

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JOHN K. DOE

:

VS.

:

:

CRANSTON
SCHOOL COMMITTEE

:

:

D E C I S I O N

November 22, 1991

Held: That the special
education procedural pro-
tections of the Board of
Regents attach at a minimum
when a special education
referral is accepted by a
multidisciplinary team

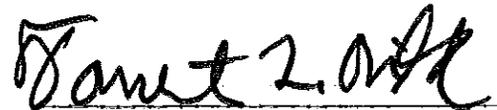
In this case the petitioner, who had been suspended from school for disciplinary reasons, is seeking an interim order returning him to school on the grounds that his suspension violated the special education regulations of the Board of Regents. However, since the petitioner has been allowed to return to school we must dismiss this matter as moot.

It may be helpful, however, for us to discuss some of the points of law at issue. In a publication entitled "Disciplining Students With Disabilities" the Department of Education stated that the procedural protections of the Board of Regents Special Education Regulations attach, at a minimum when a special education referral is accepted by a multidisciplinary team. We think that this view is legally sound. We think that the Department's publication stands as an "interpretive" regulation which should be followed. Lerner v. Gill, 463 A.2d 1352 (R.I.)

In sum we conclude that the petitioner is now entitled to receive the procedural protections available under the special education regulations of the Board of Regents.

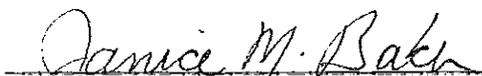
Conclusion

The petition for an interim order is denied as moot and this decision shall stand only as an interpretation of school law.



Forrest L. Avila, Esq.
Hearing Officer

Approved:



Janice M. Baker
Interim Commissioner

November 22, 1991