

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

.....

**Student B. Doe**

**v.**

**Coventry School Committee**

.....

**INTERIM ORDER**  
**DECISION**

Held: It is hereby ordered that this student's placement at the Auditory-Oral Program at the Orchard Farms Elementary School in Cranston, Rhode Island for about half the school day and for the student's attendance at the Hopkins Hill School kindergarten program in Coventry for the rest of the school day be maintained until due process is completed or until the parties agree to a different placement.

DATE: September 19, 2008

## **Jurisdiction and Travel of the Case**

This matter is before the Commissioner as a petition for an interim protective order to maintain this student's placement at the Auditory-Oral Program at the Orchard Farms Elementary School in Cranston, Rhode Island for about half the school day, and for the student's attendance at the Hopkins Hill School kindergarten program in Coventry for the rest of the school day. A due process hearing officer has been appointed to hear the case on its merits. The Commissioner's role in this matter is to determine the student's "stay-put" placement pending a resolution of the case on its merits. Jurisdiction is present under R.I.G.L.16-39-1, R.I.G.L.16-39-1, and R.I.G.L.16-39-3.2.

## **Positions of the Parties**

### **The Parent**

The petitioning parent contends that that her son's "stay-put" placement is the Auditory-Oral Program at the Orchard Farms Elementary School in Cranston, Rhode Island for about half the school day, and attendance at the Hopkins Hill School kindergarten program in Coventry for the rest of the school day. The Auditory-Oral program is intended to provide special education and related services to students who are acclimating to the use of cochlear implants. The Hopkins Hill placement is a regular kindergarten placement with resource support, along with speech and language therapy.

### **The School District**

The school district contends that the Auditory-Oral Program at the Orchard Farms Elementary School is no longer this student's stay-put placement because, in the view of the school district, this program has undergone changes so significant that it has lost its status as a stay-put placement. This contention is grounded in the fact that the Rhode Island School for the Deaf is no longer a significant participant in the Program. The Coventry school district further contends that this student should now be attending the first grade on a full time basis at Hopkins Hill School where he can participate in Coventry's reading program.

## **Findings of Fact**

1. The Auditory-Oral Program at the Orchard Farms Elementary School in Cranston, Rhode Island was developed through the initiative of the Rhode Island Department of Education (RIDE) to create a program for children who were acclimating to the use of cochlear implants. RIDE developed various forms of partnership with various agencies to create this program. At various times these partner agencies have included: the public schools of Cranston, The Rhode Island School for the Deaf, The Alexander Graham Bell Association, the West-Bay Collaborative, and the Clark School for the Deaf. Because of financial reasons the Rhode Island School for the Deaf is no longer an operative sponsor of the program. The Northern Rhode Island Collaborative has now replaced the West-Bay Collaborative as the main administrative agency of the Program
2. Based upon the testimony of Ms. Sally Arsenault, from the Rhode Island Department of Education's Office of Diverse Learners, we find that the Auditory-Oral Program at the Orchard Farms Elementary School has not undergone changes extensive enough during the last year as to warrant the conclusion that the program's fundamental nature has been altered. Ms. Arsenault demonstrated a comprehensive understanding of the Program and its current operation. Her testimony clearly demonstrated that the departure of the Rhode Island School for the Deaf from a sponsorship role in the Program in no way altered the operation of the Program.
3. The student in this case is now age appropriate for first grade attendance.
4. This student's last agreed to IEP called for his placement at the Auditory-Oral Program at the Orchard Farms Elementary School in Cranston, Rhode Island for about half the school day, and for the student's attendance at the Hopkins Hill School kindergarten program in Coventry for the rest of the school day.<sup>1</sup>

## **Conclusions of Law**

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<sup>1</sup> IEP, Exhibit 1.

In the event of a dispute between a school district and a parent about the special education placement of a student, the student has the right to remain in his or her *status quo* “stay-put placement” until the dispute is resolved through due process procedures or through an agreement between the parties. *Honig v. Doe*, 484 U.S. 305, 321 (1988) See: 20 U.S.C. 1415 (j), 34 C.F.R. 518, and Rhode Island Board of Regents Special Education Regulations 300.518

**Discussion**

It is evident from the student’s IEP that this his stay-put placement is the Auditory-Oral Program at the Orchard Farms Elementary School in Cranston, Rhode Island for about half the school day, and for the student’s attendance at the Hopkins Hill School kindergarten program in Coventry for the rest of the school day. We therefore must order that the student’s placement in this program be maintained. Of course, it is also evident that this student cannot remain in a kindergarten program for a much longer period of time. We urge the parents and the school district to work together to develop an agreed to placement for this student, which includes some form of attendance in the first grade.

**Conclusion**

On the petition of the parent, it is hereby ordered that this student’s placement at the Auditory-Oral Program at the Orchard Farms Elementary School in Cranston, Rhode Island for about half the school day and for the student’s attendance at the Hopkins Hill School kindergarten program in Coventry for the rest of the school day be maintained until due process is completed or until the parties agree to a different placement.

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Forrest L. Avila, Hearing Officer

APPROVED:

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Peter McWalters, Commissioner

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September 19, 2008  
Date