

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JANE N. DOE :
 :
 :
vs. :
 :
 :
JOHNSTON :
SCHOOL COMMITTEE :
 :

INTERIM ORDER

G.L. 16-39-3.2

May 21, 1990

A hearing was held on May 14, 1990 pursuant to Section 16-39-3.2 of the Rhode Island General Laws, before the undersigned Hearing Officer appointed by the Commissioner of Education. Both parties were represented by counsel, witnesses sworn and testimony taken.

Findings of Fact

This petition is brought by the parents of Jane N. Doe, a three year old, who allege that the Johnston School Department has failed as of this date, May 14, 1990, to implement an appropriate program of education for their handicapped daughter.

The child had her 3rd birthday on February 21, 1990. The parents notified the School Department on December 8, 1989 of the need for their daughter's education commencing on February 21, 1990. As of this hearing date, there is no IEP in existence nor is there a placement made.

The parents placed their daughter in October of 1989 in a toddler program at Bradley Hospital for purposes of diagnosis and remediation. This program is a two-morning a week program and is paid for by the parents. She continues in that program, paid by the parents, as of this date, May 14, 1990.

The School Department offered a chronology of events and activities in regard to this child which confirmed excessive time lapse and failure to implement a program in a timely manner. In fact, the School Department only offered a program to be looked at by the parents on Friday, May 11, 1990 -- the day before this hearing.

Petition

The parents' petition that this child be placed in a 5-day program at Bradley Hospital as a "stay put" measure until the Johnston School Department makes a written proposal to the parents and they have ". . . a reasonable opportunity to observe any program which Johnston recommends."

Conclusion

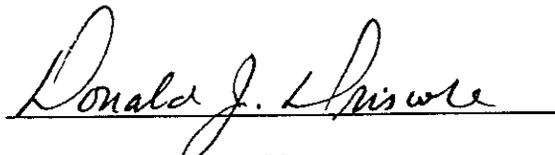
The Hearing Officer is persuaded that the parents, by law and regulation, expected to receive, and, are entitled to, an appropriate education for their daughter. That education should have started on February 21, 1990.

The School Committee, through its agents, has failed to provide the required education, and by its action, or lack of it, has created a confrontation with the parents.

The proposal by petitioners to have placement at Bradley in a 5-day a week program is rejected. The following order is entered:

The "stay put" program is the 2-morning a week "toddler" program at Bradley Hospital. The School Committee is directed immediately to pay for that program. They are to provide transportation. Further, the School Committee is to reimburse the parents for costs of the Bradley program from February 21, 1990 to this date and reimburse the parents for transportation from February 21, 1990 to the present at the rate allowed by the Federal government in IRS regulations for transportation.

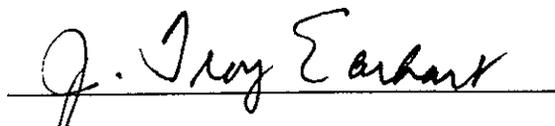
This order is given only in recognition of the fact that the draft IEP and program offered is in excess of the "stay put" position. The petitioners ask for enrollment in a program that is not the program in which the child is functioning. Placement by this office in another program might prejudice proceedings which may result from the normal hearing process dictated by the regulations.



Donald J. Driscoll

Hearing Officer

Approved:



J. Troy Earhart

Commissioner of Education