

**Received**

OCT 26 2015

Local Hearing    x   

State Level Hearing           

Dispute Resolution &  
Administrative Services

**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.)*

CITY PUBLIC SCHOOLS

School Division

Name of Parent

Name of Child

October 25, 2015  
Date of Decision

DEREK MUNGO  
Counsel Representing LEA

N/A, pro se Parent  
Counsel Representing Parent / Child

Party Initiating Hearing

Split Decision  
Prevailing Party

**Hearing Officer's Identification of Issues:**

Transportation Issue:

- *Whether the Local Education Agency (LEA) denied the student a free appropriate public education (FAPE) by changing the student's school transportation arrangements without parental consent.*

*Whether the LEA provided adequate supports to address the effect on the student of the transportation change.*

*Whether the LEA adequately considered the student's unique individual needs when changing the student's transportation arrangements.*

*Whether the LEA violated notice and/or procedural safeguards by including the parent in the decision to make transportation changes for the student.*

GED Issue:

- *Whether the LEA has denied the student FAPE by not including GED preparatory instruction in the student's Individualized Education Program (IEP)*
- *Whether the LEA violated procedural safeguards by ignoring the parent's request for GED preparatory instruction.*
- *Whether the LED is providing the student with FAPE.*

**Hearing Officer's Orders and Outcome of the Hearing:**

Transportation Issue: LEA

GED Issue: Parent

See Hearing Officer's Decision entered October 25, 2015 for final Orders.

*This certifies that I have completed this hearing in accordance with applicable regulations. Either party may appeal in a federal district court within 90 days of the date of this decision, or in a state circuit court within 180 calendar days of the date of this decision.*

*The LEA is reminded of its responsibility to submit an implementation plan to the parties, the Hearing Officer, and the State Education Agency within 45 calendar days.*

October 25, 2015

Rhonda J. S. Mitchell

Printed Name of Hearing Officer

\_\_\_\_\_  
Signature

Copy furnished to:

, Parent

Derek Mungo, LEA Counsel

, Special Education Administrator

Ronald P. Geiersbach, Coordinator of Due Process Services, Office of Dispute Resolution and Administrative Services

**Received**

**OCT 26 2015**

**Dispute Resolution & Administrative Services**

**VIRGINIA:**

**DEPARTMENT OF EDUCATION  
DIVISION OF SPECIAL EDUCATION AND STUDENT SERVICES  
OFFICE OF DISPUTE RESOLUTION AND ADMINISTRATIVE SERVICES**

In the matter of

an adult,

by his Parent,

Petitioner

and

CITY OF

PUBLIC SCHOOLS,

Respondent

**HEARING OFFICER DECISION**

**Due Process Hearing October 14, 2015:**

**PRESENT:**

**Rhonda J. S. Mitchell, Hearing Officer**

, Petitioner / Parent

, Counsel for City Public Schools ( CPS)

, Special Education Administrator, CPS

Director of Transportation, CPS

, Special Education Program Specialist, CPS

**Reginald Frazier, Evaluator**

**Beth Chandler, Court Reporter**

The Hearing Officer's Interim Order entered October 18, 2015 is hereby incorporated by reference herein but not merged.

**FACTS**

is an 18-year old student enrolled with the CPS who was diagnosed with autism at the age of 7. qualifies for services pursuant to the Individuals with Disabilities Education Act (IDEA). He is currently receiving services from the

Program ( P) in an educationally restrictive classroom setting.

This administrative due process proceeding was initiated against the City Public Schools ( CPS) by (Parent), mother of ( ), who filed a

Request for Due Process Hearing dated September 8, 2015.

## DISCUSSION and ORDERS

### *Procedure:*

Upon hearing evidence at the due process hearing held October 14, 2015, and upon discussions that pursued between the parties and the Hearing Officer at the due process hearing, the Hearing Officer entered a reflective Interim Order on October 18, 2015. Said Interim Order is hereby incorporated, but not merged, herein by reference. This decision results from the evidence and discussions from the due process hearing, and, the outcome of an Individualized Education Program (IEP) team meeting that was subsequently convened on October 20, 2015.

