

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Student A.D. Doe

v.

A Rhode Island School Committee

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INTERIM ORDER
DECISION

Held: The issue presented is whether or not this student, who has special education needs, should be given the opportunity to participate in some way in her class's graduation exercise even though she will not be receiving a diploma at the ceremony. It is appropriate to recognize at a graduation ceremony the achievements of a student with special needs and to present awards to those who have earned them. We conclude this student is entitled to wear a cap and gown and to participate in her class's graduation ceremony where she will be awarded a certificate noting her diligent efforts and good school citizenship.

DATE: June 16, 2006

Jurisdiction and travel of the Case

This is an interim protective order case. Jurisdiction is present under R.I.G.L.16-39-1, R.I.G.L.16-39-2, and R.I.G.L.16-39-3.2. The issue presented is whether or not this student who has special education needs should be given the opportunity to participate in some way in her class's graduation exercise even though she will not be receiving a diploma at the ceremony.

Findings of Fact

1. We have read this student's IEP and we conclude that she is a student with significant special education needs and that she also has a significant mobility impairment. Her report card describes her as being highly motivated, prepared for class, displaying a good attitude and being a pleasure in class.¹
2. This student was born on June 26, 1987.
3. Until recently all parties expected that, in accordance with the applicable law, this student would continue to receive special education services until her 21st birthday.
4. Within the last few weeks the school district has reviewed this student's school records and it has now concluded that this student has, in fact, met all graduation requirements and that she is entitled to receive a regular high school diploma. Under the applicable law, receipt of such a diploma will end her eligibility to receive special education services from the school district. The obligation to provide services to this student will thereafter pass from school authorities to other agencies that provide services to those with disabilities. If a special education student does not receive a regular education diploma the student remains eligible to receive educational services from his or her school district until the student completes 21 years of life.
5. The parents in this case have challenged the determination that their daughter should be awarded a regular high school diploma and that school educational services should be terminated for her by filing a request for a special education due process hearing. An independent hearing officer has been appointed to decide whether or not this student should be awarded a regular high school diploma.²
6. We find as a mixed conclusion of fact and law that the "stay-put" requirement of federal and state special education regulations is now in effect in this case. This student's placement therefore cannot be changed until the completion of the applicable special education due process procedures.

¹ Exhibit 7.

² Exhibits 1, 2, and 3.

7. While the parents in this case argue that their child should not graduate with her class they contend that she should be allowed to participate in some way in her class's graduation. They of course do not argue that she should receive a high school diploma at this time. They are simply contending that their daughter's perseverance in her studies and her participation in school activities should be recognized in some way at this transitional moment.
8. The school district has an unwritten rule that only those students who are to receive a diploma are allowed to walk on the stage at graduation.
9. Since it was only concluded recently by school officials that this student was not to be graduated from high school, it would appear that transition planning for this student has not been made in a way that is in complete conformity with the applicable regulations.

Conclusions of Law

1. **R.I.G.L. 16-39-3.2. Interim protective orders.** – In all cases concerning children, other than cases arising solely under § 16-2-17, the commissioner of elementary and secondary education shall also have power to issue any interim orders pending a hearing as may be needed to ensure that a child receives education in accordance with applicable state and federal laws and regulations during the pendency of the matter. Hearings on these interim orders shall be conducted within five (5) working days of a request for relief and the decision shall be issued within five (5) working days of the completion of the hearing. These interim orders shall be enforceable in the superior court at the request of any interested party.
2. **Subpart E—Procedural Safeguards—Due Process Procedures for Parents and Children §300.514 Child's status during proceedings.** (a) Except as provided in §300.526, during the pendency of any administrative or judicial proceeding regarding a complaint under §300.507, unless the State or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement. (b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings. (c) If the decision of a hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State or local agency and the parents for purposes of paragraph (a) of this section. (Authority: 20 U.S.C. 1415(j))
3. Since the stay-put provision is now in effect this student cannot be awarded a regular high school diploma until the completion of the applicable due process

hearing, assuming of course that the hearing decision concludes that this student should be awarded a regular high school diploma.

Discussion

We have concluded in a prior case that it is appropriate to recognize at a graduation ceremony the achievement of a student with special needs who has diligently attended to schoolwork and who is a good school citizen. *In the Matter of Katie L.*, Commissioner of Education, June 11, 1999. We will follow this precedent in this case. This precedent is particularly applicable in a case of this nature where a school district is contending that a student should be awarded a regular high school diploma. If the school district prevails at the special education due process hearing, the decision of the parent's to contest the award of a regular diploma will mean that the student will have lost the opportunity to participate in the graduation exercises with her class. This is not a choice that regular education students and their parents are forced to make, and we see no reason why such a choice should be imposed on students with disabilities.

Conclusion

This student is entitled to wear a cap and gown and to participate in her class's graduation ceremony where she will be awarded a certificate noting her diligent efforts and good school citizenship.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

June 16, 2006
Date