



IN THE MATTER OF the *Education Act*, R.S.O. 1990, c. E.2, as amended, ss. 57(3),
IN THE MATTER OF Ontario *Regulation 181/98*,
AND IN THE MATTER OF the minor child, born 1990

BETWEEN

T

-and-

Peterborough Victoria Northumberland and
Clarington Catholic District School Board

Tribunal Members

Sharon Carson
Ann Fudge

Chair
Member

Appearances

T
GR

Parent
Advocate

Mr. Eric Roher

Counsel for the Peterborough Victoria
Northumberland and Clarington Catholic District
School Board

The preliminary hearing on the matter of jurisdiction was held on June 9, 2005 in
Oshawa, Ontario.

Decision

The Tribunal was originally appointed to hear an appeal of a decision of an Identification, Placement and Review Committee ("I.P.R.C.") dated December 3, 2002 and the subsequent request for a Tribunal by Mrs. T on October 20, 2003. The issue before the Tribunal was whether it continued to have jurisdiction to hear the appeal of October 20, 2003. A preliminary hearing was held to determine the matter of jurisdiction on June 9, 2005.

The Tribunal notes that since the October 20, 2003 request for an appeal, the parties have entered into a number of agreements concerning the placement of the child.

According to the Appellant's then legal counsel, Mr. David Baker, in an e-mail message dated July 14, 2004 to the Secretary of the Tribunal, the parties resolved the October 20, 2003 appeal by agreeing that the child would be placed in a special education class (autism) with partial integration at a named elementary school. The parties requested that the Tribunal issue a consent order for this placement. The child attended this class even though the Tribunal did not issue the consent order requested.

Some time later, a transition plan was implemented for the child to attend a named secondary school. This transition plan would be reviewed after a 90-day trial.

Both these placements were arranged by mutual agreement between the parties without the Tribunal's involvement.

Two subsequent I.P.R.C.s have been held since the December 3, 2002 I.P.R.C. One I.P.R.C. was held on October 19, 2004 and another on February 15, 2005. A further appeal has been commenced regarding the October 19, 2004 I.P.R.C.

Reasons For Decision

The Tribunal's jurisdiction to hear the October 20, 2003 appeal ended when the parties entered into a private agreement whereby the child was placed in a Special Education Class (Autistic) with partial integration at the elementary school. The Tribunal did not issue a consent order for this placement. Two further I.P.R.C.s have been held subsequent to this agreement changing the placement from a Special Education Class (Autistic) with partial integration at the elementary school to the secondary school's Centre for Autism Spectrum Assistance Intermediate/Senior. The Tribunal notes that two and one-half years have passed since the December 3, 2002 I.P.R.C., the appeal the Tribunal was appointed to hear.

Under the *Education Act, Regulation 181*, "[a]n IPRC is required to review the placement of an exceptional pupil at least once every twelve months or, at the written request of the parent to the principal of the school, at any time after the placement has been in affect for three months."¹

The Tribunal recognizes that this *Regulation* provides an opportunity for a parent to apply for a review of an I.P.R.C. and follow up with a request for an appeal if there is disagreement with the pupil's identification and/or placement. In other words, as circumstances change and students develop, parents have the right to request a review of the I.P.R.C. and to appeal such a review to the Special Education Appeal Board and to the Tribunal, if necessary.

It appears that an appeal of the October 19, 2004 I.P.R.C has been requested and may have commenced. The Tribunal recommends that this new appeal proceed speedily to the Special Education Appeal Board.

Cooperation and on going communication between the parties is essential for the child to have the best program possible to meet the child's special needs. Both parties are encouraged to work towards this in a timely and efficient manner.

This Tribunal is unanimous in its decision that it does not have jurisdiction to hear the October 20, 2003 appeal. It recommends that the family proceed with their rights of appeal regarding the October 19, 2004 I.P.R.C as outlined in the *Education Act, Regulation 181*.

Sharon Carson, Chair

Ann Fudge, Member

July 25, 2005

¹ Special Education Monograph No. 2, *Education Statutes and Regulations of Ontario*, Butterworths 2005 Edition, page 1542