

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.)

Schools
School Division

Mr.
Name of Parents

Name of Child

March 10, 2005
Date of Decision or Dismissal

Bradford A. King, Esq.
Counsel Representing LEA

None
Counsel Representing Parent/Child

PaRENT
Party Initiating Hearing

LEA
Prevailing Party

Hearing Officer's Determination of Issue(s):

Hearing Officer's Orders and Outcome of Hearing:

Due Process matter dismissed due to lack of jurisdiction of Hearing Officer to hear case.

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.

Richard E. Smith
Printed Name of Hearing Officer

Signature

**VIRGINIA DEPARTMENT OF EDUCATION
LOCAL DUE PROCESS HEARING**

IN RE:

This day came the _____ Public Schools (_____) and moved for a dismissal of this due process proceeding.

UPON CONSIDERATION WHEREOF, it appearing that the parent of the child, _____ filed a due process request with _____ on February 10, 2005. During a pre-hearing telephone conference held February 28, 2005, the said parent confirmed that he had withdrawn the child from the _____ on January 28, 2005 and enrolled him in an elementary school in _____, Virginia.

The consistent weight of authority provides that when a child no longer resides in a school district, hearing officers lack the jurisdiction to hear due process complaints. In this case we have a child withdrawn from the _____ and his residence changed from the _____ to _____ and enrollment in a _____ public school.

The parent's request for due process challenged the child's IEP evaluation and alleges a failure to provide an appropriate education under the IDEA. The parent requests an independent evaluation of the child.

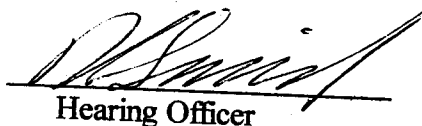
By the application of simple logic, the parent's due process request is moot because at the time it was made the child no longer resided in _____ and no longer attended school there.

It is clear under Virginia law that school districts are responsible for educating the children residing within the school district, but have no responsibility to children living in other political subdivisions.

For the reasons cited, it is ORDERED that this due process matter is dismissed
as I do not have jurisdiction to hear the matter.

3/10/05

ENTER:



Hearing Officer

Distribution:

Bradford A. King, Esquire



Virginia Department of Education
Frederick A. Hodnett, Jr., Supreme Court of Virginia