

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JANE R. DOE II
Parent and next friend of
JOHN R. DOE II

v.

COVENTRY SCHOOL
COMMITTEE

DECISION ON PETITION FOR REHEARING

September 20, 1990

DECISION ON PETITION FOR REHEARING

The petition for a rehearing is denied for the following reasons:

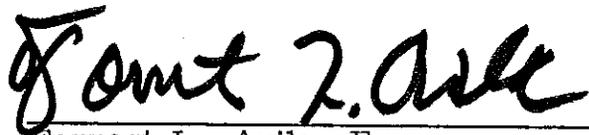
- (1) Respondent's petition raises no issues which were not raised, or which could not have been raised, at the initial hearing of this matter.
- (2) Respondent's petition merely questions the correctness of the decision. The issue of correctness should be addressed to the appropriate appellate tribunal.
- (3) Respondent's reliance on G.L. §42-35-9 on the issue of notice is misplaced since the Department of Education is not subject to the Administrative Procedures Act. Henry v. Earhart 553 A.2d 124 (R.I. 1989). Instead the Department of Education is subject to Title 16. Under Title 16 the Commissioner is required to hear Interim Order cases which are in the nature of temporary Restraining Orders within five (5) working days. (G.L. 16-39-3.2)
- (4) Since a rehearing is denied the question of whether a new Hearing Officer should be appointed in the matter is moot. Still it should be noted that the petition only raises a conclusionary allegation that the Hearing Officer made "statements of clear bias and/or prejudice through conversations with others following issuance of the interim order in this matter".

The petition does not allege any facts to support such a claim, nor is the Hearing Officer aware of any facts which would support

such a claim. If such facts existed they would doubtlessly have been set forth in the petition. Furthermore, the petition does not allege any bias or prejudice in the initial hearing of this matter.

Conclusion

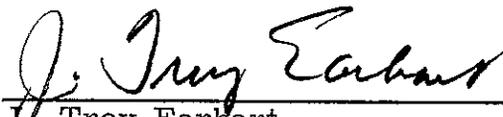
The petition for a rehearing is denied.



Forrest L. Avila, Esq.
Hearing Officer

Approved:

September 20, 1990



Troy Earhart
Commissioner of Education