DUE PROCESS EDUCATIONAL APPEAL

Appellant

In re:

CITY PUBLIC SCHOOLS

Respondent

DECISION

I. INTRODUCTION AND PROCEDURAL HISTORY

The School District received a request for a due process hearing from the mother of a student with disabilities on September 30, 2013. She handled her case *pro se;* the Deputy City Attorney represented the district. I was appointed as the hearing officer from a list supplied by the Supreme Court of the Commonwealth of Virginia and certified by the Virginia Department of Education.

The parent requested a due process hearing, claiming, *inter alia*, the District denied her son transportation to high school for three weeks at the beginning of the school year and then provided a handicap bus instead of his regular bus. As relief, she sought transportation in the least restrictive environment (LRE), tardies he received be erased or excused, and compensatory time for days when transportation was not provided. (Request for Due Process Hearing, p.2).

On October 9, 2013, a pre-hearing teleconference was conducted. The order of witnesses, issues in the appeal, exploration of settlement, and procedures for the conduct of the hearing were among the matters discussed. The parties stated

that the hearing could be completed in one day, but agreed to schedule a second consecutive day if necessary.

A second prehearing teleconference was held on October 31, 2013. During the conference, I learned that some but not all of the issues were resolved during a resolution session. We discussed witnesses and exchange of documents. Counsel for the school system agreed to submit a reply to the parent's complaint.

In his written Response of November 5, 2013, he argued that the student was not entitled to transportation in a regular bus rather than a handicap bus because the bus was full sized, and he rode with a non-disabled student. Thus, the parent's request that her son be transported in a bus without a wheelchair lift or handicapped symbol was beyond the scope of the IDEA. Further, even if IDEA were applicable, it was not violated because the Individualized Education Plan (IEP) did not require special transportation services. Regardless, the student did not need such services, the bus transported both disabled and non-disabled students, and the transportation that was provided satisfied LRE requirements. (Response, p.2).

On November 25, 2013, the parent requested a continuance, contending that the school district had frustrated her effort to review the school records of her son and that she had not received all the documents promised by the district. I denied her motion on the grounds that she should have brought this to my attention earlier for resolution and that further delay was not in the best interest of the student. However, I agreed to review her complaints at the hearing and asked the school system to bring his educational records. I concluded after discussion at the hearing that the district did not withhold documents in its possession requested by the parent.

The hearing was held on December 4, 2013 in the School Administrative Building for the school system. Ten witnesses testified at the hearing, nine called

by the parent and one by the school district. The district submitted five exhibits and the parent submitted eight exhibits.

References in this Decision refer to the transcript for the proceedings (Tr.). The district submitted five exhibits and the parent submitted eight exhibits. References to those exhibits are identified as either from the school district (S.D.) or the Parent (P.) No objection was made to their admission into the record. (Tr. 23, 39).

II. FINDINGS OF FACT

The following represents findings of fact based upon a preponderance of evidence derived from the testimony of the witnesses and the documents admitted into evidence. Additional findings will be found in other portions of this decision.

1. The student was born on and is a senior at a high school in Respondent's school system. (P.1).

2. He was found eligible for special education services in 2006 and qualifies under the category of "Other Health Impairment." He has been diagnosed with attention-deficit/hyperactivity disorder (ADHD). He receives 270 minutes per week of specially designed instruction in the general educational setting and 225 minutes per week in the special setting for study skills with accommodations contained in the IEP. (P.1).

3. The student was assaulted by other students at his neighborhood school on . As a result, the mother requested that he be transferred to another high school. The chief operations officer granted the request for an administrative transfer on January 11, 2011 and determined that the school system would provide transportation. (Tr. 215, 238; P.5).

4. The student began riding bus number 289, a regular school bus, soon after the transfer and continued to ride the same bus until the end of the 2012-2013 school year. (Tr. 147, 240-241, 257-258). He was picked up at approximately 6:45 a.m.; by the time the bus arrived at school, it was packed with students. (Tr. 147).

5. On September 3, 2013, when the 2013-2014 school term began, the bus failed to pick up the student. From September 3, 2013 through September 22, 2013, the mother assumed her son's transportation needs. The supervisor of the special education program agreed with the parent that during this period the student was tardy a number of times and missed or performed poorly on assignments. (Tr. 132-135).

