

**IMPARTIAL DUE PROCESS HEARING
BEFORE THE HEARING OFFICER
APPOINTED BY THE STATE SUPERINTENDENT OF PUBLIC SCHOOLS
STATE OF NEVADA**

In the Matter of
STUDENT¹, by and through Parent
Petitioners,

Date: April 10, 2024

v.
SCHOOL DISTRICT
Respondent

Hearing Officer

Colleen Platt

FINDINGS OF FACTS, CONCLUSIONS OF LAW AND DECISION AND ORDER

This matter came for a hearing on April 2, 2024. The School District was represented by Counsel for the School District, and the Parent represented the Student. Colleen Platt, Esq. served as the hearing officer (“Hearing Officer”) in this matter. The following Findings of Facts, Conclusions of Law and Decision are hereby rendered by the Hearing Officer.

I. PROCEDURAL HISTORY

On February 27, 2024, Parent filed a due process complaint (“Complaint”) requesting an impartial due process hearing to resolve issues of the discipline actions taken against the Student. This Complaint was heard on an expedited timeline. Pursuant to 20 USC §1415(k)(4), 34 CFR §300.532(c)(2) and NAC 388.308, a hearing must be expedited to resolve a dispute concerning the determination: (1) whether the conduct of a student with a disability was a manifestation of the student’s disability; or (2) regarding the disciplinary change of placement of the student pursuant to 34 CFR §300.530 or 300.531. Such hearing must be conducted within 20 school days of the due

¹ Personally identifiable information is attached as Appendix A to this Order and must be removed prior to public distribution.

process complaint being filed and the decision of the hearing officer assigned to the hearing must be 10 school days of the hearing being conducted. (NAC 388.308, 24 CFR 300.532(c)(2)). On February 28, 2024, this Hearing Officer was appointed to hear the Complaint. On February 28, 2024, this Hearing Officer filed a Preliminary Order and Notice of Status Conference setting a status conference for March 5, 2024. On March 1, 2024, the School District filed its answer to the Complaint.

On March 5, 2024, a status conference was held in this matter wherein a prehearing conference was scheduled for March 25, 2024, and a hearing was scheduled for April 2, 2024. A Status Conference Report and Order was filed on March 5, 2024. On March 22, 2024, this Hearing Officer sent a Notice of Prehearing Conference and draft issues for the hearing. On March 25, 2024, a Prehearing Conference was held wherein the parties discussed the issues that would be heard at the hearing, as well as other formalities related to the hearing. A Pre-Hearing Report and Order was filed by this Hearing Officer on March 25, 2024.

On April 2, 2024, beginning at 9:30 am a hearing was held on the Complaint. The School District presented three witnesses: (1) Director of the Student Service Division, Alternative Instructional Arrangements; (2) Principal of Junior High School; and (3) Special Education Instructional Facilitator for Junior High School. The Parent did not present any witnesses. Present at the hearing on behalf of the School District were: Counsel; Staff of the School District. Present at the hearing on behalf of the Student were Grandparent of Student and Parent of Student. Counsel and Parent each presented opening and closing statements. The parties stipulated to the admission of Respondent's Exhibit 1 through 9. Parent did not enter any exhibits into the record.

II. ISSUE TO BE DECIDED

The issue to be determined is as follows:

Was the School District's determination of the disciplinary change in placement of the Student appropriate based on its determination that the pencil of the Student used in the altercation was a weapon as set forth in 34 CFR §300.530(i)?

III. APPLICABLE LAW

20 USC §1415(k)(1)(B) and 34 CFR §300.530(b)(1) in relevant part provide that school personnel may remove a student with a disability who violates a code of student conduct from their current placement to an interim alternative educational setting, or another setting, or suspension for not more than 10 school days in a school year.

20 USC §1415(k)(1)(E) and 34 CFR §300.530(e) provides that within 10 school days of a decision to change the placement of a student with a disability because of a violation of the code of student conduct, the school, the parent and the relevant members of the IEP team must review all relevant information in the student's file, including the IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was: (1) caused by or had a direct and substantial relationship to the student's disability; or (2) the direct result of the school's failure to implement the IEP.

