

0028-98

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JOHN C.W. DOE

VS.

**NORTH PROVIDENCE
AND THE
DAVIES CAREER & TECHNICAL
HIGH SCHOOL**

DECISION

HELD: Placement at Davies Career and Technical School is not ordered at this time. An IEP team is to be convened.

DATE: September 14, 1998

In this case John Doe, a special education student in the North Providence Public Schools, is seeking admission to the Davies Career and Technical School. He alleges that both North Providence and Davies failed to follow the required steps in the admission evaluation process and that as a result of these omissions he was improperly and incorrectly denied admission to the Davies School. He makes two arguments. We will address these arguments separately.

First of all, John Doe contends that his attendance record was not correctly calculated by North Providence and the Davies School. This is important since, for admissions purposes, Davies ranks students on the basis of grades, interview results, and the student's disciplinary and attendance record. John Doe argues that the school time he missed was the result of doctor's appointments or that they were the result of tardiness occasioned by his handicapping condition of attention deficit disorder. We do not feel it necessary, however, to consider this since John Doe's attendance record has been recalculated to address this issue. As a result of this calculation, John Doe's name has been advanced on Davies' waiting list. The problem remains, however, that his name has not been advanced sufficiently to guarantee his admission to Davies.

The Davies Career and Technical High School receives students from a number of school districts, including North Providence. Students are admitted to Davies in two different ways. The most common way to be admitted to Davies is by way of the regular admissions process. This process is grounded on three factors: grades, the results of an interview, and the student's disciplinary and attendance record. Points are awarded for these three factors. The names of the students are then ranked on a waiting list. All regular education students and most special education students who are admitted to

Davies are admitted through this process. An alternative admission procedure exists for special education students whose disability impacts on their ability to compete for admission to Davies School and who may benefit from placement at Davies as a special education placement. That is to say, placement at Davies as...”specially designed instruction, at no cost to the parents to meet the unique needs of a student with a disability.” (R.I. Regulations, Section One II, 3.0, Note 4) This admissions mechanism is a cooperative one involving a request by the sending district that the Davies School participate in the development of the student’s IEP to determine an appropriate vocational placement for the student which might include placement at the Davies School.

In the present case the North Providence School District, for whatever reason, elected not to process John Doe’s vocational evaluation for potential placement at Davies through the IEP process. Instead North Providence proposed a vocational placement for John Doe in the North Providence School System. There is nothing impermissible in this. Indeed, North Providence has indicated on the record that it is fully prepared to implement John Doe’s IEP in the North Providence School System.

John Doe alleges, however, that North Providence should have been more diligent in conducting his re-evaluations, that North Providence should have done a better job of making his parent aware of the alternative admissions process, and that both North Providence and Davies should have adhered more closely to applicable time frames.

Even assuming, however, that all of this is correct does not mean that John Doe’s admission to Davies would have taken place. It might well be that an IEP developed in tight conformity with all the applicable parameters would still have resulted in John Doe’s placement in a vocational program in the North Providence School System. Under

these circumstances we do not see how we can usurp the role of an IEP team and order John Doe's placement at Davies as a remedy for whatever procedural lapses may have taken place in this case. We think that the only thing we can do is order that an IEP team be convened to determine whether Davies is the appropriate vocational placement for John Doe. If this team determines that Davies is the appropriate placement for John Doe, we will reconvene this hearing to determine the manner in which the IEP team's determination can be implemented.

Conclusion

We decline to order John Doe's placement at the Davies Career and Technical High School at this time. An IEP team is to be convened to determine whether John Doe should be placed at Davies.

Forrest Avila, Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date