

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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T. DOE

V.

CRANSTON SCHOOL COMMITTEE  
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**Interim Order**

Held: Two-day suspension of a special-education student is to be held in abeyance pending consideration of a behavioral management plan and additional evaluations of the student.

April 20, 2007

## **Introduction**

This is an appeal of a special-education student's two-day suspension from school.<sup>1</sup>

## **Background**

Student Doe is a 12-year-old middle school student. He has a diagnosis of dyslexia and attention deficit disorder (ADD). An individualized education program (IEP) that was adopted for Doe in December 2006 provides for numerous modifications and accommodations to Doe's program. The IEP includes a statement that a "behavior plan will be developed to include a daily behavior point system to rate [Doe's] classroom behavior." [Joint Exhibit 1].

Doe's classroom behavior has been problematic since the beginning of the school year. He has been inattentive, fidgety, disruptive and forgetful. As a result, he has been receiving detention slips. Doe's mother, in turn, has regularly communicated with school officials in an attempt to explain Doe's behavior and develop a plan to deal with it in a positive manner. At the December 2006 meeting which produced Doe's IEP, the parties agreed that a behavioral plan would be developed. A meeting on February 13, 2007 ended with the same objective, after school staff stated that it need more time to put a plan into place. When Doe kept receiving detention slips, his mother asked for another meeting. She again asked for a behavioral plan at a March 3, 2007 meeting, but was told that more time and testing was needed. During this period, Doe's mother expressed her view that Doe was being assigned detentions for reasons related to his disabilities. It was agreed at the March 2nd meeting, however, that Doe would be assigned only to the one-hour detentions on Tuesdays and Thursdays, and not to the three-hour detention on Fridays.

On March 12, 2007, Doe's mother delivered a letter to the assistant principal that again stated that Doe "continues to receive detentions for behaviors symptomatic of his ADD even though there are no supports in place for him." [Petitioner's Exhibit 2]. The

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<sup>1</sup> The Commissioner of Education designated the undersigned hearing officer to hear and decide this matter. An expedited hearing was held on this date. We are appreciative of the flexibility and cooperation extended by the school officials who attended the hearing on very short notice.

letter concluded with the statement that “Until classroom supports and/or other means of intervention are in place [Doe] will not serve detention. Detention is a (sic) ineffective form of punishment for children like my son. [Doe] needs to be taught appropriate behavior not punished for having ADD.” [Ibid.].

Doe continued to receive Tuesday and Thursday detentions. Doe’s mother’s advocate and the assistant principal met on March 23rd to discuss Doe’s behavior. Doe’s mother met with the assistant principal on March 27th and demonstrated problem-solving techniques with her son. The assistant principal watched the techniques while “trying to get an understanding of [Doe’s] behaviors . . .”<sup>2</sup> Doe’s mother and her advocate met with a special-education director on April 10th to discuss Doe’s behavioral issues, his safety and the absence of a plan to address his behavior. At no time did Doe’s mother receive a written response to the letter she delivered on March 12th.

On April 5th, Doe was given a one-hour detention for making noises behind the teacher’s back and arguing with her. Doe told the assistant principal he was not going to serve the detention and Doe, in fact, did not report to detention. As a result, the assistant principal assigned Doe a Friday detention, to be served on April 13th.<sup>3</sup> Doe again stated that he would not show up. The assistant principal explained that a missed detention would result in a two-day suspension from school. Doe did not attend the April 13th suspension and, as advised, received a two-day suspension for April 23rd and April 24th. Doe’s class is scheduled for a field trip on April 23rd.

The assistant principal testified that it was his understanding that a positive behavior plan consisting of a daily point system had been implemented for Doe. Neither the assistant principal nor Doe’s mother has seen a written version of the plan, and the school district was unable to produce documentation of the plan at the hearing. The assistant principal further testified that a functional behavioral assessment and additional evaluations are being completed for Doe, and that they are to be reviewed at an IEP meeting scheduled for April 25th

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<sup>2</sup> As a result of the meeting a process was put into place whereby Doe, when removed from class, would meet with a guidance counselor or the assistant principal for “counseling.”

<sup>3</sup> We assume a one-hour detention was assigned.

## **Positions of the Parties**

Petitioner contends that student Doe is being disciplined for behavior related to his disabilities. She maintains that she has continually worked with school officials to develop a plan to address Doe's problematic behaviors, and that her opposition to continued detentions for Doe is based solely on her belief that they are inappropriate in light of his disabilities and the absence of a behavioral management plan.

The School Department contends that the two-day suspension is appropriate because Doe's mother has unilaterally decided that the school discipline code will not apply to her son. The district has worked with Doe's mother as evidenced by the receipt of her input, the implementation of the counseling approach, and the development of the point system. Doe was given ample oral warning that a suspension would result from his failure to serve the assigned detention. The suspension therefore must stand.

## **Discussion**

Although this matter is receiving expedited consideration, it is very clear to us that the management of student Doe's behavior is a work-in-progress. Doe's mother has insisted, and school officials have recognized, that Doe's behavior requires further attention. In fact, Doe's IEP requires the development of a behavior plan. Yet, it is eight months into the school year and Doe still does not have the benefit of a plan. Moreover, we cannot say that the conduct underlying the original detention which later evolved into the two-day suspension is unrelated to Doe's disability. Finally, a behavioral management plan and additional evaluations are to be completed and reviewed by the parties at an IEP meeting scheduled for the day after Doe's suspension ends. Given the timing of these developments, and the likelihood that new light will be shed on Doe's behavior, we find under all of the circumstances of this case that the imposition of this suspension is unwarranted. We do not invalidate the suspension, but instead hold that the suspension be placed in abeyance pending consideration of the proposed behavioral management plan and the new evaluations at the April 25th IEP meeting. Doe may attend school in the meantime and participate in the field trip on April 23rd. We will enter an interim order to this effect and retain jurisdiction of this matter to address any

suspension-related dispute the parties may have following their consideration of the behavioral management plan and the new evaluations.

**Conclusion**

It is ordered on an interim basis that the two-day suspension imposed against student Doe for failing to serve an April 13th detention be held in abeyance pending the parties' further consideration of Doe's behavioral issues.

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Paul E. Pontarelli  
Hearing Officer

Approved:

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Peter McWalters  
Commissioner of Education

April 20, 2007