20 USC §1415(k)(1)(C) and 34 CFR §300.530(c) provides that if school personnel seeks to change the placement of a student with a disability for more than 10 school days because of an alleged violation of the code of student conduct and that conduct was **not** a manifestation of the student's disability, the school may proceed with disciplinary actions in the same manner and for the same duration as such actions would be applied to students without disabilities provided that the student continued to receive the services he or she is entitled to receive under 34 CFR 300.530(d).
(emphasis added)

20 USC §1415(k)(1)(F) and 34 CFR §300.530(f) provides that if the manifestation meeting determines that the conduct was a manifestation of the student's disability, the student's IEP team must conduct a functional behavioral assessment and implement a behavioral intervention plan for the student and return the student to the placement from which the child was removed unless the parent and the school agree to another placement.

20 USC §1415(k)(1)(G) and 34 CFR §300.530(g) provides that school personnel may remove a student with a disability to an alternative education setting for up to 45 school days without regard to the whether the conduct in question was determined to be a manifestation of the student's disability if the student: (1) carries or possesses a weapon at school or on school premises; (2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or on school premises; or (3) has inflicted serious bodily injury upon another person while at school, or on school premises.

20 USC §1415(k)(7)(C) and 34 CFR 300.530(i)(4) defines the term "weapon" as having the meaning given to the term "dangerous weapon" under section 930(g)(2) of Title 18. Section 930(g)(2) of Title 18 defines the term "dangerous weapon" as a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2.5 inches in length.

20 USC §1415(k)(7)(D) and 34 CFR 300.530(i)(3) defines the term "serious bodily injury" as having the meaning given to the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of Title 18. Paragraph (3) of subsection (h) of section 1365 of Title 18 defines the term "serious bodily injury" as bodily injury which involves (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the

function of a bodily member, organ, or mental faculty. Paragraph (4) of subsection (h) of section 1365 of Title 18 defines the term “bodily injury” as: (A) a cut, abrasion, bruise, burn, or disfigurement; (B) physical pain; (C) illness; (D) impairment of the function of a bodily member, organ, or mental faculty; or any other injury to the body, no matter how temporary.

IV. FINDINGS OF FACT

After considering the testimony presented at the hearing and the admitted exhibits, this Hearing Officer makes the following findings of fact:

1. On February 2, 2024, Student was enrolled at Junior High School (“School”) in the 7th grade which is not the Student’s zoned school of attendance. Student was determined to be eligible for special education services on March 24, 2023, in the area of specific learning disability and an Individualized Education Plan (“IEP”) was created on or about that date. (Respondent’s Exhibit 4, p. 1)
2. The Student’s IEP team (“Team”) consisted of the Parent, Special Education Instructional Facilitator, Student’s Special Education teacher, and Student’s General Education teacher. (Testimony of Special Education Instructional Facilitator)
3. The Student is typically quiet and reserved, not typically in trouble. (Testimony Special Education Instructional Facilitator)
4. On February 2, 2024, Student was having a conversation with two other students during lunch. The students asked Student where the Student got a toy multiple times. Those students also called Student “skinny” and threw food and trash at Student. Student grew frustrated with the students and took three sharpened pencils and stabbed one Student in the forearm, creating three small puncture wounds on the student’s arm. The Student then took a pencil and stabbed the other student in the neck, creating one small scratch wound

on the student's neck. The School District Police Department was called, and spoke to the students. The parents of the students did not want to press any charges. (Respondent's Exhibit 6, p. 6)

5. The School District Police Department did not take any action regarding the February 2, 2024, incident. (Testimony of Principal)
6. On February 2, 2024, Parent was provided with a Notice of Suspension ("Notice") that indicated the Student was suspended for the infraction of "Possession/Use of Weapon with Injury." The Notice did not provide a date upon which the Student could return to school, Instead, under Section 3 it provided: "Your child may not return to school until (date):" the statement "pending expulsion" was filled in. The Notice was signed by the Assistant Principal as Site Administrator and the Principal. The Notice, in the recommendation section, contained a check for "Expulsion." (Respondent's Exhibit 6, p. 19)
7. On February 2, 2024, a "due process conference" relating to the incident that occurred on that date was held with the Parent, Student, Special Education Instructional Facilitator, and Assistant Principal. At the "due process conference," a recommendation was made that the Student should be expelled. The Parent contested that recommendation. (Respondent's Exhibit 6, p. 6)
8. On February 7, 2024, a Manifestation Determination Meeting ("MDM") was held to determine whether the Student's conduct on February 2, 2024, was a caused by or had a direct and substantial relationship to the Student's disability, or was a direct result of the School District's failure to implement the Student's IEP. Present at the MDM were:

