

CASE CLOSURE SUMMARY REPORT

**Dispute Resolution &
Administrative Services**

(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.)

County Public Schools

Mr. & Ms.

School Division

Name of Parents

“ ”

September 24, 2014

Name of Child

Date of Decision or Dismissal

Pro Se

Counsel Representing LEA

Counsel Representing Parent/Child

Ms.

County Public Schools

Party Initiating Hearing

Prevailing Party

Hearing Officer's Determination of Issue(s):

Parent alleges child does not need special education and wishes to withdraw the child from special education services.

Hearing Officer's Orders and Outcome of Hearing:

Case dismissed upon motion of County Public Schools. Parents are subject to a Circuit Court order requiring further court order when disputes between the parents occur on matters concerning the child.

Frank G. Aschmann



Printed Name of Hearing Officer

Signature

Received

SEP 26 2014

**Dispute Resolution &
Administrative Services**

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

In Re: " "

ORDER

This matter comes before the Hearing Officer on a Due Process Hearing Request made by Ms. on behalf of her son, Ms. seeks to have withdrawn from special education services. The County Public Schools (PS) have made a motion to dismiss the hearing request. The motion of PS is granted for the following reasons:

PS has presented an order from the County Circuit Court which governs the custody relationship of with his divorced parents. The order is intended to regulate disputes between the parents in matters involving , including educational decisions. Mr. has filed his own motion to dismiss indicating he is opposed to Ms. 's request for a due process hearing. Thus there is a clear dispute between the parents on an educational issue involving . The Circuit Court's order provides that in instances of dispute an appointed Parental Coordinator will make binding recommendations on the issue until further orders of the Court alter the recommendation. The Parental Coordinator has recommended that remain in special education under the IEP which was developed for him. PS argues that Ms. has no standing to make the request for a due process hearing.

Ms. argues that she is a "parent" as defined by IDEA and cites 34 CFR 300.30. She argues that as a parent she has an absolute right to bring the due process hearing request. This hearing officer does not find that to be correct. The cited regulation specifically addresses the situation where multiple parties qualify under the regulation. The regulation gives deference to judicial orders which grant authority to persons designated to make educational decisions for the child. Ms. 's argument fails because it asks the hearing officer to completely ignore the order of the Circuit Court and simply proceed under IDEA as if the order did not exist.

Ms. has suggested no authority which would give the hearing officer the power to over rule or ignore the Circuit Court's order nor can the hearing officer find any such authority. This hearing officer finds that he is obligated to honor the order of the Circuit Court. Thus, while Ms. may be a parent under IDEA, her request for a due process hearing is pre-mature. The Court's order sets forth a clear procedure which Ms. must pursue to resolve the dispute between the parents on this issue before acting unilaterally on an educational issue involving .

Wherefore, this hearing officer specifically makes no findings on the underlying issues and dismisses this matter without prejudice.



Frank G. Aschmann, Hearing Officer
September, 24, 2014