6. During the first two weeks of school the mother persistently but unsuccessfully sought to determine why the bus had not appeared by speaking repeatedly to various school personnel and by sending emails to the transportation department. (Tr. 243-244). She was informed that she had failed to fill out a Request for Transportation, known as a B-70 form, which she was told needed to be completed every new school year to obtain transportation for an out of district transfer. (Tr. 240-241). The parent testified that she had filled out the form only once, in January of 2011, and had never been informed of the requirement that it be completed every year. The school system was unable to locate this form or any other forms from 2011 or 2012. (Tr. 162-163). The mother filled out the form at the school on September 6. 2013. (P.2).

7. I find that the parent bears no responsibility for the school system's failure to provide transportation for the student at the beginning of the school term. I find it inexcusable that the school system delayed providing such transportation until September 23, 2013.

8. On September 23, 2013, bus 371 picked up the student and has been bringing the student to school ever since. It is full sized with a wheelchair lift and handicap

symbols displayed on the front and back. (S.B.1). Students consider it a handicap bus. (Tr. 155-157). According to the transportation director, it is a Type C conventional bus with an equipped wheelchair lift. (Tr. 177). The student acknowledged that students in gifted programs who are out of district also ride these buses. (Tr. 155-157). The bus is capable of providing transportation for both disabled and non-disabled students and does so. (Tr. 200-201).

9. The student is delivered to school at the back entrance rather than the front entrance where the regular buses drop off students. He finds bus 371 objectionable regardless of which entrance is used. (Tr. 152-153). Bus 371, which has an adult aide on it, picks him up at approximately 6:20 a.m. and picks up a second student who does not require any special transportation services. Then the bus travels to a school for additional students and all are taken to the high school. (Tr. 149, 154; Request for Hearing, Attachment.)

10. The student testified that it was "kind of embarrassing" to be riding bus 371 because he knew he did not "belong on that bus." (Tr. 151-153).

11. The transportation director testified that he understood that the student was not picked up on September 3, 2013 since he was considered an out of district student not eligible because he was not enrolled in a specialty program. Apparently the prior B-70 form the parent had filled out did not roll over into the 2013-2014 school year. (Tr. 159-160). The director could not explain why transportation in prior years had continued without the submission of a new B-70, but speculated that it might have been because of a different routing manager, or the introduction of a new routing system, or "just have been historically (sic)." (Tr. 160-161). The information in the routing system did not identify the student as one who needed a ride to school. (Tr. 188).

12. The transportation director explained the school system's out of district transportation procedures. If a student is classified as out of district with no IEP or with an IEP not identifying special transportation needs, the department

reviews existing routes operating near the student's home. If there are no regular buses operating in the vicinity, the staff looks at special needs buses that could accommodate the student. That was the approach taken for this student and the other student who rides the bus with him. No regular buses operating in the vicinity of his neighborhood were traveling to his high school. Eventually the department identified bus 371 as available at a time of day that would enable the two students to arrive punctually at school. (Tr. 168-171, 173, 175-176, 178-179, 189-192)). He further testified that a number of out of district students without IEPs ride buses similar to bus 371. (Tr. 200-201). He did not know why bus 289 had ceased operating in the student's neighborhood but assumed it was because of the lack of eligible students. (Tr. 201).

13. He was unable to explain why it took three weeks for the student to receive transportation services. He mentioned, however, that his department was "swamped" with transportation requests at the beginning of the school year while it was trying to determine which and how many students should ride each bus. (Tr. 174). According to the director, the department had 380 employees, transported approximately 14,000 students daily to and from school as well as those involved in extracurricular activities and remediation programs. (Tr. 198).

14. The special education chair related that she is the immediate supervisor of the special education teachers and oversees the department. After the first IEP meeting, the mother informed her that her son was not receiving any transportation. She contacted the director of transportation and told him that the student had not been picked up at the beginning of the school year despite completion of a B-70. (Tr. 210-211, 214-215). Finally, on September 18, 2013, the supervisor of special education showed her an e-mail indicating that her son had been assigned to bus 371. (Tr. 243). The parent testified that she complained about bus 371 at the IEP meeting on September 26, 2003. School team members told her that it was not a special education issue and should not be addressed in the IEP. (Tr. 140, 247, 256).

