



11/35

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF EDUCATION
PUBLIC SCHOOLS
SPECIAL EDUCATION DUE PROCESS HEARING

IN RE;

Student

Parent

and

PUBLIC SCHOOLS

Before: Hearing, Officer, (duly qualified and designated by the Supreme Court of Virginia.)

Appearances: , Esquire, counsel for Public Schools

Esquire, counsel for the parents ad the student.

Also Present: Coordinator. , for Public Schools.

AMENDED FINAL ORDER

On , the undersigned Hearing Officer was designated by the Supreme Court of Virginia to conduct a due process hearing in the above entitled proceeding. A prehearing conference was conducted on and evidentiary hearings were held on and , and, not having been completed at that time, was continued by motion and agreement of the parties, to , at which time the evidentiary hearings were concluded.

The fundamental issue in this case is whether the Public Schools ("PS"), has offered an education program which is reasonably designed to provide educational benefit for ("Student").

FINDINGS OF FACT

is a year old who has been determined to be eligible for special education as Emotionally Disturbed ("ED") and Learning Disabled ("LD"), and who is enrolled at the center, a facility owned and operated by PS. is scheduled, pursuant to most recent IEP, to become enrolled at the , a facility owned and operated by PS, for the school year beginning in .

The has a staff well trained to deal with ED and LD students. has filed this Due Process proceeding to have attend a private special education facility to be selected by the family and funded by PS.

The program at Center meets the requirement that the PS provide a free appropriate public education to the student.

CONCLUSIONS OF LAW

the student, will be better served if the IEP last proposed is carried out by attendance at the

This will provide with a free appropriate public education to which is entitled.

The has regular school students as well as special education students, although they do not attend the same

classes, thus giving an opportunity to get an introduction to mainstreaming.

Several of classmates at the will be enrolled at the facility with and would therefore not feel like a stranger.

teachers and staff at have enthusiastically endorsed the proposal that attend School in the school year, and feel that will make satisfactory progress at the School.

In support of the effort to have enrolled in a private school funded by PS, there has been no specific private school proposed, only several have been mentioned as suitable, and no specific IEP proposed for that.

The produced several expert witnesses who testified that in their opinion would do better in a private placement, naming several facilities for this purpose, but failed to propose a specified IEP for that action. Some of these witnesses praised the School program.

PS produced several witnesses at the hearing, many of whom have worked with when was enrolled at the , and some of whom would work with at the

These witnesses, most of whom are trained and qualified to deal with special education students, appear to be well qualified to carry out the provisions of the most recent IEP.

placement at the is, by the great weight of the evidence, by far the best placement for for the school year of , and clearly provides with FAPE.

would have several of the same school personnel instructing
as were at the . would have several of
classmates from also attending
. The also has regular students
attending regular classes, though not mixed with special education
students, which would give some main streaming experience,
which would not get in a small private school setting.

The evidence in this case strongly shows that
would receive a Free Appropriate Public Education (FAPE) to which
is entitled by virtue of IDEA.

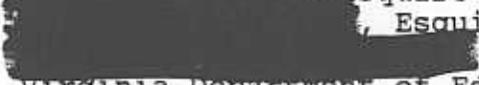
It is therefore ORDERED that the current IEP of ,
which PS is prepared to execute, meets the requirements for FAPE
for : and should be carried out accordingly.

APPEAL INFORMATION

Right of Appeal is governed by 8 VAC 20-80-76.0. This
regulation provides 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.


Hearing Officer

Copies furnished to:

 Esquire
 Esquire
Virginia Department of Education