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COMMONWEALTH OF VIRGINIA



APPEAL OF DUE PROCESS DECISION

[REDACTED] PUBLIC SCHOOLS)
Appellant)

v.)

[REDACTED])
Respondent)

APPELLATE DECISION

I. INTRODUCTION AND NATURE OF THE PROCEEDINGS

I adopt this section from the decision of the Hearing Officer below.

II. PROCEEDURAL HISTORY

I adopt this section from the decision of the Hearing Officer below and add the following addition information. [REDACTED] Public Schools timely appealed the decision of the Hearing Officer below. After the appointment of this Appellate Review Officer on the [REDACTED] (received [REDACTED] both parties were contacted. A telephone conference was held on or about [REDACTED] where it was determined that it was in the best interest of the student to take additional evidence. After a mutual request for a continuance, which was granted, the evidentiary hearing was set for [REDACTED]. All parties and counsel appeared on that date, however neither party had made arrangements for a [REDACTED] to interpret the hearing for [REDACTED]. Parties and counsel waited on that date while school personnel attempted to secure an interpreter so that [REDACTED] could participate in the hearing. An interpreter

was not available. Counsel for [REDACTED] and [REDACTED] requested a continuance until [REDACTED] so that an interpreter could be secured. Said continuance was not objected to by the School and was granted because it was in the best interest of the student to participate.

The evidentiary hearing was held on [REDACTED]. Both parties presented closing arguments orally and Counsel for the School presented a supplemental written brief at the hearing in order to expedite the decision in this matter. This decision was due and rendered on [REDACTED].

III. FINDINGS OF FACT

After a review of the hearing record and the record of the evidentiary hearing at the appellate level I adopt the findings of fact made by the Hearing Officer below. I also make the following findings of fact.

[REDACTED] speech language clinician at [REDACTED] School in [REDACTED] testified regarding the services [REDACTED] provided to [REDACTED] during [REDACTED] year of [REDACTED] school. At best, [REDACTED] provide services to [REDACTED] once each week. For the first quarter this was in a group setting and thereafter it was individual services. (ATr. 10,11.) The individual sessions were missed four to six times as a result of [REDACTED] scheduling conflicts. (ATr. 36.) [REDACTED] also provided a detailed description of the types of services [REDACTED] provided to [REDACTED] (ATr. 30.) [REDACTED] a certified teacher of the [REDACTED] and [REDACTED] for [REDACTED] [REDACTED] Public Schools, testified that [REDACTED] or another in [REDACTED] place would have provided the services specified on the [REDACTED] proposed IEP. Services were to include two hours per day of assistance with one other student. (ATr.63,64.) In developing or assessing the services to be provided to [REDACTED] [REDACTED] did not talk with educators from [REDACTED] where [REDACTED] had been most recently educated. (ATr. 73,74.) [REDACTED] testified briefly regarding [REDACTED] recollections of the services provided by [REDACTED] (ATr. 94-96.)

There was other testimony provided regarding [REDACTED] performance and activities following the original hearing. They were inappropriate for consideration by this Appellate Hearing Officer in determining the correctness of the original Hearing Officer's decision because the original Hearing Officer was operating without this information and I am not expected to determine whether, in retrospect, the decision was correct.

IV. LEGAL DISCUSSION

I adopt the *excellent* legal discussion of the Hearing Officer below. None of the evidence presented at the additional evidentiary hearing and none of the legal arguments presented at the appellate level alter the correctness of [REDACTED] analysis. [REDACTED] correctly focused on the plan to identify the academic shortcomings and the plan for other required area's of transition services.

V. ISSUES

I adopt the issues of the Hearing Officer below.

VI. CONCLUSION OF LAW AND FINAL ORDER

I fully adopt and uphold the Conclusions of Law and Final Order of the Hearing Officer below.

Date: [REDACTED]

[REDACTED] Esq.

State Level Appeal

Hearing Officer