

CASE CLOSURE SUMMARY REPORT

(This summary sheet must be used as a cover sheet for the hearing officer's decision at the special education hearing and submitted to the Department of Education before filing a Complaint & Due Process)



Public Schools
School Division

Name of Parents

Name of Child

Date of Decision or Dismissal

Counsel Representing LEA Esg.

Counsel Representing Parent/Child Esg.

Parents
Party Initiating Hearing

LEA
Prevailing Party

Hearing Officer's Determination of Issue(s):

Whether child requires a residential placement at the expense of PS?

Whether the parents provided PS with notice of withdrawing child from PS and placing in a residential facility?

Hearing Officer's Orders and Outcome of Hearing:

PS IEP adequate to provide child with FAPE in the least restrictive environment.

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.

Printed Name of Hearing Officer

Signature

COMMONWEALTH OF VIRGINIA
DUE PROCESS HEARING



by _____, a minor
parents, _____ and _____

Plaintiffs

v.

Public Schools,

Defendaant

This due process matter came to be heard on _____, _____, and _____

in the _____ Schools Administration Building,

Virginia. Present and representing the child and parents was _____

Esquire. Present and representing _____ Public Schools (PS) was _____

_____, Esquire. Also present was _____, Supervisor of Special
Education for PS.

STATEMENT OF FACTS

_____, herein _____, is the _____ and only child of _____
and _____ has multiple disabilities including attention deficit hyper-
active disorder (ADHD), bipolar syndrome and most recently, aspergers syndrome of
autism. There is no dispute over the need for special education for _____

_____ attended _____ School within the PS system. In the _____ of _____
, at the request of _____, a pediatric psychiatrist, _____ was placed
on homebound instruction. Following being so placed, _____ was enrolled and attended a
science class at _____

On _____, by letter to PS, the parents requested a due

process hearing. While not stated in the letter, the purpose of the request was to provide with placement in a residential facility , at the expense of PS. testified that the cost would be \$85,000.00 per year. (TR-1, 102,103).

An Eligibility meeting was held in followed by development of an Individualized Education Program (IEP) for . Again, in , another Eligibility meeting was held where was decided qualified for special education and followed by a new IEP for . The parents agreed with the goals and objectives set forth in both of the developed IEP's, but objected solely to placement - preferring a residential placement. In fact, was enrolled by parents at following the end of the spring, , term and commenced a summer term at

ISSUES

1. Whether the child requires a residential placement at the expense of PS in order to provide with a free appropriate public education under the Individuals with Disabilities Education Act?.
2. Whether the parents provided PS with notice of withdrawing their child from PS and placing in a residential facility?

LEGAL ANALYSIS

The parents sought this due process hearing in an effort to show that , is in need of a residential placement. The burden of persuasion is therefore on the parents.

The parent's presentation was based primarily on the testimony of two experts in the field of clinical psychology, _____ and _____. The _____, also testified, but agreed under examination that _____ was not an educator, nor had _____ spent much time observing _____ in the educational setting.

I have accorded minimal weight to the testimony of _____ and _____ as neither has a background in education, and neither had any direct knowledge of what educational services are available to _____ within PS; that neither had conferred with _____' teachers or PS administrators; and neither had reviewed the developed IEP.

I had agreed to receive the testimony of _____ by telephone over the continuing objection of counsel for PS due to the compelling reason that _____ was attending a mandatory continuing education conference in _____ at the time of the hearing. Counsel for the parents had been advised in advance that the telephone testimony would negate the weight to be given to it.

In contrast to the testimony of the two clinical psychologists was the testimony of _____ and _____. Both are special education teachers with many years of experience in the field of special education, and both had taught within the PS. Both found that _____ benefitted from the educational experience within PS, that _____ was friendly and that _____ had the ability to achieve.

Expert evaluations made after limited review and interaction with this child outside the school setting cannot substitute for the therapists experience and interaction with _____ on a regular basis within the school setting. Faulders v. Henrico County School Board, 190 F. Supp.849.

A school board satisfies its requirement of providing a "free appropriate

public education" under IDEA if it provides a child with personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction. Bd. Educ. Hendrick Hudson Central Sch. Dist. v. Rowley, 458 U.S., 176, 203, 73 L. Ed. 2d 690, 102 S. Ct. 3034 (1982).

Local educators deserve latitude in determining the individual education program most appropriate for a disabled child. The IDEA does not deprive these educators of the right to apply their professional judgment, but the ACT does not require the furnishing of every special service to maximize each handicapped child's potential. Hartmann v. Loudoun County Bd. Educ., 128 F. 3d 995, 1001 (4th Cir. 1997).

Without question, _____ is a child with multiple disabilities and is entitled to special education. The IEP developed by _____ PS addresses the particular areas of need for _____ and will enable _____ to obtain FAPE in the least restrictive environment.

I make no decision concerning the secondary issue herein. Based on the decision, such would be moot.

DECISION

For the reasons stated, I find that the services offered to _____ under the currently developed IEP are appropriate and that _____ can achieve reasonable progress under the IEP. The demand for payment of the cost of placement of _____ in _____ is denied.

Date: _____ ENTER; _____
Hearing Officer

The foregoing decision is final unless appealed to a State court or to a

Federal court within one year of this decision.