

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

LONNIE M. FOR THOMAS C.

V.

BURRILLVILLE SCHOOL DEPARTMENT

DECISION ON PETITION
FOR HER
INTERIM ORDER

This is an Interim Order Hearing in which a parent is seeking a change in her son’s special education placement.

Findings of Fact

The special education student in this case attends the seventh grade in the Burrillville Middle School. He has been diagnosed with ADHD, OCD, ODD, and possible bipolar disorder. He is twelve years old. His mother describes his behavior as being “completely out of control.” She testified:

On a normal day, he probably goes into at least three, between three and six rages where he assaults somebody, something. His mouth is completely out of control. It is very vulgar, very rude. I have had to call the police to my

home on a couple of occasions within the past month because he was so out of control. The school has had to call me at my work and tell me that I need to go pick him up immediately or they were calling the police because he was so out of control.

She testified that her son has injured others and has injured himself:

I believe it was in the fifth grade, the year before he went to the middle school, he broke a student's arm. He assaulted a teacher. He smashed another child's head into a locker. He tripped my own eight-year old son on a school bus, and my son had to have staples in his head and was rushed to the hospital that day. He's, I believe it has to do with his problems, with his disorder. He doesn't stop and think. He just reacts; and when he does, he hurts someone. He's hurt himself. He's carved in his own chest some pretty vulgar language with a stick. It is on record with the Burrillville Police Department. He's been in and out of Bradley's Children Hospital three times. He's been in Butler Hospital twice.

This student is in an inclusion class with 3 other students. The Director of Special

Education describes the class in these terms:

It is a specialized program at the middle school. It is a self-contained program staffed by a special education teacher. The students in that program have all had experiences in school that have not been the most successful as far as their behavior. The majority of the students in the classroom have been diagnosed with behavior disorder. There is a behavior modification approach that takes place in the classroom through the use of alternative educational activities. The children in that program learn the appropriate social skills. They learn the importance of continuing their studies as far as the core academics instructed in that class.

During this year the student has been suspended for five days because of "an altercation with another student in front of the building principal that the building principal thought was extremely threatening." As a result of a "physical attempt of an assault" he lost bus-riding privileges for a week.

The school district argues that this student's "stay-put" "status quo" placement is his present inclusion placement and that more time must pass before it can be determined whether the placement will work. In any event the school district argues that if this placement is to be changed the proper vehicle is through appropriate due process proceeding.

The parent argues that the district itself has recognized that a more restrictive placement is needed for this student. She testified that an employee of the school department spoke to her in these terms:

He asked me if DCYF was involved, and I said I had been in touch with them; and he explained to me that DCYF could have him transferred or placed into a facility that I'm looking at much easier than they could; and he explained to me that DCYF buys beds, already has them bought and paid for at different facilities, and that the process could be done much quicker and easier; and at that point in front of Mr. Adams and Mr. Chancey, I do not believe that Dr. Melbourne was in the room at that time, I took that statement as him saying I should sign my son over to DCYF so they could pay for him to be transferred; and I said that to him, and he stated that that is not what he meant, but that is what was said and how it was taken.

The mother testified that she has taken the student off medications:

He is not on medication at this time. No, he's not. My son has been on close to 30 different meds in the course of the past three years. Medications that were making him sick. Medications that were making him gain weight, lose weight, stay up all night, walk in his sleep, make him go into rages that I mean I thought the rages he was taking right now were bad. The rages he would go into, one consisted of taking a butcher knife in the middle of the kitchen and completely carving out my kitchen, chairs, wall, floor, everything. I just, I don't understand why I, out of anybody who knows my son more than anyone would know him, and I know my son, and I know the problems he has; and I know what's going to happen, and all I'm asking that you put him into a different facility that might be able

to help him a little bit more than what you can do for him. He's been in there for a year and a half. He's still having problems. I don't understand what the problem is with putting him into another facility where he might have a chance at making an improvement.

The student's mother testified:

Every single time that there has been a problem, if you look back through the years my son has been involved in the Burrillville School System, I have been able to state the warning signs and what's going to happen next; and every time I have done that, something serious has happened. So that the child's arm being broken, with my son's head, assaulting teachers, assaulting other students, hurting himself, which is one of the things I think that I'm afraid of the most right now, because I don't know what's going to happen next.

We think that we must appoint a special visitor to further examine this matter and to report on whether or not some alternate placement or program modification should be considered for this student during the pendency of any request for a due process hearing.

Conclusion

A special visitor from the Department of Education is hereby appointed to review this student's placement and to report back within 30 days from the date of this decision.

Forrest L. Avila, Hearing Officer

Approved:

Peter McWalters, Commissioner

DATE: February 1, 1999