

New Hampshire Department of Education

Student/Raymond School District

IDPH-FY-12-03-032 & IDPH-FY-04-034

**Interim Order**

Having heard the testimony of school witnesses and reviewed the affidavits provided by the school of their remaining witness testimony, I find that the school has not met its burden of justifying its proposal to evaluate the student in a residential placement.

As I understand the school's proposal as it stands, the school district is asking me to order the guardian to place the student in a residential facility against the guardian's will with an uncertain time frame of how long the student would be there. It is also uncertain how often the guardian would be able to see the student. While the school estimates that it will take 30-45 days, there was also testimony that it could take 90 days. The testimony was that these proposed facilities have not yet reviewed the student's file, so there is a lot of uncertainty on what would occur and when.

The evidence provided to me was not sufficient to justify the requested placement, particularly when it is against the guardian's will and it would remove the student from the guardian for some uncertain period of time.

Therefore, the school's requested relief of ordering the proposed placement is denied.

I am not reaching the issue of whether or not the school's proposal was in retaliation for the guardian filing complaints. I view that issue as relevant only as a proposed illegitimate reason for the school's proposal. I need not address that question in order to reach the conclusion that the school has not met its burden to justify its proposal and its requested relief.

The parties agree on the need to evaluate. The question is just where and how it will be done. I suggest that the parties meet to exchange information about where and how the agreed upon evaluations could take place. The parties may want to include Dr. Spivack and proposed evaluators in that process, so that sufficient details can be provided to everyone to make an informed decision. It may be that after exchanging more information, one or more of the proposed placements is agreed upon in some fashion, or some other way of conducting the evaluations is discovered.

So ordered.

May 17, 2012

Date

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Scott F. Johnson

New Hampshire Department of Education

Student/Raymond School District

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**Due Process Decision**

The parties agree that the new end date in this matter is June 1, 2012.

After reviewing the parties final submissions, including their proffers and affidavits, the interim order issued on May 17, 2012 stands as the final order.

**School District Proposed Findings of Fact**

**Granted**

1-12, 14-23, 57, 62-65, 67, 96, 97, 99-106, 109, 131-134, 137, 140, 142,143, 148, 149, 158

**Neither**

25-56, 58-61, 66, 68-95, 98, 110-130, 138, 141, 144-147, 150, 151-157

**Denied**

13, 24, 107, 108, 135, 136, 139

**School District's Proposed Rulings of Law**

**Granted**

3, 6-9, 12-3

**Neither**

4, 5, 14-15

**Denied**

1, 2, 10, 11, 16, 17

**Guardian's Proposed Findings of Fact**

**Granted**

1-12, 14-21, 27, 36, 47-49, 56-61

**Neither**

13, 22-26, 28-35, 37-46, 50-55, 62-65, 67-70

**Denied**

66

**Guardian's Proposed Rulings of Law**

**Granted**

1, 7

**Neither**

2-6

**Denied**

So ordered.

6/4/2012

Date

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Scott F. Johnson