

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

PAUL C. :
 :
 :
vs. :
 :
 :
WARREN SCHOOL :
COMMITTEE :

D E C I S I O N

May 10, 1990

This matter was heard on March 27, 1990 upon appeal to the Commissioner of Education by Paul C . from a decision of the Warren School Committee with regard to the "safety and well-being of his child and of the other students in the school as guaranteed to them by state law".

The matter was heard by the undersigned Hearing Officer under authorization by the Commissioner. Due notice was given to the interested parties as to the date, time and place of the hearing. The School Committee was represented by counsel, Mr. C , appeared pro se. Testimony was taken, a transcript of which was made and evidence was presented.

Counsel for the School Committee raised a preliminary issue of whether the appellant had any standing before the Commissioner since he is requesting that a student other than his child be placed in a special program, namely exclusion from school with home tutoring. We find that the School Committee is correct in that regard. However, on the issue of the School Department providing for the safety and well-being of the appellant's child within the school environment, we find that appellant does have standing in accordance with §16-39-2 of the General Laws of Rhode Island, as Amended. Our review and decision in this matter will be limited to addressing that issue only.

The testimony and evidence in the case established the following facts:

1. The appellant, Paul C , resides at Main Street in Warren, Rhode Island.

2. The appellant's son, J , is a sixth grade pupil in the Mary V. Quirk School.
3. Student A, a pupil in J 's class, on several occasions since the opening of school in September of 1989 has displayed "abnormal behavior".
4. On January 25, 1990, Student A attacked the appellant's son and bit him on the hand.¹
5. The appellant is a teacher at the Mary V. Quirk School with over 14 years of service.²
6. Student A has been suspended at various times to a total of 20 plus days during the present school year for "inappropriate conduct". (Tr. pp. 27-28).
7. Following the incident of January 25, the appellant appealed to the Principal, the Superintendent of Schools and ultimately the School Committee.
8. On February 12, 1990, the School Committee granted the appellant a hearing on his appeal, and by letter of February 14, the Committee, through the Superintendent, forwarded its decision to the appellant.³

The facts in this case are in little dispute. The testimony of the appellant and respondent are almost without contradiction. The School Committee and the Superintendent have provided what they believe to be appropriate intervention as is required by the Board of Regents Regulations Governing Handicapped Students. The Principal testified that a full-time aide has been assigned to Student A to monitor his behavior in all of his classes as well as during passing and other school activities with the exception of the period of time on Fridays when he meets with a group

1] The skin was not broken and, therefore, the bite did not require medical attention.

2] The major significance of this fact is that it affords him the opportunity to personally observe many of the incidents involving the behavior of Student A.

3] See Respondent's Ex. #3.

of other pupils and a representative from East Bay Mental Health Services for a group session. The Principal also testified that Student A has been placed back on medication and, in addition, the School Department has developed a behavior modification plan for him. The Principal further testified that the actions taken by the School Department have resulted in some improvement in Student A's behavior.

Mr. James W. Hoebbel, the Superintendent of Schools, testified that the Multi-Disciplinary team has completed all of the required evaluations of Student A with the exception of the psychiatric diagnosis and judgment for which they are awaiting an appointment with a child psychiatrist.

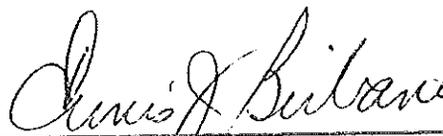
It is our decision that the Warren School Department has acted in a reasonable and rational manner in its attempt to provide for the safety and well-being of the appellant's son as well as for all the other pupils in the Mary V. Quirk School.

Accordingly, the appeal is denied.

However, the Regulations of the Board of Regents Governing Handicapped Students in general and behaviorally disordered students in particular allow for a clinical psychologist or a psychiatrist to make diagnosis and judgment in the evaluation process resulting from referrals. Those same regulations require that the evaluation process be completed in thirty (30) to forty-five (45) days. We believe that the period of time

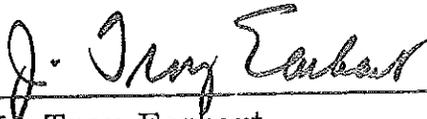
4] See Respondent's Ex. #1 A through R.

between January 25, 1990 (the day of the incident) and March 27, 1990 (the day of the hearing) is excessive in cases of this kind and we order the School Department to utilize the services of a clinical psychologist if necessary as allowed in the Regulations rather than to wait for the availability of a child psychiatrist in order to expedite a resolution as to whether or not Student A is in need of special education services.



Ennis J. Bisbano
Hearing Officer

Approved:



J. Troy Earhart
Commissioner of Education

May 10, 1990