

New Hampshire Department of Education

Student/Souheghan Sch. Dist

IDPH-FY-09-08-006

Order on Summary Judgment

The school district moves for summary judgment noting that the student is being home schooled and under Ed 1112.03 a student who is home schooled is not entitled to special education services from the school district. The parents acknowledge that the student is being home school and responded to the motion to summary judgment with a letter noting that the laws regarding homeschooled students should be changed, that the school still receives their tax dollars, and that the student still requires services.

Since there are no material facts in dispute, the issue is whether the school district is entitled to judgment as a matter of law. As a hearing officer, I do not have the authority to change state laws. That power lies with the New Hampshire Legislature, the Governor, and the New Hampshire Board of Education. My role is to apply and enforce the laws as written. As noted by the school district, students who are home schooled are not entitled to special education services under state and federal law.

As a result, I grant the motion for summary judgment which means that the school district is the prevailing party in this matter and there will be no further proceedings at the hearing officer level. The parents have the right to appeal my decision pursuant to Ed 1123.20 and RSA 186-C:16-b.

9/23/08

Date

Scott F. Johnson
Hearing Officer