15. The IEP stated that the student had no special transportation needs and no special transportation arrangements were identified. (P.1). The parent consented to the IEP and the decision that special transportation was not needed. (Tr. 213-214; P.1). Once the IEP team had determined that no special transportation was required, the IEP team did not discuss the need for the matter to be addressed in the language in the IEP at the September 18, 2013 or September 26, 2013 meetings. (Tr. 210-212, 247-249). The special education chair stated that the mother's displeasure with the handicap bus did not arise during the September 26, 2013 meeting. (Tr. 215-218, 223). This recollection was contradicted by the mother who said that there was discussion of her objections to bus 371. She said that she felt pressured to sign the document so that her son could receive other services provided for in the IEP. (Tr. 254-256.). In any event, the mother signed off on the IEP. (Tr. 214; P. 1).

III. GENERAL LEGAL FRAMEWORK

The student is an individual having a disability, thereby coming within the purview of The Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. §1400 *et seq.* (2005), which amended the Individuals with Disabilities Education Act, 20 U.S.C. §1400 *et seq.* (1997) (IDEA). Under IDEA, the states, as a requirement to accept federal financial assistance, must ensure a "free appropriate public education" (FAPE) to all children with disabilities. 20 U.S.C. §1400(d), §1412(a)(1). Virginia decided to participate in the program and required its public schools to provide FAPE to all children with disabilities residing within its jurisdiction. Va. Code Ann., §22.1-214-215.

IDEA establishes extensive substantive and procedural requirements to ensure that children receive a FAPE. 20 U.S.C. §1415. See also *Board of Education v. Rowley*, 458 U.S. 176 (1982). The safeguards guarantee "... both parents an opportunity for meaningful input into all decisions affecting their child's education and the right to seek review of any decision they think inappropriate." *Honig v. Doe*, 484 U.S. 305, 311-312 (1987).

The primary safeguard protecting the child's rights is the IEP. The educational program offered by the state must be tailored to the unique needs of the handicapped child by means of the IEP. 20 U.S.C. §1414. IDEA directs that local school districts, in consultation with parents, the child, and teachers, develop an IEP for each handicapped child. 20 U.S.C. §1414(d)(1)(B). Should there be any complaints regarding the implementation of a child's IEP, the parents have the right to an "impartial due process hearing" 20 U.S.C. §1415 (B), (F); *Barnett v. Fairfax County School Board,* 927 F.2d 146, 150 (4th Cir. 1991).

A school district fulfills its obligation to provide FAPE as long as the IEP "consists of education instruction specially designed to meet the unique needs of the handicapped child...supported by such services as are necessary to permit the child to 'benefit' from the instruction." *Rowley, supra,* at 188-189. Each year the IEP sets out a curriculum to address the child's disabilities, with appropriate objective criteria, evaluating procedures and schedules for determining whether the instructional objectives are being achieved. 20 U.S.C. §1414(d). "Congress did not intend that a school system could discharge its duty under the [ACT] by providing a program that produces some minimal academic advancement, no matter how trivial." *Hall ex rel. Hall v. Vance County Board of Education,* 774 F.2d 629, 636 (4th Cir. 1985). The Supreme Court has held that an IEP meets the requirements of IDEA if it is "reasonably calculated to enable the child to receive educational benefits." *Rowley, supra,* at 207.

The IEP shall also include "a statement of the special education and related services and supplementary aids and services...to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child" to advance toward his goals and progress in the curriculum. 34 C.F.R. §300.320(a)(4). In accordance with IDEA's objectives, related services must be provided when necessary to provide a disabled child FAPE as described in his IEP.

The term "related services" encompasses transportation. Transportation includes travel to and from school as well as specialized equipment, such as special or adapted buses, as required to provide transportation for a disabled child. 20 U.S.C. §1401(22); 34 C.F.R. 300.34(c)(16).

The burden of persuasion in a special education due process hearing rests on the party seeking relief. *Schaffer v. Weast,* 546 U.S. 49 (2005). In this case, that is the parent.

Hearing officers ordinarily first determine whether school officials have complied with the procedures contained in the Act. In this appeal there does not appear to be any dispute as to whether the school district followed the procedures set forth in IDEA. Neither party raised any violations. In any event, technical violations that do not obstruct the student's participation in the process do not make a proposed program inadequate. *Burke County Board of Education v. Denton,* 895 F.2d 973, 982 (4th Cir. 1990).

The appropriate transportation services depend on the student's unique needs as determined by an IEP team. See 34 C.F.R. Pt. 300, §300.24. Usually the IEP team makes the determination regarding the transportation services. Here, however, the team decided that no special transportation services were required and the mother concurred in this decision.