Parent, Special Education Instructional Facilitator, Student's Special Education teacher, and Student's General Education teacher. (Respondent's Exhibit 6, p. 6)

9. At the MDM, the Team conducted a functional behavior assessment ("FBA") based upon existing data, reviewed the Student's behavioral intervention plan ("BIP"), received information from Parent, and received teacher observations. (Respondent's Exhibit 7, p. 1).
10. The Team prepared a Manifestation Determination Summary ("Summary") on February 8, 2024. The Summary contained the following information:
 - a. The Student's FBA showed that the Student exhibits insubordinate behavior to avoid a non-preferred task or directive.
 - b. When Student is presented with a non-preferred task or directive, Student will engage in insubordinate behavior.
 - c. Student had not taken his ADHD medications at the time of the incident on February 2, 2024.
 - d. When Student is attentive, Student is successful in class but when Student is not interested in the lesson or activity, Student talks to peers, gazes into the distance, and sits without engaging. (Respondent's Exhibit 7, p. 1)
11. The Team concluded that the Student's conduct on February 2, 2024, was caused by or had a direct and substantial relationship to the Student's disability and was not a direct result of the School District's failure to implement the Student's IEP. As such, the Student's conduct which subjected the Student to disciplinary action was a manifestation of the Student's disability. (Respondent's Exhibit 7, p. 2)

12. On February 8, 2024, the Team also reviewed and revised the Student’s IEP². The IEP contained an indication that the placement of the Student would be “Alternative Instructional Arrangements” from February 8, 2024, through February 19, 2024, and that Student would spend 0% of the Student’s school day in the regular education environment. The IEP also included an indication that the placement of the Student would be in the regular class with supplementary aids and services and that Student would spend 100% of the school day in the regular education environment beginning on February 20, 2024, and continuing until February 7, 2025. The IEP did not indicate that this placement would be in any other location other than the Junior High School. (Respondent’s Exhibit 4, p. 16)
13. The School District has a Student Code of Conduct (“Code of Conduct”) wherein it contains a definition of “Possession of Weapon(s)” that provides:
- a. Possession of a firearm, including a weapon defined by the Gun-Free Schools Act as set forth below, or a Dangerous Weapon, which includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, nunchaku, switchblade knife or trefoil, a butterfly knife, or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to person.
 - b. The Resolution for an infraction is a mandatory expulsion referral per NRS 392.496. (Respondent’s Exhibit 8, p. 2)

² The only IEP that was admitted into evidence at this hearing was the Student’s IEP that was created on February 8, 2024, as a result of the incident. This Hearing Officer cannot determine what changes were made from the IEP that was in effect prior to the IEP created on February 8, 2024.

14. The Code of Conduct also contains a definition of “Possession/Use of Weapon(s) with Injury” which provides:
- a. Any willful and unlawful use of force or violence involving a weapon or any object used as a weapon against a [School District] student or staff member resulting in injury.
 - b. The Resolution for this infraction is a mandatory expulsion referral per NRS 392.466.
 - c. The Notes indicate to see also Possession of Weapon(s) behavior incident definition for weapons types. (Respondent’s Exhibit 8, p. 4)
15. The School District has a regulation, Regulation 5114.2, (“Regulation”) which sets forth the expulsion procedures for student discipline. The Regulation provides:
- a. Expulsion is the removal of a student from school for any of the applicable offenses outlined in the Code of Conduct.
 - b. A student who has been identified as qualifying for special education and/or 504 services shall be disciplined in accordance with the provisions of Part B of the Individuals with Disabilities Act (“IDEA”) and Section 504 of the Rehabilitation Act of 1973. (Respondent’s Exhibit 9, p. 2)
16. The Student was enrolled in the Junior High School from August 7, 2023, through February 28, 2024. Student was deemed as not enrolled in the Junior High School from February 28, 2024, through March 6, 2024. Student was unenrolled in the Junior High School due to a clerical error of the Student being referred to Alternative Instructional Arrangements of the Student Services Division of the School District as a result of the suspension of the Student. Once the clerical error was discovered, the Student was

reenrolled in the Junior High School. (Testimony of Director of Student Services Division, Alternative Instructional Arrangements), (Respondent's Exhibit 3, p. 1)

