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A federal judge in Richmond again has ordered the Hanover County school system to pay costs of privately educating an autistic child and again has rejected a hearing officer's conclusions in the long-running case.

In an 81-page ruling made public yesterday, U.S. District Judge Robert E. Payne found that testimony from Hanover special-education teachers about the child's progress was "not credible." The judge said that what progress the child made in Hanover schools was "trivial."

The ruling came 10 months after the 4th U.S. Circuit Court of Appeals rejected similar findings by Payne in a ruling he made in August 2006.

The appeals court said Payne had failed to give proper weight to a hearing officer's conclusions that the school system had provided an adequate education to James Peterson, who turns 15 next month.

The case could set an important standard for criteria used to determine educational progress of special-needs students, notably those with autism, said the Peterson family's lawyer, Philip Carter Strother.

"We think Judge Payne's opinion sets a new standard. It is a very detailed, thorough analysis," Strother said.

Autism is being diagnosed with increasing frequency, leading to a national debate about the impact on school budgets and to what extent public-school systems must absorb children with the disorder.

Autism is believed to affect about one of every 150 children and is identified by a broad spectrum of mental-processing disorders. Its origins are not known with certainty. Virginia experienced a four-fold increase in students with autism from 1997 to 2005.

An administrative hearing officer assigned to resolve differences between the Petersons and the Hanover school system concluded that the school system had provided an appropriate education to James and was not obligated to pay tuition costs for the youth's private schooling.

Karl and Linda Peterson initiated legal proceedings against the school system in January 2006, seeking reimbursement for about \$30,000 in tuition they paid for James' private schooling in the 2005 school year. They removed him from a Hanover elementary school, saying that he was regressing and that they were being excluded from meaningful involvement in his education plan.

Their son has thrived in a private school that addresses autism disorders, the Petersons said yesterday. He is now in the eighth grade.

Hanover began paying tuition costs for James after the suit was filed but has maintained in three years of litigation that it was not obligated for costs associated with James' schooling in the 2005-06 school year.

Legal fees and tuition for that year alone are at issue before the courts; legal fees have far surpassed \$200,000.

A Hanover schools representative said yesterday that Payne's ruling is being reviewed and that there was no immediate comment.

Hanover has 141 students with a primary autism diagnosis, a 40-student increase from December 2007. The school system pays \$550,000 a year for tuition costs for 11 students placed outside the public-school system.

Payne's ruling this week deals at length with hearing officer James A. Eichner's original assessment of the boy's advancement in public school. But the judge's decision reaches the same conclusion as the opinion in 2006.

Eichner had found "no real conflict on the relevant facts," but Payne said that description is a "clear inaccuracy." The judge said there is "a serious disconnect" between the testimony of the school system witnesses and the documentation about the youth's progress. Contact Bill McKelway at (804) 649-6601 or [bmckelway@timesdispatch.com](mailto:bmckelway@timesdispatch.com).