A post hearing conference call was held on October 22, 2015. The Hearing Officer was apprised of the results of the IEP meeting by both parties. represented CPS in 's absence.

### *Transportation Issue:*

The Interim Order required that CPS provide with special classroom instruction on walking to and from his school bus stop and on boarding the bus. CPS and the Parent agreed to this added classroom instruction.

Per information provided to the Hearing Officer during the conference call on October 22, 2015, the parties reported that would be provided instruction on riding public transportation as well as school bus instruction. Thus, transportation instruction will be provided by CPS until has mastered the skills of riding, boarding and debarking both the school bus and public transportation. This instruction will be added to 's IEP.

The Parent objected to CPS' exercise of independent judgment regarding when masters this skill and their unilateral ability to terminate the instruction. During the October 22nd conference call, CPS mentioned that 's level of accomplishment could be discussed at future IEP meetings with the Parent. Of note is the fact that CPS was required to provide the Parent with weekly progress reports per the Hearing Officer's Interim Order.

Based on the above information and relative agreement of the parties, the Hearing Officer FINDS that it is appropriate for to receive school bus and public transportation classroom instruction. To memorialize the agreement of the parties and to insure compliance, it is hereby **ORDERED** that 's IEP include classroom instruction on riding, boarding and

debaring both the school bus and public transportation. CPS is hereby **ORDERED** to provide the Parent with written weekly progress reports every Monday, or otherwise as the parties may agree, detailing the classroom instruction given and 's progress from the previous week. Once CPS has determined that has mastered this transportation skill, it is **ORDERED** that the classroom transportation instruction be first discussed with the Parent at an IEP meeting prior to termination. For practical application of this Order, it is further **ORDERED** that 's current transportation route not be changed, absent his relocation or agreement of the parties to the contrary, so long as is being educated by CPS and the route is deemed safe by the Director of Transportation, CPS.

The Hearing Officer FINDS that the Parent did not provide sufficient evidence to establish that the change in 's school bus transportation route from door-to-door service to 1/2 block down the street amounted to the denial of a free appropriate public education (FAPE). Therefore, the Hearing Officer hereby denies her request that CPS provide with door-to-door transportation to and from school. Accordingly, the Parent's specific transportation request for relief, i.e. door-to-door pick-up and drop-off for , is hereby denied and that specific issue is dismissed.

***GED Issue:***

At the IEP meeting held on October 21, 2015, 's General Education Development (GED) assessment results were revealed and discussed by the IEP team. The assessment showed that was suited to receive GED preparatory instruction. Although the parties agree that should receive the GED preparatory instruction, the parties apparently do not agree on 's appropriate diploma track, e.g. modified, applied studies, with seal, etc. The issue regarding 's diploma track was not raised in the complaint and is not properly before this Hearing Officer. Accordingly, the Hearing Officer will not rule on this issue. For 's sake, the parties are encouraged to work together to resolve this issue.

The Hearing Officer FINDS that given 's assessed suitability to receive GED preparatory instruction and upon agreement of the parties that has been appropriately assessed to receive such instruction, should receive GED preparatory instruction. Accordingly, it is hereby **ORDERED** that CPS provide with appropriate GED preparatory instruction. It is further **ORDERED** that CPS provide the Parent with written

weekly progress reports every Monday, unless otherwise agreed by the parties, detailing the instruction given and [redacted]'s GED progress from the previous week.

**RIGHTS OF APPEAL:**

Pursuant to 8 VAC 21-81-T and §22.214 D of the Code of Virginia, 1950, as amended, a decision by the Hearing Officer in any hearing, including an expedited hearing, shall be final and binding unless either party appeals in a Federal District Court within 90 days of the date of the decision, or in a state Circuit Court within 180 days of the date of the decision.

ENTERED: October 25, 2015

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RHONDA J. S. MITCHELL, Hearing Officer

Copies furnished to:

Parent  
, Counsel for CPS  
CPS  
Ronald P. Geiersbach, Esquire, DOE