17. Student was placed on an in-house suspension wherein the Student attended the School but was placed in a separate room from the general education classroom and received services in this separate room. No evidence, either through testimony or exhibits, was provided regarding the specific date that such in-house suspension began or ended nor regarding what services were provided to the Student during the in-house suspension. (Testimony of Special Education Instructional Facilitator)
18. No evidence, either through testimony or exhibits, was provided regarding whether the Student was receiving special education services as required by 34 CFR 300.530(d), however, the Student was provided a chromebook while attending the in-house suspension. (Testimony of Special Education Instructional Facilitator)
19. No teacher, administrator, or other adult witnessed the incident on February 2, 2024, nor did the cameras located in the lunchroom capture the incident. (Testimony of Principal and Special Education Instructional Facilitator)
20. The Principal made an initial determination of whether a student used a weapon which caused injury to another student and the initial recommendation for the disciplinary action that should be imposed on a student upon an infraction of the Code of Conduct, which was mandatory expulsion. (Testimony Principal and Special Education Instructional Facilitator)
21. The final decision regarding whether a student used a weapon that resulted in injury and the disciplinary action imposed on a student is made by the Educational Services Division

of the School District. (Testimony Principal and Special Education Instructional Facilitator)

22. No evidence either through testimony or exhibits was provided by the Educational Services Division of the School District regarding its decision, if any, regarding the determination of whether the pencil used by the Student on February 2, 2024, was a weapon or the final disciplinary action imposed on the Student.
23. Pursuant to the IEP, the Student would return to a school on February 20, 2024, after the completion of suspension, but no evidence, either through testimony or exhibits, was provided regarding what school the Student would definitively return to after the suspension. The Principal testified that he did not believe it was the Junior High School, but could not be certain. (Testimony of Director of the Student Services Division, Alternative Instructional Arrangements and the Principal, Respondent's Exhibit 4, p. 16)
24. The Principal believed that the pencil was a weapon because the Student used it with force and broke the skin of two students and those wounds bled and as such, Student had violated the Code of Conduct by possessing/using a weapon with injury. (Testimony of Principal)
25. The list of weapons that classify as a weapon under the Code of Conduct, did not include a pencil, however, the list included a catchall "any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to person." (Testimony of Director Student Services Division, Alternative Instructional Arrangement, Principal, Special Education Instructional Facilitator, and Respondent's Exhibit 8, p. 2)

26. The Junior High School did not institute an investigation into the actions of the students against Student (throwing food and trash at Student, calling Student “skinny”) because the Principal believed that bullying did not occur. (Testimony of Principal)
27. The injured students were taken to the nurse assistant at the Junior High School. The nurse assistant examined the students’ injuries and determined that no emergency medical services were necessary. The nurse assistant called the students’ parents, and it is unknown whether the parents took the students for further medical care. (Testimony of Principal)
28. The injury to the student’s neck could have been caused by a fingernail. (Testimony of Director Student Services Division, Alternative Instructional Arrangement, Principal, Special Education Instructional Facilitator)

V. CONCLUSIONS OF LAW

NRS 388.467 provides that when a “due process hearing is held pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., regarding the identification, evaluation, reevaluation, classification, educational placement or disciplinary action of or provision of a free appropriate public education to a pupil with a disability, and a school district is a party, the school district has the burden of proof and the burden of production.” As such, in this case, the School District must prove by a preponderance of the evidence that the pencils used by the Student in the incident on February 2, 2024, was a weapon as defined in 34 CFR §300.530(i)(4).

