



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Appeal of the )  
 )  
STATE OF WASHINGTON )  
 )

Docket No. 13(213)86  
Audit Control No. 10-300023

DECISION OF THE SECRETARY

On November 14, 1990, counsel for the Assistant Secretary for the Office of Special Education and Rehabilitative Services (Assistant Secretary) submitted comments on the Decision on Remand in the above-cited matter issued by the Education Appeal Board (EAB) on October 31, 1990. The Assistant Secretary argues that the EAB failed to issue a decision in compliance with the June 5, 1990, decision of the U.S. Court of Appeals for the Ninth Circuit\*. Similarly, on November 23, 1990, counsel for the State of Washington and Spokane School District No. 81 (Spokane) filed comments arguing that the EAB's Decision on Remand from the Ninth Circuit Court of Appeals "leaves all parties to this dispute to argue technicalities without addressing the substantive issue." Initial Comments of State of Washington and Spokane School District No. 81 at p. 9.

I have reviewed the decision, briefs and accompanying documents submitted by the parties, and the record in its entirety. While I do not find that the EAB necessarily erred in its evaluation of this case, I do feel that certain aspects of the decision could be more fully developed in order that the matters that were the subject of the Ninth Circuit's remand may be freely and explicitly addressed. Therefore, given the absence of a special request from either party for a hearing, I hereby REMAND this matter to the EAB for consideration on the basis of the briefs and documents submitted to the Secretary for review.

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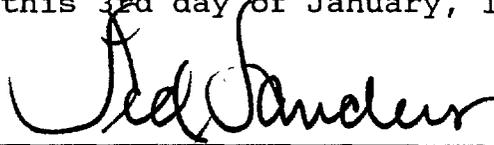
State of Washington; Spokane School District No. 81 v. U.S. Department of Education, No. 88-7195, slip op. at 5643 (9th Cir. June 5, 1990).

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On remand, I order the EAB to specifically consider and address the queries raised in the instant appeal to the Secretary in an attempt to clarify the decision in this matter and to develop a decision in compliance with the order of the Ninth Circuit.

This order signed this 3rd day of January, 1991.

A handwritten signature in cursive script, reading "Ted Sanders". The signature is written in black ink and is positioned above a horizontal line.

Ted Sanders  
Acting Secretary of Education

Washington, DC

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S E R V I C E L I S T

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A copy of the attached document was sent to the following:

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