



CASE CLOSURE SUMMARY REPORT

(This summary sheet must be used as a cover sheet for the hearing officer's decision at the end of the special education hearing and submitted to the Department of Education before billing.)

Public Schools
School Division

Name of Parents

Name of Child

7/29/05
Date of Decision or Dismissal

T.J. Tokarz, Esq.
Counsel Representing LEA

N/A
Counsel Representing Parent/Child

Parent
Party Initiating Hearing

Public Schools
Prevailing Party

Hearing Officer's Determination of Issue(s):


The party initiating the hearing request did not meet applicable burden of proof. The case against Public Schools was not proven. The case is decided in favor of the school board.

Hearing Officer's Orders and Outcome of Hearing:

The case is decided in favor of the school board.

This certifies that I have completed this hearing in accordance with regulations and have advised the parties of their appeal rights in writing. The written decision from this hearing is attached in which I have also advised the LEA of its responsibility to submit an implementation plan to the parties, the hearing officer, and the SEA within 45 calendar days.

Robin S. Gnatowsky
Printed Name of Hearing Officer


Signature



VIRGINIA:

SPECIAL EDUCATION DUE PROCESS HEARING

In re: (**Public Schools**)

HEARING OFFICER'S DECISION AND FINAL ORDER

This case was initiated by a request for due process hearing submitted by the Student's Parent, _____, also known as _____ in April, 2005.

On April 29, 2005, the parties and the Hearing Officer held a pre-hearing conference by telephone to identify the issues in dispute. The Hearing Officer issued a Prehearing Conference Report and Order dated April 29, 2005 and listed eight issues for resolution in the due process hearing. The April 29, 2005 Prehearing Conference Report and Order reflected the consultation between the parties regarding the dates of the hearing and the location of the hearing. The hearing was scheduled for May 23 and 24, 2005 in _____ County.

On May 20, 2005, Ms [_____] requested a continuance of the hearing because of health problems.

On May 23, 2005, the parties and the Hearing Officer participated in a telephone conference call regarding various motions. In an Order dated the same day, the Hearing Officer ruled, among other things, that the case would be continued to a date to be determined after receipt of documentation of Ms. _____ medical condition.

On June 2, 2005, after receiving a letter from Ms. _____ physician, the Hearing Officer extended the date for the due process hearing until July 27 and 28, 2005 in _____ County.

On June 16, 2005, in response to a motion from Ms. _____ the Hearing Officer ordered Ms. _____ “as a party and a potential witness” to attend the due process hearing in person. The Hearing Officer’s Ruling and Order further stated that “If the Parent does not attend as ordered, and without proper excuse, the case will be dismissed.”

On July 21, 2005, Ms. _____ requested another continuance of the hearing or that the hearing be held via telephone. The Hearing Officer denied both requests in a written Ruling on July 22, 2005. The Ruling also stated that “The Parent is expected to attend on time and to be prepared to present her case and to meet the applicable burden of proof.”

On July 27, 2005, at the scheduled time and location, the Hearing Officer convened the due process hearing. Counsel for the School Board was present, but neither Ms. _____ nor _____ appeared.

Under the Fourth Circuit’s decision in *Weast v. Schaffer*, --- F.3d --, -- (4th Cir. 2004), the burden of proof is upon the party initiating the hearing. Neither Ms. _____ nor _____ offered any evidence at the hearing. Therefore, the Hearing Officer finds that Ms. _____ and _____ have failed to meet the burden of proof and therefore the case is decided in the favor of

Public Schools.

8 VAC 20-80-76 O.1 states that: "A decision by the hearing officer in any hearing, including an expedited hearing, shall be final and binding unless the decision is appealed by a party in a state circuit court within one year of the issuance of the decision or in a federal district court." The applicable statute of limitations period for filing such an appeal in federal district court is 90 calendar days of the issuance of the Hearing Officer's decision, and one-year for filing such an appeal in a state circuit court.

AND THE ABOVE IS SO ORDERED.

Entered: 7/29/05



Virginia State Administrative
Hearing Officer

Robin S. Gnatowsky
Virginia State Administrative
Hearing Officer
Law Offices of Robin S. Gnatowsky
P. O. Box 4066
Glen Allen, VA 23058-4066
(804) 364-5071
(804) 364-6387 FAX

VIRGINIA:

SPECIAL EDUCATION DUE PROCESS HEARING

In re: (Public Schools)



ADDENDUM TO HEARING OFFICER'S DECISION AND FINAL ORDER

On July 29, 2005, the Hearing Officer found that Mrs. and failed to meet their burden of proof and that this case should be dismissed. This addendum sets forth the hearing officer's determinations required by 8 VAC 20-80-76 J.17.

Because Mrs. and failed to appear, no evidence was presented in the hearing. However, based upon the statements made during pre-hearing proceedings, the hearing officer finds as follows:

- (1) The requirements of notice to the parents were satisfied.
- (2) has a disability.
- (3) needs special education and related services.
- (4) Public Schools offered a free

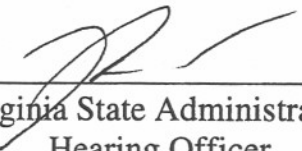
appropriate public education.

8 VAC 20-80-76 O.1 states that: "A decision by the hearing officer in any hearing, including an expedited hearing, shall be final and binding unless the decision is appealed by a party in a state circuit court within one year of the issuance of the decision or in a federal district court." The applicable statute of limitations period for filing such an appeal in federal district court is 90 calendar

days of the issuance of the Hearing Officer's decision, and one-year for filing such an appeal in a state circuit court.

AND THE ABOVE IS SO ORDERED.

Entered:



Virginia State Administrative
Hearing Officer

Robin S. Gnatowsky
Virginia State Administrative
Hearing Officer
Law Offices of Robin S. Gnatowsky
P. O. Box 4066
Glen Allen, VA 23058-4066
(804) 364-5071
(804) 364-6387 (Fax)