

Bob, Doug - to Bill
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Pennsylvania Association for Retarded Citizens

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L STEUART BROWN
President

PETER P. POLLONI
Executive Director

April 21, 1975

The Honorable Alexander F. Barbierri, Judge
Court Administrator of Pennsylvania
3173 Penn Center Plaza
Philadelphia, Pennsylvania 19102

Dear Judge Barbierri:

As Chairman of the P.A.R.C. Right to Education Committee, I am responding to your letter of April 16, 1975 to Governor Shapp. In your letter, you express concern about P.A.R.C.'s position as it relates to the services and programs at White Haven.

I believe it is helpful to understand that P.A.R.C. has several positions on separate issues. One concern relates to the expansion of state school and hospital buildings such as Plan 3 at White Haven. This statement supports all the programmatic components of Phase 3 but proposes that these services be community based and not adjacent to the facilities for residents. However, I will let others speak to the details of this position. My purpose here, is to plea that we not identify the position taken with respect to construction to the position taken with respect to right to education.

Our right to education position is essentially a legal one. The legal responsibility for education and training of state school students at White Haven cannot be included in Phase 3, for they have been designated as the responsibility of the Department of Education. The old model of a unified service delivery system, whereby all professionals providing services are responsible to the superintendent, has been replaced with a new model, whereby education is provided by those who are not responsible to the superintendent. Education is now the responsibility of the Department of Education, this is a legal position and not one that now needs to be argued. It would be a mistake to either promote or oppose the present construction of demountable classrooms on White Haven on the basis of Phase 3 or on the basis of White Haven's need for programmatic facilities. These buildings are not for this purpose, they are being erected with the express intent that they be leased to the Intermediate Unit for educational programs.

Our objection states that the students at White Haven cannot be given what the Consent Agreement calls an appropriate program of education with the facilities being constructed. There are several considerations which support our position. The first is a legal argument based on the 1954 Supreme Court Decision of Brown v. Board of Education. White Haven students will be segregated and educated apart from other retarded students educated by the Intermediate Unit number 18 and the School District of Crestwood. Separate but equal facilities are not equal. The second argument is one of professional educational judgement, based on experience, this experience states that institutionalized students, including the vast majority of those severely and profoundly retarded, do in fact benefit from getting on a bus, moving to another setting, and associating as much as possible with other students. The third argument is again legal. The priming process which lead to the proposed classrooms on the grounds of the state school and hospital was faulty and in violation of the School Code. Had the Department of Education placed the primary responsibility on the local school district, we believe that the outcome would have been different.

Judge Alexander F. Barbieri

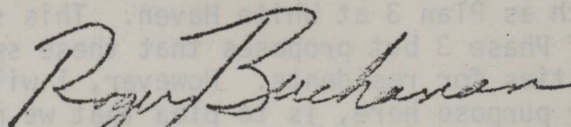
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This argument is expanded in my enclosed letter to our legal counsel, Jack Hagele. Our fourth argument, also legal, calls attention to State Plan on file with the Federal Government in accordance with Part "B" of the Education of the Handicapped Act. In this document the Pennsylvania Department of Education states that it will educate students in the least restrictive setting. Furthermore, according to other documents by the Pennsylvania Department of Education, it will be noted that the education proposed for White Haven students is not the least restrictive, but is the most restrictive, least favored option.

Thus, your Honor, I believe you will agree that P.A.R.C.'s position can be none other than the one here stated. For us to act otherwise, would be to support actions of very questionable legality. As one whose legal opinions are highly regarded, we solicit your support in our effort to secure, for the students of White Haven, all the educational considerations to which they are legally entitled.

Sincerely,



Roger E. Buchanan, Chairman
Right to Education Committee

REB:ras

cc: Milton J. Shapp
Frank S. Beal
John C. Pittenger
Robert Raines
Robert Nagel
Edwin Martin
F. John Hagele
✓ Superintendents of St. Sch. & Hosp.
✓ Directors of I.U.s
✓ Pres. of St. Sch. & Hosp. Parent Assoc.
State Task Force on Right to Education
Chairman of Local Task Forces on Rt. to Ed.
P.A.R.C. Committees, Regional V.P.
P.A.R.C. Chapter Presidents & Executives
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