

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

NARRAGANSETT SCHOOL DEPARTMENT

VS.

PARENTS OF JOHN C.V. DOE

Interim Order and Decision

Held: Students' parents are estopped from refusing to authorize release of results of special education evaluation to the school district.

DATE: June 16, 1998

Introduction

This matter concerns a request by the Narragansett School Department for an interim protective order regarding its attempts to provide a free appropriate public education to student Doe.

Background

Student Doe is 11 years old. He is enrolled in the Narragansett school system as a 4th grade student. In January 1998, student Doe's individualized education plan (IEP) came due for an annual review.

About the same time, student Doe's parents removed him from his educational placement due to concerns about an event that occurred in his classroom. The parents' concerns were addressed in the IEP review process.

In February 1998, the parents and the school district agreed to refer student Doe for a full evaluation at a medical center located out of state. They also agreed that student Doe would receive tutoring while the evaluation was being conducted.

As part of the agreement, student Doe's father signed a "Request for Consent to Pupil Evaluation" form that authorized a "full evaluation plus speech and language" for student Doe. Student Doe's mother signed a "Narragansett

1 The Commissioner of Education designated the undersigned hearing officer to hear and decide this request. Hearings were conducted on March 30 and April 9, 1998. Despite being provided written and verbal notice, student Doe's parents did not attend the hearings.

Authorization to Release Information" form that authorized the medical center "to send and receive information requested below concerning" student Doe. The listed information included "full evaluation plus speech and language." The parents also requested, and received from the School Department, travel reimbursement for transporting their son to and from the medical center.

Following the agreement, however, student Doe's parents did not make their son available for tutoring. Student Doe's mother told the tutor she would bring "legal action" against her for calling her at home to confirm tutoring times for student Doe. As a result, student Doe did not receive any educational services for an extended period.

In a March 9, 1998 letter to the School Department, a patient/team coordinator at the out-of-state medical center wrote the following:

[Student Doe] has completed his scheduled evaluations and we have arranged for a final conference to provide feedback on April 1, 1998. It is our understanding that [student Doe's parents] do not plan to attend the final conference, unless they agree with our diagnosis. We will formulate our findings, and call the family with the necessary information by March 13, 1998. What happens following this conversation is currently in question. At this time [student Doe's mother] however has declined to allow our staff to send an invitation for the school to attend any conference.

We appreciate your concern regarding access to our reports/findings in order to proceed with educational planning for [student Doe]. We would be pleased to both invite you to a conference and to release these records should [student Doe's parents] give us permission to do so. [Petitioner's Exhibit 4].

Following receipt of the above-mentioned letter, the School Department requested a special education due process hearing. It also initiated this interim protective order proceeding. While the interim order request was being heard, student Doe returned to his fourth grade class in the Narragansett school system. The school district also was billed for the evaluation, the results of which it could not obtain due to the parents' refusal to provide authorization to the out-of-state medical center.

The School Department is seeking an interim order directing the parents of student Doe to refrain from interfering with the efforts of the school district to provide agreed-upon educational services to their son, and to execute a release authorizing the medical center to provide the School Department with the results of the completed evaluation.

Discussion

We initially remind the parents of student Doe of their responsibilities under the compulsory attendance law (R.I.G.L. 16-19-1). Under that statute, a child's "absence or irregular attendance" from the school in which he or she is enrolled is not permitted.

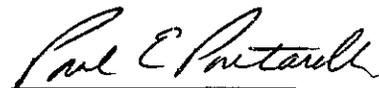
We further find, based on the facts set forth above, that student Doe's parents are estopped from preventing the release of the results of the agreed-upon evaluation of their son. In contracting for the evaluation, the school district clearly relied to its detriment on the consent and authorization of student Doe's parents. If the parents disagree with the results of the evaluation, they

may request an independent educational evaluation of their son at public expense. The independent evaluation is the mechanism provided by federal and state special education law for parents who disagree with an evaluation obtained by the school district. To permit student Doe's parents to unilaterally embargo the results of an agreed-upon evaluation would totally frustrate the collaborative nature of the process by which an appropriate education is developed for a special needs student. This we cannot do.

Conclusion

We hold that the parents of student Doe are estopped from refusing to provide the medical center in question with the authorization necessary to release the results of the previously-agreed to evaluation of student Doe.

We order the parents of student Doe to authorize the release of the results of the evaluation to the Narragansett School Department forthwith.



Paul E. Pontarelli
Hearing Officer

Approved:



Peter McWalters
Commissioner of Education

Date: June 16, 1998