

**STATE OF RHODE ISLAND DEPARTMENT OF EDUCATION
SPECIAL EDUCATION SPECIAL EDUCATION HEARING**

IN THE MATTER OF: :
 :
 :
CUMBERLAND PUBLIC DEPARTMENT : **Complaint No. LL-19-08**
 :
v. :
 :
A. C. :

DECISION AND ORDER

Travel and Findings of Fact

The Cumberland School Department (“CSD”) filed a due process claim on June 7, 2019 that was sent to the hearing officer two (2) days later. According the complaint, A.C. had been “placed at St. Mary’s home for children by DCYF.” *See*, CSD Exhibit 1 at 1. They allege that the “current educational placement in a residential facility is too restrictive. The IEP team determined that [A.C.’s] place in regular education class [in the Cumberland public school system] with special education consultation will provide FAPE in the LRE.” CSD’s proposed resolution is to remove her from her current placement at St. Mary’s and place her in the CSD regular classroom in accordance with her proposed Individual Education Plan(“IEP”). *Id.*

The parties held an initial conference call on Tuesday, June 18, 2019 without a stenographer to discuss procedural details of the case; no substantive issues were discussed.

A hearing was thereafter held on July 16, 2019 at the CPD. At the hearing A.C.’s interest was represented by her mother, Mrs. C, who did have any legal counsel. She recognized that should could have had legal counsel but she “didn’t pursue that.” July 16, 2019 Tr. At 4-5. Although A.C. was initially placed at St. Mary’s Home for the Children by the State Department of Children Youth and Families, at the commencement of this hearing Mrs. C. had full and unconditional custody.¹ *Id.* At 12.

¹ Since DCYF initially placed A.C. at St. Mary’s Home for the Children, counsel for CSD sent DCYF’s counsel an email asking if they wanted to be a party to this proceeding and DCYF said that it was “not the educational decision maker or advocate for the child” and therefore expressly declined to intervene. *See*, Exhibit 2 at 1.

CSD special education director Rachel Santa testified that A.C.'s IEP team met; assessed the progress she made at St. Mary's, "and as a whole team determined that the placement [at St. Mary's] was very restrictive" and determined that placement in a public school would provide A.C. with a free appropriate public education ("FAPE") in the least restrictive environment ("LRE"). *Id.* at 10; *also see* Exhibit 1 at 4-5, 22. Mrs. C, who was a member of the IEP team, agreed with the conclusions of the other members of the IEP team including the proposed placement of A.C. in Cumberland public schools. Accordingly, no one party to this matter disputed to the proposed IEP for A.C., including her placement in the Cumberland public school system.

Statement of the Issues

Whether A.C.'s proposed IEP provides her with FAPE in the LRE, and as a consequence, whether A.C. should be moved from St. Mary's and into a regular classroom at the CSD.

Discussion

The proposed IEP for A.C. was agreed to by all parties of this complaint. A thorough review of the IEP and IEP team meeting minutes makes this hearing officer conclude that the IEP team thoroughly assessed this child's present levels of functional performance; developed attainable measurable annual academic and functional goals; considered the child's strengths and weaknesses; developed specific special education instruction; and, considered the most appropriate educational environment and then proposed to place this child in a regular classroom within the Cumberland public school system with specific special education instruction and supports. Accordingly, this hearing officer rules that A.C.'s proposed IEP provides FAPE in the LRE and she should therefore be placed in the Cumberland public school system forthwith. It is so **ORDERED**.

/s/Gregory A. Mancini

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State of Rhode Island Department of Education
Independent Judicial Due Process Hearing
Officer