

STATE OF RHODE ISLAND  
PROVIDENCE, SC

DEPARTMENT OF EDUCATION

IN RE: K.S.  
WARWICK SCHOOL DEPARTMENT

LL 15-01

ADMINISTRATIVE DECISION

/s/Maureen A. Hobson


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Maureen A. Hobson, Esq.  
Impartial Due Process Hearing Officer  
222 Jefferson Blvd.  
Warwick, RI 02888

Dated: August 21, 2015

HELD: Student is not entitled to educational services under FAPE after the student has attained age 21.

LEXICON

Student:	
District:	Warwick School District
Attorney for Petitioner:	Sonja Deyoe, Esq.
Attorney for District:	Jon Anderson, Esq.
Hearing Officer:	Maureen A. Hobson, Esq.

### TRAVEL AND FACTS

The Petitioner herein is a 22 year old woman who filed a complaint with the RI Department of Education on February 5, 2015. The Petitioner was 21 years of age on that date. She attained the age of 22 on [REDACTED], approximately one and one half months after filing her complaint with RIDE. In her complaint, the Petitioner alleges that she was denied FAPE by the Warwick School Department when Warwick refused to follow her IEP once she had obtained 21 years of age.

At a pre-hearing conference conducted on April 14, 2015, this Hearing Officer deduced the following: The Petitioner had previously filed an action in Federal Court alleging her entitlement to public education services beyond the date of her 21<sup>st</sup> birthday. That case is presently pending in the Federal District Court. If the Court ultimately determines that the student is not entitled to public education services beyond age 21, then, the parties agreed that this litigation is moot. In the meantime, pending Federal Court resolution, the student is pressing this case alleging her continuing entitlement to the provisions of “stay put”, despite the fact that she has attained the age of 22.

At the pre-hearing conference, the parties agreed that no testimony was required in order to address the “stay put” issue. Both parties submitted legal memoranda on the issue. The parties further agreed that after the filing of the Federal Court litigation, the district continued to offer educational services for a period of time, despite the fact that the petitioner was already 21.

At some point, the school district ceased the provision of services, partly due to the fact that the petitioner was not attending the classes and partly because she had attained age 21 and had “aged out” of the system. The petitioner’s complaint alleges that she is entitled to compensatory services from age 21 through 22 because the school district failed to provide an adequate education prior to her attaining the age of 21.

### FINDINGS AND CONCLUSIONS

On the date of the filing of the within complaint, the Petitioner was one month short of attaining her 22<sup>nd</sup> birthday. Once a child “ages out” of the protections and benefits afforded by IDEA, the school district has no further obligations to the child. IDEA

specifically covers children aged 3 to aged 21. It does not extend beyond age 21. Honig v. Doe 484 Us 305 (1988). There being no educational benefits available to children after the age of 21, there can be no applicable “stay put”.

Based on the foregoing, the petitioner’s complaint for “stay put” is hereby denied.

/s/Maureen A. Hobson

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Maureen A. Hobson, Esq.

#### Certification

I certify that a copy of the within was sent to each of the parties of record on the 21<sup>st</sup> day of August 2015.

/s/ Maureen A. Hobson

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Maureen A. Hobson