Virginia's regulations implementing IDEA provide that children with a disability are "entitled to transportation to and from [the school program]...if such transportation is necessary to enable such child to benefit from educational programs and opportunities." 8 VAC 20-81-100(G)(1); See also VA Code, §22.1-221(A) (2013).

The parent's contention that FAPE was denied can be divided into two timeframes: The period from September 3, 2013 to September 22, 2013 and the period thereafter. The mother did not assert claims of non-compliance with the

IEP or breach of its provisions. Rather, she argued that her son was denied FAPE initially when he received no transportation and subsequently when the mode provided she deemed objectionable.

A denial of FAPE claim can arise independent of the language in the IEP. *Mini West High School District 207,* (SEA Ill. 2009) 110 LRP 36630 (IEP lacked provision on transportation but it was understood that the district would provide it); *Oceanside Unified School District,* 58 IDELR 266 (SEA Ca. 2012). (claim of denial of FAPE based on breach of the settlement agreement).

I was unable to find any cases raising the issue of whether a mode of transportation not set forth in an IEP because transportation was not required as a related service but which was necessary to access the educational program was subject to challenge as a denial of FAPE. Most of the transportation cases concern the provision of transportation as a related service under 34 C.F.R 300.34(c)(16). The trier of fact then determines whether the school district materially deviated from the IEP in a manner that deprived the student of educational benefit or whether particular transportation services should be included in the IEP.

Those cases, however, are instructive in setting standards of reasonableness where the school district does not provide transportation services in conformity with the IEP or refuses to provide the transportation services sought by the student. The decisions hold that any deviation must be material to be a denial of FAPE. See *District of Columbia Public Schools* , 111 LRP 25040 (SEA D.C. 2011); *Veazey v. Ascension Parish School Board,* (5th Cir. 2005), 121 F. App.X 552, 42 IDELR 140.

Such an approach enables school systems to exercise flexibility in implementing IEPs but holds them accountable for material failures and for providing the child a meaningful educational benefit. *Houston School District v. Bobby R.*, 200 F.3d 341, 349 (5th Cir. 2000), *cert. denied* 531 U.S. 817 (2000). This reasoning has been accepted by other circuit courts. *See Fisher ex rel. T.C v.*

Stafford Township Board of Education, 2008 WL 3523992 n.3 (3d. Cir. 2008); *Van Duyn v. Baker School District 5j,* 502 F.3d 811, 821-822 (9th Cir. 2007); and *Neosho R-V School District v. Clark,* 315 F.3d 1022, 1027 (8th Cir. 2003).

The parent also alleges that the decision to assign the handicap bus to her son violates LRE. IDEA requires that students be educated in the LRE and be "mainstreamed ... to the maximum extent appropriate." *R.H. v. Plano Independent School District,* 607 F.3d 1003, 1013 (5th Cir. 2010).

This mandate applies to all aspects of special education including the provision of transportation. 71 Fed. Reg. 46,576 (2006). "Children with disabilities and children without disabilities shall share the same transportation unless a child's IEP requires specialized transportation." 8 VAC 20-81-100(G)(1).

IV. LEGAL ANALYSIS

Counsel for the school district sought summary dismissal in his written Response and oral motion prior to the taking of testimony at the hearing. He also repeated those arguments during closing statement. He basically maintained that because the student's special education category was unrelated to special transportation which was not included as a related service under the IEP, there was no jurisdictional basis under IDEA for the parent's claims. Transportation by bus 371, he contended, was outside the scope of the IEP and had nothing to do with the student's needs as a special education student. (Response; Tr. 40-47, 53, 279-280, 287). He also argued that LRE standards did not apply because transportation was not a related service identified in the IEP. (Tr. 288).

I denied the motion to dismiss. As set forth below, the mother was entitled to a hearing because LRE applied to the provision of FAPE, independent of the IEP. Whether the transportation policy was administered in a facially neutral manner, as counsel argued, and whether there had been a loss of educational benefits could not have been determined without evidence. There was also the question of

remedy for lack of transportation during the period at the beginning of the school term.

In his Response, counsel cited three cases for the proposition that a parent's request for transportation services based on personal preference or convenience unrelated to educational needs was not a violation of IDEA: *Fick v. Sioux Falls School District*, 337 F.3d 968, 969-970 (8th Cir. 2003; *Timothy H. v. Cedar Rapids County School District*, 178 F.3d 968, 971-972 (8th Cir. 1999); *Ms. S. v. Scarborough School Committee*, 366 F. Supp. 2d 98, 100-101 (D.C. Maine 2005). In each of these cases, however, the determination was made only after a record was developed through an administrative hearing on the IDEA claims. Thus, the motion for dismissal without a hearing was denied.

