

RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

IN RE: STUDENT T.G. DOE

DECISION

While it is clear that a state education agency (SEA) has power to agree with a parent to a change in placement for a student, even over the objections of a local educational agency (LEA) it is also clear that this is a power which should be exercised sparingly. Blazejewski v. Board of Education, 560 F. Supp. 701.

For the most part we follow the rule that due process hearings at the local and the state level should be completed before the Commissioner acts to change the status quo. Jane K. Doe v. Chariho School District, Commissioner of Education, 1990.

In the case at hand, however, the parties have, in fact, exhausted all due process proceedings. Indeed an appeal to the the Federal District Court has only recently been dismissed by the parties. Still the parties have not been able to resolve this matter. The problem in this case is that the parties have not been able to agree on what constitutes the least restrictive placement for this student, including what sort on respiratory support this student should receive. The parties are also disputing issues concerning what sort of compensatory education

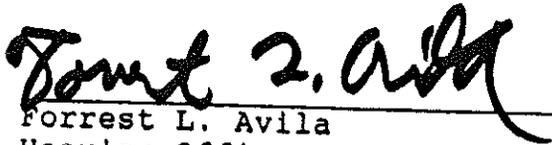
this student is to receive based up on alleged past failures to provide this student with a free appropriate public education.

We think that the question of compensatory education should be left for resolution at the next IEP meeting concerning this student. We think that the only way to resolve the other issues of dispute is to appoint a special visitor with the following authority:

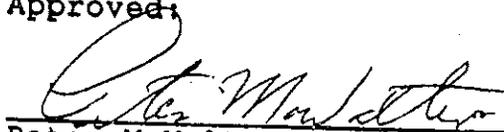
1. Authority to require the parties to meet with him to discuss available placements.
2. Authority to require the production of confidential records as may be appropriate under the laws governing special education.
3. Authority, if no agreement is reached, to remedy any failure to provide this student with a free appropriate education by consenting with the parents of this student to a new placement. This placement will be made under the authority of the SEA to consent, on behalf of the local educational agency, to a new placement. Blazejewski, Supra. (G.L. 16-5-30)

CONCLUSION

Mr. Romeo Romano of the Rhode Island Department of Education is appointed a special visitor in this matter with the authority specified in this decision.

  
Forrest L. Avila  
Hearing Officer

Approved:

  
Peter McWalters  
Commissioner of Education

March 18, 1992