

VIRGINIA:

[REDACTED] PUBLIC SCHOOLS
(Due Process Proceeding)

In re:

[REDACTED]

FINAL ORDER OF HEARING OFFICER, [REDACTED]

This Due Process Hearing was conducted on September 9th and 10th, [REDACTED] at the [REDACTED] Virginia.

[REDACTED], Ed.D, coordinator, Monitoring and Compliance, in behalf of [REDACTED] Public Schools called the following witnesses to testify, namely, [REDACTED] of [REDACTED], [REDACTED], Hearing Officer for the [REDACTED] School Board, [REDACTED], PS psychologist, [REDACTED], Special Education learning disability teacher, [REDACTED], [REDACTED] Police, and [REDACTED], Special Education Department Chairman at [REDACTED] High School.

Ms. [REDACTED], mother of [REDACTED], acting pro se, called the following witnesses, namely, [REDACTED], Clerk of [REDACTED] County School Board, [REDACTED], PS counsellor, [REDACTED], Principal, [REDACTED], Ph.D., psychologist, and her [REDACTED], [REDACTED].

Dr. [REDACTED] also offered into evidence 44 documents, and Ms. [REDACTED], 10 documents, all of which were admitted into evidence in this proceeding.

The transcript of this Hearing consisted of a total of 667 pages.

FINDINGS OF FACT

The principal issue in this proceeding is whether or not [REDACTED]'s misconduct which resulted in his expulsion from [REDACTED] High School was a manifestation of [REDACTED] disabilities.

[REDACTED] was born August 20, [REDACTED]. [REDACTED] was enrolled as a Special Education student with learning and speech-language disabilities.

On January 12, [REDACTED], a baggie of marijuana was found in [REDACTED]'s possession on [REDACTED] High School grounds by [REDACTED] City Police Officer, [REDACTED]. Pursuant to PS Regulation 2610.13, Section 11, [REDACTED] High School principal, [REDACTED], suspended [REDACTED] for 10 days and recommended his expulsion from [REDACTED] Public Schools System. A final decision was issued August 25, [REDACTED] by the [REDACTED] School Board that [REDACTED] should be expelled for possession of marijuana on school grounds.

Previously, on January 27, [REDACTED], an IEP team met to determine whether the misconduct of [REDACTED] was a manifestation of [REDACTED] learning disability and/or [REDACTED] speech-language impairment. The committee concluded that [REDACTED] learning disabilities did not impair [REDACTED] ability to understand the consequences of [REDACTED] misconduct. [REDACTED] self agreed that [REDACTED] knew right from wrong.

The evidence and testimony proffered during the two days of this Due Process Hearing was clear and conclusive that [REDACTED]'s possession of marijuana on school grounds was not a manifestation of [REDACTED] learning disabilities or [REDACTED] symptoms of ADHD.

██████████, Ph.D., a clinical psychologist, called as a witness by Ms. ██████████ conducted a 5½ hour psychological evaluation of ██████████. Dr. ██████████ testified that although students with ADHD tend to be impulsive and may not anticipate the consequences of their actions, she could not assert that ██████████'s misconduct was a manifestation of ██████████ learning disabilities or ██████████ ADHD, only that ADHD may have played some role in ██████████ actions.

The preponderance and weight of all of the evidence clearly reflects that ██████████ knew right from wrong. ██████████ is a likable and personable young ██████████. However, by concealing the marijuana in the pocket of ██████████ shorts worn under ██████████ outer pants it was obvious that by concealing the marijuana that ██████████ knew the consequences of ██████████ misconduct. There was no credible evidence presented that ██████████'s misconduct was a manifestation of ██████████ disabilities.

CONCLUSIONS OF LAW

Based on my stated Findings of Fact I hereby rule in favor of ██████████ Public Schools. The weight and preponderance of this evidence is too overwhelming to rule otherwise.

Accordingly, I uphold the Manifestation Determination Review conducted January 27, ██████████ conducted by the IEP committee and the decision of the ██████████ School Board of August 25, ██████████ that ██████████'s possession of marijuana on school grounds was not a manifestation of ██████████ disabilities and that ██████████ expulsion was proper. The issue of placement, therefore, is not a matter for determination by me.

This Decision is final and binding on all parties unless it is appealed by either party within one year from the date of issuance hereof. The appeal may be filed in a Virginia Circuit Court or a United States District Court.

Date of Issuance: October 3, [REDACTED]

Respectfully submitted:

[REDACTED]
Hearing Officer

Copies mailed to:

Ms. [REDACTED]
[REDACTED], Ed.D., PS
Virginia Department of Education