It is undisputed, and the school district so stipulated, that no bus was assigned to the student and that he was not picked up during the period between September 3, 2013 and September 22, 2013. (Tr. 45). As a result, he suffered educational deprivation from tardies and from missed and poorly performed assignments. Nor is there any doubt that the school system recognized that public transportation was necessary for him to access special education services; the letter granting him an out of district transfer provided for it. Therefore, I conclude that FAPE was denied for the first three weeks of school in the 2013-2014 school term.

The parent testified that she took her son to school during this period and incurred mileage expenses. However, she introduced no evidence from which a calculation for reimbursement could be made. Nor did she seek reimbursement as part of the relief she sought in the Request for the Due Process Hearing. Therefore, I find that she has not established the right for an order for mileage reimbursement. Nevertheless, counsel for the school district stated in closing argument that his client would provide such reimbursement. (Tr. 289). I urge the school district to send the parent the form for reimbursement and suggest that she determine the number of days she drove her son to and from school and the

mileage driven each day. She should then fill out the form and submit it to the proper officials in the school district for reimbursement, presumably at the standard rate for school system employees.

Hearing officers have the authority to grant relief deemed appropriate based on their findings. Equity practices are considered in fashioning a remedy, with broad discretion permitted. *Florence County School District Four v. Carter ex rel Carter, 510 U.S. 7, 17 (1993).* The scope of relief is dependent on the evidence at the hearing. An award should be fashioned to provide educational benefits which would have occurred had the transportation been provided. *Reid v. District of Columbia*, 401 F.3d 516, 525 (D.C. Cir. 2005. See also *Simchick v. Fairfax County School Board*, 553 F.3d 315 (4th Cir. 2009). Here, there appears no permanent loss of educational benefit because the bus did not take the student to and from school.

I find by a preponderance of evidence from the testimony of school employees that student's complaints about tardies and assignments were satisfactorily resolved. Since September 23, 2013, the son has been receiving transportation from the school district. The relief that the mother seeks other than reimbursement-that her son be picked up by a regular bus and be awarded compensatory time-is unrelated to the loss of three weeks of transportation. Based on equitable considerations, compensatory relief is not appropriate.

I also conclude that the school system's decision to switch the mode of transportation for the 2013-2014 school year from a regular bus to one with a handicap symbol and wheelchair capacity was not a material deviation. The district provided transportation service in a regular sized bus, although one clearly identified as handicapped, where the student also rode with non-disabled students. The evidence shows that the decision of the transportation department to switch from a regular bus was made to allocate its resources in a judicious manner. See *District of Columbia Public Schools,* 111 LRP 25040 (SEA D.C. 2011). (change from the public metro system identified in the IEP to a school bus,

considered only a minor discrepancy from the IEP with no significant impact on ability to access education); *City of Chicago School District 299, supra* (FAPE not denied where transportation by school bus, instead of by minivan, private transportation or car, did not cause anxiety or sickness). In *Veazey v. Ascension Parish School Board*, (5th Cir. 2005), 121 F. App.X 552),42 IDELR 140, 105 LRP 819, the school system transferred the student from his neighborhood school to another school further away, assigning a special education school bus instead of a general education school bus. The court found that there had been no fundamental modification of the IEP. The IEP continued to be reasonably calculated to enable him to receive educational benefits.

With regard to the period beginning September 23, 2013, the parent elected not to present direct evidence regarding how riding bus 371 impeded her son's grades or educational progress at school. Although the mother introduced evidence of his grades in the 2012-2013 school year, none was submitted for the current school year. Her son testified that he found riding the handicap bus embarrassing and commented that the trip took longer than the regular bus taken in prior school years. But he did not complain about the length of the trip. The record is devoid of evidence of any tangible impact from the length of the trip or the embarrassment experienced on the student's educational performance.

It is certainly understandable that the mother would be angry and frustrated about the inept way the school district handled transportation for her son and about the confused and sporadic communication she encountered when she tried to obtain transportation for the first three weeks and then sought a regular bus for him. Poor treatment, however, is not, a cognizable claim under IDEA.

