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United States District Court, District of Columbia.

Nikita PETTIES, et al., Plaintiffs,  
v.  
The DISTRICT OF COLUMBIA, et al., Defendants.  
Civ. A. No. PLF 1:95CV00148. | March 17, 1995.

## Opinion

### *PRELIMINARY INJUNCTION*

FRIEDMAN, District Judge.

\*1 This matter having come before the Court on plaintiffs' Motion for Preliminary Injunction, and the Court having reviewed said motion and the supporting memorandum, declarations, and exhibits, as well as the entire record in this matter, the Court finds as follows:

1. Defendants are required by the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §§ 1400, *et seq.*, and its implementing regulations, as well as by the Rules of the Board of Education of the District of Columbia, and prior rulings of this Court, to provide plaintiffs with a free, appropriate public education to meet each individual student's unique special education needs. Whenever appropriate special education placements are unavailable to these students within the public system, appropriate private placements and/or services must be provided by the defendants. 34 C.F.R. §§ 300.400–300.403.
2. Defendants have placed numerous DCPS students in private special education facilities pursuant to their obligation to provide an appropriate placement for these students. Similarly, defendants have entered into contracts or other agreement with private firms or other entities for the provision of special education related services to students attending public schools within the District of Columbia Public School ("DCPS") system. Defendants are required by law to maintain these students' placements and related services by paying the costs thereof.
3. Defendants have not paid the costs of private special education placements or related services either fully or on a current or timely basis for at least the 1994–1995 school year. Consequently, defendants have violated the IDEA and other laws and regulations intended to ensure that DCPS students with special education needs receive a free, appropriate education.
5. Unless defendants fully and immediately fund all DCPS students currently in private special education placements and/or receiving related services from private providers and, in addition, give adequate written assurances that such payments will be made on a current basis in the future, many, if not all of those students will have those placements and/or services terminated, and there is no indication that appropriate alternative placements will be available to meet the students' individual needs.
6. Plaintiffs have demonstrated that they are suffering and will continue to suffer irreparable harm as a result of the uncertainty brought on by defendants' ongoing refusal to meet their financial obligations which has placed plaintiffs' education in constant jeopardy.

Plaintiffs' Motion for Preliminary Injunction is, therefore, GRANTED and

IT IS HEREBY ORDERED that:

- (1) Defendants shall within fourteen (14) days fully pay all costs outstanding as of the date of the Court's Order, including the costs of tuition and related services, of all private special education placements of DCPS students;

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(2) Defendants shall within fourteen (14) days fully pay all costs outstanding as of the date of the Court's Order, of all special education related services being provided to DCPS students by private providers pursuant to contracts or other agreements with DCPS;

\*2 (3) Defendants shall give written assurances, in a form satisfactory to the Court, that future payments for the costs of any and all private special education placements of DCPS students and for the provision of related services by private providers will be made on a current basis (in accordance with the billing procedures and requirements of each private provider); and

(4) Defendants shall report to this Court, or its designee, on a regular basis, to be determined by the Court, regarding defendants' compliance with this Order, until such time as this Court determines that the rights of the plaintiff class are no longer being violated or in immediate jeopardy of violation, thereby making continued monitoring by the Court unnecessary.