The IDEA provides that a student may be removed for up to 45 school days without regard to whether the behavior is determined to be a manifestation of the student’s disability for the limited circumstances where the student: (1) carries a weapon at the school; or (2) has inflicted serious bodily injury. (20 USC §1415(k)(1)(G), relevant part cited) The IDEA defines a “weapon” as:

a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length. (18 USC §930(g)(2), as cited by 20 USC §1415(k)(7)(C))

The IDEA defines “serious bodily injury” as:

bodily injury which involves:
(A) a substantial risk of death;
(B) extreme physical pain;
(C) protracted and obvious disfigurement; or
(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty. (18 USC §1365(h)(3) as cited by 20 USC §1415(k)(7)(D))

“[A] child with a disability caught bringing [weapons] to school may be subject to the following disciplinary measures. First, he may be immediately suspended from school, without alternative educational services for up to ten days. Second, he may serve an *additional* forty-five day suspension, during which time the school must provide him with alternative educational services. Third, in addition to *or* in place of the forty-five day suspension under the IDEA, he may be suspended or expelled from school under the generally applicable disciplinary rules, *provided* his behavior **was not** a manifestation of his disability.”³ *Farrin v. Maine School Administrative Dist. No. 59*, 105 F. Supp. 2d 37, 42 (D. Me. 2001) (internal citations removed, emphasis added). If the IEP team determines that the behavior “*was* a manifestation, however, then the generally applicable rules cannot be applied to the child.” *Farrin*, 105 F. Supp. 2d at 42. Within 10 days of a change in a student’s placement, the IEP team must meet to conduct an FBA to “explore the [student’s] misbehavior and discover what, if anything, can be done to address it and prevent it from occurring again. *Id.* “However, a child suspended for drug or weapon possession under the IDEA’s forty-five day rule must serve out his suspension in an alternative educational setting even pending an appeal of

³ A student with a disability must continue to receive services even if the conduct was not a manifestation of the student’s disability as set forth in 34 CFR §300.530(d).

the suspension.” *Id. at 43*. School personnel “may make the unilateral decision to remove a student to an interim alternative educational setting for up to 45 school days without regard to the manifestation determination if the child “[carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function.” *GD & RD obo GD v. Utica Cmty. Schs.* 20-12864 at 7-8 (E.D. Mich. Mar. 30, 2023). The IEP team determines the interim setting in such instances. (34 CFR §300.531) The “manner of an object’s use may be relevant to the inquiry of whether an object has the capacity to endanger life or inflict serious physical harm.” *Utica*, 20-12864 at 8 (referring to *United States v. Sturgis*, 48 F.3d 784, 787 (4th Cir. 1995)).

In this case, the Team determined that the conduct in question that occurred on February 2, 2024, was a manifestation of the Student’s disability. However, the School District invoked the special circumstances set forth in 20 USC §1415(k)(1)(G), 34 CFR §300.530(g) arguing that the Student used the pencil as a weapon during the incident on February 2, 2024, and as such, moved to suspend the Student for 45 days and upon the completion of the suspension. The Principal testified that he believed that the Student would be able to return to a school, but that he did not believe that the Student would return the Junior High School. Testimony provided by the Principal and Special Education Instructional Facilitator indicated that the Principal makes the initial determination of whether a weapon was used and make the initial recommendation for discipline, which in this case was a mandatory expulsion, but that the final decision regarding whether a weapon was used and the final disciplinary action is made by the Educational Services Division of the School District. No one from the Educational Services Division testified or were any exhibits admitted at the hearing nor were any of the witnesses able to testify as to how the Educational Services Division determined that the pencil was a weapon or what discipline was imposed on the Student. As such, the School District has failed to meet its burden to prove by a preponderance of the evidence that the pencils used by the

Student are a weapon because the final decision on that question and the disciplinary action that should be imposed is made by the Educational Services Division and the School District did not proffer any evidence, either through testimony or exhibits, from the Educational Services Division.

