

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
23 EDC 00852

<p>■ by parent or guardian ■ Petitioner,</p> <p>v.</p> <p>David Jones Elementary School Board of Education Respondent.</p>	<p style="text-align: center;">FINAL DECISION ORDER OF DISMISSAL</p>
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THIS CAUSE coming on to be heard on March 22, 2023 before the undersigned Administrative Law Judge on the Respondent's Motions to Dismiss. The Petitioner has filed a Reply to Respondent's Motions to Dismiss Petition.

The Undersigned has given careful consideration to the Parties motion papers and the entire record herein. The pertinent facts for deciding these motions are as follows:

David Jones Elementary School is not a legal entity or ■'s local educational agency;

■ lacks standing to pursue a due process petition without the joining or consent of ■'s biological mother and legal and physical custodian; and

■ has failed to state a claim for relief.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that the within due process petition is dismissed pursuant to Rule 12(b)(1) and (6).

NOTICE OF APPEAL RIGHTS

In accordance with the Individuals with Disabilities Education Act and North Carolina's Education of Children with Disabilities laws, the parties have appeal rights regarding this Final Decision. Unless appealed to State or federal court, the State Board shall enforce the final decision of the administrative law judge. **Any party aggrieved by the findings and decision of an administrative law judge under G.S. 115C-109.6 may institute a civil action in State court**

within 30 days after receipt of the notice of the decision or in federal court as provided in 20 U.S.C. § 1415.

IT IS SO ORDERED.

This the 22nd day of March, 2023.



Selina Malherbe
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service.



Parent

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This the 22nd day of March, 2023.

A handwritten signature in blue ink that reads "V. Tsuprenko".

Viktoriya Tsuprenko
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