing was held on May 4, 1990 pursuant to R.I.G.L. §16-39-3.2 before the undersigned Hearing Officer appointed by the Commissioner of Education. Both parties were represented by counsel.

Findings of Fact

This petition is brought by the mother of John J. Doe who alleges that her son is being deprived of special education services agreed to at a meeting held on April 12, 1990. The meeting established that an interim IEP would be prepared which would provide for Student Doe two services; i.e. tutorial remedial reading services and counselling services. In exchange for these services being provided, the appellant waived the requirements of the timelines established for the formal hearing requested by the parents, thereby granting relief to the School Committee.

Student Doe is a special education student in the Jamestown school. He has an IEP dated May 1989 for the 1989-90 school year. He is in attendance at school on a daily basis. In December of 1989, his mother terminated his services alleging that they were inappropriate. She sought an independent evaluation at Massachusetts General Hospital. Mrs. Doe has petitioned for the hearing process which will review the differences of opinion. That hearing was set for May 16, 1990.

The request for a hearing required a timeline response on the part of the School Committee which the Committee could not meet. In exchange for relief from that requirement; i.e. timelines, the Committee agreed to provide certain services. By letter of April 16, 1990 (Def's Ex. 1) Jamestown notified petitioner that two providers had been located who would fulfill the obligations agreed to on April 12, 1990.

From the testimony it is established that neither service has been provided at this time - May 4, 1990 - since the remedial reading teacher, while agreeing to work, will not cross the Jamestown Bridge to provide the service and Mrs. Doe has not been able to provide her own transportation to Providence to implement the counselling component.

The School Committee argues that there is no requirement, at this time, that requires them to provide remedial reading services to Student Doe of a particular type; i.e. "named" methodologies and has offered those services provided within the School Department. The Committee further argues that to order these "named" services in this process; i.e. interim order process, would prejudice the hearing process set for May 16, 1990. In that contention, we agree and the effect of this Interim Order is not to be construed as to order the "named" service as required. The hearing process will determine that issue.

However, the conference on April 12, 1990 committed itself to two services and the letter of April 16, 1990 implies certain agreement by the Committee's agents with a level and type of service beyond the services currently available within the School System and implies a "named" curriculum.

By letter of April 16, 1990 the Committee offered two services by particular people. Plaintiff was notified as follows: "If you are in agreement that. . . ." Mrs. Doe is in agreement with those people and services.

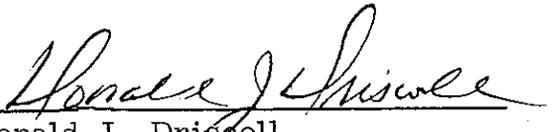
The Committee cannot withdraw that offer or drag its feet and not

fulfill the offer when it finds that ". . . convenient arrangements could not be made. . . ." (Def. Ex. 2) in that the providers will not come to Jamestown to provide same. The letter of April 16, 1990 is a "bona fide" offer and mentions no restrictions or obligations on behalf of the plaintiff to provide transportation to get to services nor did testimony about the meeting of April 12, 1990 mention the need for the plaintiff to provide transportation.

Conclusion

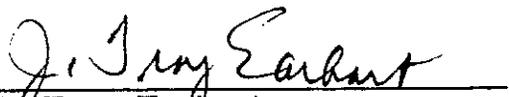
As the persons and services have been accepted, the Committee is ordered to fulfill the offer immediately. Specifically, Jamestown is to provide offered service and provide support, including but not limited to transportation, to fulfill its obligation in this matter. This order is in full effect until the hearing process is completed at the local level.

1] We reiterate that this Interim Order does not find that the suggested; i.e. "named" curriculum methodologies, are the only manner through which Student Doe can be instructed. This Interim Order finds its base in the service offered by the letter of April 16, 1990. The instructional issue encompassed in this case will be determined by the hearing process commencing May 16, 1990.

  
Donald J. Driscoll  
Hearing Officer

May 7, 1990

Approved:

  
J. Troy Earhart  
Commissioner of Education