I conclude that the preponderance of evidence does not show that the mode of transportation provided by the school system caused any deprivation of educational benefit. *See Oceanside Unified School District*, 58 IDELR 266, (SEA Ca. 2012) (FAPE not denied even if long bus rides resulted in fatigue and

behavior issues since there was no link with a loss of educational benefits; *City of Chicago School District 299,* 60 IDELR 57 (SEA Ill. 2012). (FAPE not denied where transportation by school bus, instead of by minivan, private transportation or car, did not cause anxiety or sickness).

The Parent was unable to establish that the selection of bus 371 was based on anything other than the location of the student's home. Nor was there evidence that the school system acted in a discriminatory manner or implemented its facially neutral policy improperly. Decisions made by administrators regarding the allocation of transportation resources, including the choice of vehicles and routes, are largely within the discretion of the school system. *Houston Independent School District* 30 IDELR 68 (SEA Tx. 1998); *Board of Education of the Lenawee Intermediate School District,* 103 LRP 8550 (SEA Mi. 2002). That discretion was not abused in the instant case.

The mother referred to the requirement that children with disabilities shall share the same transportation with those without disabilities unless the IEP provides otherwise. Virginia states that "[c]hildren with disabilities and children without disabilities shall share the same transportation unless a child's IEP requires specialized transportation." 8 VAC 20-81-100(G). I find that this requirement was not violated because bus 371 and other similar handicap buses were used by administratively transferred students, such as this student. Here, her son shared the same transportation as those without disabilities.

The parent also maintained that by denying her son the right to ride a regular education bus, the school district did not provide special education services in the LRE. The IEP indicated that the student did not require special transportation as a result of his disability. The mother proffered no evidence that non-disabled students who travelled out of their regular attendance zone were not assigned handicap adapted buses such as bus 371 when administratively appropriate. Moreover, the student who accompanied him on bus 371 did not require special transportation services. The school system was not required to

provide the exact transportation services the mother demanded. As the Supreme Court noted, the appropriate methods of instruction and methodologies for providing special education and related services were best left to the discretion of the school staff. *Rowley, supra,* at 206. I conclude that the school district has not violated the standards of LRE in assigning bus 371 to the student.

V. ISSUES

1. Whether the parent has sustained her burden of proof that the school district denied FAPE to her son because of its failure to provide transportation services between home and school during the period of September 3, 2013 to September 22, 2013 and, if so, what remedy, if any, is appropriate.

2. Whether the parent has sustained her burden of proof that the school district denied FAPE to her son because of the mode of transportation services provided to her son between home and school subsequent to September 22, 2013.

3. Whether the mode of transportation the school district provided to the student between home and school prevented the student from making meaningful progress at school, deprived him of educational benefits, or otherwise impeded his right to a FAPE.

4. Whether the mode of transportation the school district provided to the student between home and school deprived the student of FAPE in violation of least restrictive environment principles.

VI. CONCLUSIONS OF LAW AND FINAL ORDER

1. The student has the disability of other health impairment, and qualifies for services under IDEA.

2. The parent was afforded all procedural and notice protections required by IDEA.

3. The school district did not provide FAPE to the student for the period of September 3, 2013 to September 22, 2013 in that it provided no transportation services to him.

4. The parent is not entitled to any remedy for the failure of the school district to provide FAPE to the student for the period of September 3, 2013 to September 22, 2013.

5. The school district provided FAPE to the student for the period subsequent to September 22, 2013 by providing appropriate transportation services which did not prevent him from making meaningful progress at school, deprive him of educational benefits, or otherwise impede his right to a FAPE.

6. The assignment of a handicap bus for the student did not deny FAPE in the least restrictive environment.

7. This decision is final and binding unless either party appeals to a federal District Court within ninety calendar days of the date of this decision, or to a state Circuit Court of local jurisdiction within one hundred eighty calendar days of the date of this decision.

Date: 12/16/13

Alan Dockterman
Hearing Officer

CERTIFICATE OF SERVICE

I hereby certify that I have, this 16th day of December, 2013, caused this Decision to be sent via first-class mail, postage prepaid, and by e-mail to , St. , VA ; to Derek A. Mungo, Esq. Counsel for Schools, ; and to Patricia V. Haymes, Esq., Director, Dispute Resolution/Administrative Services Department of Education, Commonwealth of Virginia, P.O. Box 2120, Richmond, VA 23218-2120.

Alan Dockterman

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