

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

Commissioner of Education

IN THE MATTER OF JANE DOE

This matter concerns a request for an interim order pending a hearing under §16-39-3.2 RIGL.

Student Doe is a senior at Mount Pleasant High School. She has received special education services since at least the time she was a middle school student.

The student's IEP requires "resource services to be provided in 'individual and small group instruction'." This has been the service model for this student for several years.

When the student was a high-school sophomore services were being provided by a certain resource teacher. Following an IEP conference early in the school year at which the student's parent expressed complaints regarding that resource teacher, another resource teacher was assigned to the student.

Through the remainder of her sophomore and junior years the student continued to receive resource services from this second resource teacher.

This school year this second resource teacher was not assigned to the same type program where she provides resource services to individual students and small groups of students. Rather she was assigned to a collaborative model where she is in regular classrooms with students entitled to special services and then meets with these students once a day in a group of 10-12 students. Student Doe was assigned to this once a day session.

This placement was the subject of a complaint to the Rhode Island Department of Education, Office of Special Needs. On November 11, 1997 it was found that the placement was not in compliance with the student's IEP and the Providence School Department was ordered to implement the IEP requirement of individual and small group instruction.

The School Department responded by assigning the same resource teacher the student had at the beginning of her sophomore year. The student's mother again complained. While the school department's Acting Director of Special Education acknowledged "that there have been personality conflicts in the past between [the student] and [the teacher]" he refused to assign another resource teacher to fulfill the student's IEP and the directive of this Department.

The School Department offers that although in the past there were two teachers providing resource services in the model that this student receives, this school year there "was no longer a need for two resource teachers at Mount Pleasant". The second resource teacher was instead assigned to the collaborative model described above.

In this hearing the Acting Director acknowledged both the "personality conflicts in the past between the student and teacher" and his position that irrespective of those personality conflicts this parent's choice was either accept the collaborative model or take the teacher who had the conflict with the student.

The School Department has thus deprived the student of the benefit of this Department's November 11, 1997 order. It has by indirect means attempted to force the result it could not command directly.

Not only does this itself create the impression of retaliation, the School Department's defense here reinforces that conclusion.

By all accounts the decision to change the student's resource teacher after the parent's complaint two years ago was mutual and shared by the school administration.

However, in this hearing the administration has attempted to portray the student as unmotivated, uncooperative, obstinate and the sole cause of any personality conflict.

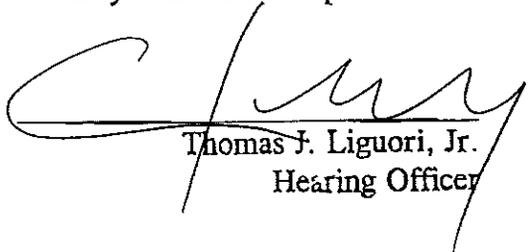
A review of the evidence compels a different conclusion. Despite her learning disability and an acknowledged sixth grade reading level it is anticipated this student will graduate in June. She has been accepted into two colleges with programs for special needs students. She is a class officer, a varsity athlete and team captain. She, at her mother's expense, has participated in an outside tutorial program during the third quarter of this school year. She has pulled her cumulative grades up to a C in Physiology, a B in Chemistry and in her worst subject English from failing to a D+. Her English teacher at the end of the third quarter wrote:

"-Great improvement!
-attitude remains positive!
-accepts and does all assignments."

The student has obviously worked hard to overcome her learning disability and is a motivated and positive student.

The school department on the other hand has caused her to be deprived of the benefits of this Department's Order of November 11, 1997.

Therefore, it is ordered that the Providence School Department forthwith implement the Order of November 11, 1997 by providing a resource teacher to the student other than that resource teacher with whom the student has had an acknowledged personality conflict in the past.


Thomas J. Liguori, Jr.
Hearing Officer

Approved:



Peter McWalters
Commissioner of Education

DATE: MAY 20, 1998