

0034-99

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

In The Matter of Junio F.

INTERIM ORDER

Held: North Kingstown is required to arrange for the provision of language clarification services to J.F. on an interim basis until a new IEP is completed

DATE: December 16, 1999

TRAVEL OF THE CASE

This matter is before the Commissioner on the petitioner's request for an interim order. R.I.G.L.16-39-3.2 The petitioner is a special education student in the North Kingstown school system who has difficulty with the English language. His last agreed to IEP ran from December 23, 1997 to December 23, 1998. This IEP said that there was to be a "paraprofessional available for content clarification" to help him understand his class work. No new IEP has been agreed to but with the consent of the North Kingstown schools the petitioner is now enrolled in the West Bay Career and Technical Center where he is in a vocational education program focusing on electronics. The problem is that while there is an aide in petitioner's electronics class this aide does not appear to be able to give sufficient attention to the petitioner's language clarification needs.

FINDINGS OF FACT

The student in this case, J.F., was born in Brazil where he lived in great poverty until an American family adopted him in October of 1994, when he was about 13 years old. Until his adoptive parents brought him to America he had received little or no education. Because he was not literate in his native language he had no transferable literacy skills when he enrolled in the North Kingstown school system in November of 1994. Thus he has had the double problem of learning English and the mechanics of reading at the same time. He also has had to acquire these skills beyond the age when these skills are most quickly acquired. Still he has made great strides in the North Kingstown school system. J.F. gets along well with other students, works hard in school, and is a good athlete on North Kingstown's soccer team.

This case results from the fact that J.F. is now attending the West Bay Career and Technical Center, where he is enrolled in an electronics program. For many years the West Bay Career and Technical Center in Coventry had been the receiving Regional Vocational School for students enrolled in the North Kingstown school system. Students enrolled in the West Bay Center spend alternate quarters at the Center and at their sending school district. Two years ago North Kingstown decided to change its Regional Vocational School affiliation. The Regional Vocational School which now receives North

Kingstown accepts students on a year round basis. While North Kingstown may still have overall educational responsibility for the students it sends to its new official Vocational School the students it sends there lose, for the most part, any contact with the North Kingstown School system.

J.F.'s mother felt it best however to keep J.F. in contact with the social support system he had built up in North Kingstown. She therefore asked the Superintendent of North Kingstown to allow J.F. to enroll in the West Bay Center so that he could stay in touch with his friends and play sports in North Kingstown. The Superintendent agreed with this request. However the result of this agreement seems to have been a short-circuiting of the IEP process. No IEP team met to arrange the placement of this student at the West Bay Center.

Still, the fact remains that J.F. is now attending the electronics program at the West Bay Center. We take notice of the fact that electronics is a discipline requiring the progressive acquisition of skills. If a student falls behind it can be difficult to catch up. While there is an aide present in J.F.'s electronics class this aide is not able to spend much time with J.F. J.F. is therefore in serious danger of falling behind in his class work.

ISSUES PRESENTED

North Kingstown is not sure about its responsibility to provide an aide for J.F. It also believes that J.F. does not yet have a valid IEP for his placement at the West Bay Center. It thinks that perhaps the West Bay Center should be providing an aide if an aide is needed. The mother of the petitioner thinks that J.F.'s IEP already calls for an aide and that North Kingstown should have been providing an aide from day one. She also has reservations about certain educational evaluations, which North Kingstown wishes to conduct in preparation for a new IEP for J.F. We think that all of these matters must be resolved through the IEP process, mediation, or even a due process hearing. However we are positive about some facts in this case:

- ◆ J.F. is now studying electronics at the West Bay Career and Technical Center.
- ◆ He enrolled in the West Bay Center with the consent of the North Kingstown school system
- ◆ If he needs an aide for language clarification, and he does not have the services of such an aide, he is very likely to fail in his electronics program.

- ◆ Given the fact that his last agreed to IEP called for language clarification assistance it is more probable than not at this point, and on this record, that he still needs these services.

CONCLUSIONS OF LAW

This student is entitled to receive special education. Special education means “specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability...” Specially designed instruction means “adapting, as appropriate to the needs of an eligible child... the content, the methodology, or delivery of instruction...to ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the (state) that apply to all children.” Physical education, travel training, hospital and institutional instruction, and vocational education can all be part of a program of specially designed instruction and thus part of a child’s special education program. IDEA 300.26 A student who is entitled to special education may also receive Related Services, including assistive technology devices and services, as well as supplementary aids and services.

While an appropriate IEP is being developed for J.F we conclude that we must order North Kingstown to arrange for language clarification assistance to J.F. on an interim basis. Only in this way can we be sure that J.F. is receiving “education in accordance with applicable state and federal law and regulations...” R.I.G.L. 16-64-3.2 The electronics teachers at the West Bay Center should be consulted when J.F.’s IEP is being developed. We will review this order when a new IEP is completed

CONCLUSION

North Kingstown is required to arrange for the provision of language clarification services to J.F. on an interim basis until a new IEP is completed.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

DATE