

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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PARENT OF JOHN A.G. DOE :
 :
 :
VS. :
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A RHODE ISLAND SCHOOL :
DISTRICT and the :
 :
GRODEN CENTER, INC. :
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 :
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DECISION ON DURATION OF INTERIM ORDER

December 13, 1990

The Groden Center has moved that we clarify the duration of the Interim Order which we have entered in this matter. The order we entered was intended to implement the "stay put" provision which is found in Section 1415 of the Education for all Handicapped Childrens' Act.

In Honig v.Doe, 108 S.Ct.592 (1988) the Supreme Court stated:

The stay-put provision in no way purports to limit or pre-empt the authority of courts by section 1415(e)(2), see Doe v.Brookline School Committee, 722 F.2d 910,917 (CA1 1983); indeed, it says nothing whatever about judicial power.

In Andersen v.District of Columbia, 877 F.2d 1018 (D.C.Cir.1989) the Court of Appeals stated:

Once a district court has resolved the issue of appropriate placement, the child is entitled to an injunction only outside the stay-put provision, i.e., by establishing the usual grounds for such relief.

These authorities lead us to conclude that the "stay put" provision of Section 1415, which amounts to an "automatic injunction", and which our order implemented, has effect only until a trial court of competent jurisdiction decide the case. (See also: "The Many Faces of the EHA's "Stay Put Provision", 62 Ed.Law Reporter 833 (November 22, 1990))

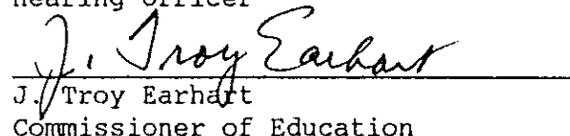
Conclusion

The Interim Order we have entered in this matter shall remain in effect until the Federal District Court rules in this matter or until the Federal District Court makes some other disposition.

Approved:



Forrest L. Avila, Esq.
Hearing Officer


J. Troy Earhart
Commissioner of Education