Furthermore, a review of the definition of “weapon” and applying that definition to the pencil, this Hearing Officer finds that the pencil is not a weapon as set forth in 20 USC §1415(k)(7)(C), 34 CFR §300.530(i)(4). This Hearing Officer does not find the testimony of Principal regarding the Student’s use of the pencils persuasive nor credible. The Principal did not witness the incident, nor was there any video of the incident. This Hearing Officer has reviewed the witness statements and the photos of the pencils and injuries and while the pencils appear to be sharpened, they do not appear to be sharp enough such that they could cause “death or serious bodily injury” as set forth in 18 USC §930(g)(2) and (3). While testimony by the Director of the Student Services Division, Alternative Instructional Arrangements and the Principal indicated that the pencil could be capable of causing death or serious bodily injury, and that it was the Student’s intent that led them to make such a determination, to hold that a pencil is a dangerous weapon “would allow the exception for placement into an [interim alternative educational setting] to swallow the general rule.” *Utica*, at 9 (upholding the Administrative Law Judge’s decision that plastic phone receivers and broken or jagged thermostats are not readily capable of causing substantial risk of death.) (*See also Kristina C. v. Klein Indep. Sch. Dist.*, Civil Action H-23-2271 (S.D. Tex. Feb 04, 2024) (Administrative Law Judge held that a clay cutter was not a weapon))

In this case, the testimony was clear that the Student was not typically in trouble and was quiet and reserved. (Testimony of Special Education Instructional Facilitator). The Student had impulsivity issues and the incident on February 2, 2024, was a “one time incident that took place because he was angry and impulsively picked up the pencils without realizing he did so prior to

hitting the other students.” (Respondent’s Exhibit 7, p. 1) The Student admitted that the Student forgot that the pencils were in the Student’s hands when the Student hit the other students. (Respondent’s Exhibit 6, p. 11) While the School District argues that the intent of the student using the object should be considered, this Hearing Officer finds that even if such a standard was applied, in this case, the Student did not have the requisite intent to “cause death or serious bodily injury.” (Respondent’s Exhibit 6 pgs. 11-12, Respondent’s Exhibit 7, p. 1).

As such, the provisions of 20 USC §1415(k)(1)(F) and 34 CFR §300.530(f) are applicable to this case and the Student must be returned to the placement from which the Student was removed unless the Parent and the School District agree to another placement.

VI. DECISION AND ORDER

Based on the above Findings of Fact and Conclusions of Law, this Hearing Officer’s decision is that the School District did not meet its burden to prove by a preponderance of evidence that the pencil used by the Student in the February 2, 2024, incident was a weapon as defined in 20 USC §1415(k)(7)(C), 34 CFR §300.530(i)(4). In addition, this Hearing Officer finds that the pencil was not a weapon as defined in 20 USC §1415(k)(7)(C), 34 CFR §300.530(i)(4) and as such, the removal of the Student from the general education classroom was in violation of the IDEA. It is hereby ordered:

IT IS HEREBY ORDERED that the Student shall return to the general education classroom at the Junior High School upon the entry of this Decision and Order⁴ or the zoned school of the Student if the Parent and School District agree to such location.

⁴ 20 USC §1415(k)(7)(F) provides that if the IEP team makes a determination that the conduct was a manifestation of the student’s disability, the IEP team shall return student to the placement from which the student was removed unless the school district and parent agree to a change of placement as part of the modification of the BIP. In this case, because this Hearing Officer has determined that the pencil is not a weapon, the Student must be returned to the placement from which the Student was removed. The educational placement is where the student receives his or her education rather than the precise location of where that education is received and thus, a student may be moved from one

VII. NOTICE OF RIGHT TO APPEAL

Any party aggrieved by this Decision has the right to appeal within thirty (30) days of the receipt of this decision by filing with the Nevada Department of Education, Superintendent of Public Instruction, a notice of appeal which identifies the specific findings and conclusions being appealed and forwarding a copy of the notice of appeal to the other parties within 30 days after receiving the decision. A party to the hearing may file a cross appeal by filing a notice of cross-appeal with the Superintendent which identifies the specific findings and conclusions being appealed and forwarding a copy of the notice of cross appeal to the other parties within 10 days after receiving notice of the initial appeal. At the parties' request, this decision is being delivered to the parties both by e-mail and U.S. Postal Service. Receipt of this Decision and Order will be determined by either the date of actual delivery, or the date of the first attempt to deliver, by the U.S. Postal Service.

Date: _____

4/10/2024



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junior high to the other without causing a change in placement of that student. *Aw ex rel. Wilson v. Fairfax County School Board*, 372 F.3d 674, 683 (4th Cir. 2004)