

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

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Student G. DOE

Vs.

Cumberland School District

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DECISION

Held: In this case the petitioning student is challenging a school district's authority to charge fees for a summer school program that would allow the student to make up credits not academically earned during the regular school year. The student in this case has an IEP and he is a student in need of special education services. The issue of summer school fees will only be addressed if this case cannot be resolved under laws relating to the provision of free appropriate public education for those students who need such education. This matter will be rescheduled to take evidence on the special education issues presented by this case.

DATE: May 21, 2013

Jurisdiction and Travel of the Case

In this case the petitioning student is challenging a school district's authority to charge fees for a summer school program that would allow the student to make up credits not academically earned during the regular school year. Amongst other things the student is seeking an order to the school district to reimburse his parent the \$700.00 the summer school program cost. The student in this case has an IEP and he is a student in need of special education services. Jurisdiction is present under R.I.G.L.16-39-1 and R.I.G.L. 16-39-2.

Findings of Fact

The facts in this case are not in material dispute for the purposes of the action we are presently taking with regard to this matter.

Conclusions of Law

The record in this case establishes that the petitioning student has an IEP. He is therefore entitled to the protection of state and federal laws and regulations governing the provision of special education which uniformly require that a student in need of special education be provided with a free appropriate public education. R.I.G.L.16-24-1 The record also establishes that the student's parent contended to school authorities that inadequacies in the student's IEP and in the provision of special education to this student caused the academic deficiencies which resulted in the student's referral to a tuition based summer school program. Obviously a student entitled to a free and appropriate public education cannot be required to pay for an academic service, the necessity of which was occasioned by a failure of the student's public school district to provide a free appropriate special education to the student. Indeed the student indicates in his brief that he intends to reserve his right to bring a claim for reimbursement through the normal special education appeal mechanism.

The petitioning student, has not moved for a ruling on the issue of whether the district has failed to provide the student with a free appropriate special education but rather seeks to proceed directly to the question of whether Rhode Island school districts may charge fees for academic services. We think however that prudential considerations require us to first address the specific special education issues presented in this case to determine if this case may be disposed of a narrow and particular special education grounds instead of proceeding to immediately address the school fee issue which involves statewide issues.

Conclusion

This matter will be rescheduled to take evidence on the special education issues presented by this case.

Forrest L. Avila

DATE: May 21, 2013

Deborah A. Gist, Commissioner