

STATE OF RHODE ISLAND and
PROVIDENCE PLANTATIONS
DEPARTMENT OF EDUCATION

SPECIAL EDUCATION
DUE PROCESS HEARING

CUMBERLAND SCHOLL DEPARTMENT
VS.

CASE #: LL14-33

[REDACTED]

DECISION

TRAVEL OF THE CASE

I received an appointment on August 4, 2014 to hear the matter involving the Cumberland School District. I also received a complaint by the Cumberland School District filed on or about July 25, 2014. Thereafter, I had a conference with attorneys Timothy J. Groves, Esq. and Paul E. Pontarelli, Esq. I requested the complaint that was filed with the Department by the Parents but never received it. On August 14, 2014, I received an amended complaint from Cumberland. The "Complaint" makes reference to a complaint filed by the Parents.

On August 22, 2014, the School District requested a reconsideration of the conclusions the Hearing Officer made in the letter to the Department of Education and the Cumberland School District. The Hearing Officer requested that the complaint filed by the Parents be forwarded for consideration by the Hearing Officer but none was forthcoming. The Hearing Officer shall act on what is before him.

DECISION

For whatever reason the Parent's complaint was never formally presented to a Hearing Officer for consideration and is not before this Hearing Officer.

I disagree with the School District's conclusion that its complaint conforms to the law. I carefully reviewed the School District's argument and cases presented.

Section 300.503 is controlling in this matter. The School District's complaint only makes reference to the alleged complaint of the Parents and concludes that the School District did in fact provide FAPE.

Section 300.507 allows the School District to file a due process complaint on any matters found in section 300.503 (a)(1) and (2).

The School District can file a due process complaint if it is proposing to initiate or change the identification, evaluation, evaluation or educational placement of the child or of the provisions of FAPE to the child or the School District refuses to initiate or change the identification, evaluation or educational placement of the child or initiate or change the provisions of FAPE.

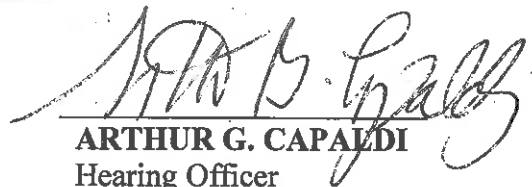
The School District does not propose to initiate or change anything nor does it refuse to initiate or change anything as required by section 300.503 (a)(1)(2). The School District complaint does not follow the requirements of Section 300.503(a)(1)(2).

Another requirement of Section 300.503(b) is notice to the Parents. I do not have any evidence before me that a notice was sent to the Parents. What action does the School District propose? In accordance with Section 300.503(b)(1), what explanation was given by the School District of the School District's proposal or refusal?

I find that the case of James Yates, et al vs. Charles County Board of Education does not apply to this case. I agree with the conclusion of that case, but it can not be applied here. The School District in that matter was proposing a different placement than that of the Parent. The actions of that School District fall clearly within Section 300.503.

In accordance with the above, I hereby dismiss the School District's complaint. The complaint does not comply with Sections 300.507(a)(1) and 300.503(a)(1)(2) and (b)(1) to (7).

DATE: 8-27-14



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