

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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PARENT of JOHN A.G. DOE :
 :
 :
VS. :
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A RHODE ISLAND SCHOOL :
DISTRICT and the :
 :
GRODEN CENTER, INC. :
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DECISION ON MOTION TO VACATE

JUNE 28, 1989

This matter is before the Commissioner of Education on a motion of the Groden Center to vacate the Interim Order we entered in which we required the Groden Center to keep this student enrolled at the Center.

The Groden Center is in a difficult position in this case. It has contracted to provide services for this student and under its contract, and under the applicable Rhode Island regulations (Regs. IX -11) it is, in our view, required to maintain this student in his current placement even though the Center no longer believes that the placement is appropriate. The problem is that the parent and the School District are of the opinion that the placement is suitable. The parent, therefore, opposes any change in placement and the School District does not appear to be using exceptional diligence in locating a new placement.¹

The Groden Center is in a difficult position because it appears to lack standing to initiate a due process hearing to validate a new placement for the student. Under these circumstances the Groden Center will have to keep the student enrolled although the Center thinks the student should be educated elsewhere. Our examination of the law, however, indicates that this is the prevailing rule. As the Court in Woods Schools v. Commonwealth Dep't of Education, 514 A.2d 686 (PA. 1986) stated:

The Standards delineate procedural safeguards balancing the interests of the child, the parents, and the school district. Of foremost concern, of course, is the education of the exceptional child. We are of the opinion that once a school gains

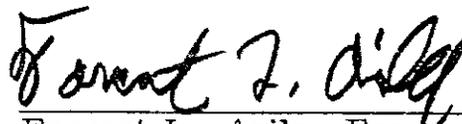
¹]A "placement" under the Special Education Regulations is not a certain named place but rather a program which meets the IEP requirements of the student. There is, therefore, nothing improper about the School District locating a new placement for this student so long as it is equivalent to the placement at the Groden Center. The parent, of course, would have the right to challenge the equivalency at a due process hearing before the move took place.

the status of an approved private school and accepts an exceptional child to a program of instruction and maintenance appropriate to that child's needs, the approved private school must continue to serve the child unless and until either the parent or the school district determines that that particular program is less than appropriate. See 22 Pa. Code Secs. 13.31, 13.32. Obviously, any suggested change in the program must be in accord with the best interests of the child. As long as the approved private school's program is appropriate for the child, it is in the best interest of the child to remain in the program. Whether or not it is in the best interest of the school is, therefore, irrelevant.

We find the above-quoted language to be in accordance with Rhode Island law.

Conclusion

The Motion to Vacate the Interim Order is denied.



Forrest L. Avila, Esq.
Hearing Officer

Approved:



J. Troy Earhart
Commissioner of Education