

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION DIVISION
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

Petitioner,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT

Respondent.

OAH CASE NO. N2007010772

DECISION

Administrative Law Judge (ALJ) Stella L. Owens-Murrell, Office of Administrative Hearings, Special Education Division (OAH), heard the above-captioned matter in Los Angeles, California on March 21, 2007.

Kerrie Taylor, Esq., of Fagen, Friedman & Fulfroost, represented Los Angeles Unified School District (District). Harriet Watson, Due Process Hearing Specialist, also appeared on behalf of the District.

Cindy Brining, Esq., of the Law Offices of Carol Graham, represented Respondent Student (Student). Student and his father also appeared at the hearing.

Student's Request for Due Process Hearing was filed on January 25, 2007. The hearing convened on March 21, 2007, and oral and documentary evidence were received. The hearing concluded the same day. The record remained open to permit the parties to submit written closing argument on or before March 30, 2007. The parties timely submitted their closing briefs. The record was closed and the matter submitted for decision on March 30, 2007.

ISSUE

Did District deny Student a Free Appropriate Public Education (FAPE) by failing to timely convene an individualized education program (IEP) meeting when Student transferred to the District in the 2006-2007 school year?

CONTENTIONS OF THE PARTIES

Student alleges a procedural violation by District after Student moved to the District from the Alhambra Unified School District (Alhambra) in the 2006-2007 school year. Student contends he notified District that he had moved to the District, requested District to convene an IEP, and requested the immediate provision of services in the form of home hospital instruction.¹ Student further alleges that the District failed to timely convene an IEP at Student's request. As a result, Student contends he was not enrolled in the District during the entire fall semester of the 2006-2007 school year causing Student a loss of educational opportunity. Student, who is 21 years of age, seeks compensatory education services in all academic areas in the form of home hospital instruction two hours per day, 10 hours per week, calculated from September 2006 to the present.

District asserts that Student did not provide District proof of residency or physically appear to enroll in the District until after he filed his due process complaint which initiated this action. District contends that Student failed to provide District with a signed IEP from Alhambra or a signed release authorizing District to obtain Student's information, did not timely provide District with notification of who held his educational rights, and did not consent to the District assessment plan to reassess Student until February 9, 2007, the

¹ The term "home hospital instruction" as defined at the hearing refers to a type of home study program for pupils whose medical conditions preclude their attendance in a regular school setting.

same day of the informal resolution session held in connection with Student's due process complaint. District further asserts that because Student failed to timely consent to assessment or respond to District's numerous requests, no IEP could be convened until after all prerequisites were satisfied, and thereafter, an IEP was timely scheduled to convene on March 9, 2007.

FACTUAL FINDINGS

BACKGROUND

1. Student is currently 21 years old and resides in the District with his parents. His District home school is Abraham Lincoln High School (Lincoln), where he is enrolled in the 12th grade. Student moved into the District sometime in 2006 after relocating from the Alhambra where he had an IEP that qualified him for special education.²

2. The Alhambra IEP dated October 17, 2005, indicated that Student's annual IEP date was January 6, 2006, the last triennial assessment was conducted on January 30, 2004, and the next triennial assessment was due January 30, 2007. Student had not attended school in Alhambra in the 2005-2006 school year. The IEP team noted in the section of the IEP entitled "Justification for Placement Recommendations(s)." the following information:

As of this date, Kyle is deemed eligible for special education assistance under the handicapping condition of emotional disturbance, with the conditions of a general pervasive mood of unhappiness/depression and a tendency to develop physical

² Student's father testified at hearing that he could not remember the date the family moved to the District. Student testified briefly and requested to be excused from the hearing. He did not produce evidence of the date he moved to the District.

symptoms or fears associated with school/personal problems. The current IEP team recommends that he be considered for a more restrictive placement, such as the LACOE-Mission program for emotionally disturbed students. Furthermore, a recommendation is made for an AB 3632 Mental Health Assessment referral to the LA County Mental Health Dept. to determine his eligibility for this type of assistance.

3. The Alhambra IEP dated October 17, 2005, identified Student as eligible under the category of Emotional Disturbance based upon the IEP team's review of assessment information and Student's Initial and Triennial IEPs. The IEP recommended a Resources Specialist Program consultation one day per week for 60 minutes per day to start October 17, 2005. The IEP also recommended a change in placement and school district to the Los Angeles County Office of Education (LACOE), Mission ED-SDC Program for Home Teaching Instruction Placement. No proposed start date was included. Neither Student nor his parents attended the IEP. Neither Student nor his parents signed the IEP.

DID DISTRICT VIOLATE THE PROCEDURAL REQUIREMENTS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) BY FAILING TO TIMELY CONVENE AN IEP MEETING WHEN STUDENT TRANSFERRED TO THE DISTRICT IN THE 2006-2007 SCHOOL YEAR, AND THEREBY DENY STUDENT A FAPE?

4. If an individual with exceptional needs has an IEP and transfers to a district from a district not operating programs under the same local plan in which he or she was last enrolled in special education program within the same academic year, the new school district shall provide the pupil with a FAPE, including services comparable to those described in the previously-approved IEP, in consultation with the parent, for a period not to exceed 30 days, by which time the new district shall adopt the previously- approved IEP or shall develop, adopt, and implement a new IEP.

5. When an individual with exceptional needs reaches the age of 18 the local education agency shall provide any notice of procedural safeguards required to both the individual and the parents of the individual. All other rights accorded to a parent transfer to the individual with exceptional needs. Student was 21 years of age and eligible to enroll in the 12th grade in the 2006-2007 school year. Student depended on his parents to make decisions concerning his educational rights.³

6. On October 18, 2006, District received a letter from Cindy Brining, Esq., concerning Student. In the letter, Ms. Brining informed District that she represented Student and his parents and that Student had moved to District in February 2006. Ms. Brining enclosed a copy of Student's October 17, 2005 IEP, requested the District implement Student's IEP from Alhambra, and requested District provide Student home hospital instruction. Student's father testified that he called the District prior to Ms. Brining's letter on Student's behalf, but did not establish the date of the telephone call. Ms. Brining's letter was Student's first contact with District and the first notice to District that Student may have been residing within the District

7. Following receipt of the October 18, 2006 letter from Student's attorney, District's Bridge Coordinator, Ms. Pauline DeWitt, spoke with Student's father by telephone and informed him that District would mail Student a request to complete and provide documents necessary to facilitate scheduling an IEP.

8. District prepared a Special Education Assessment Plan in which it proposed to assess Student in the areas of health and development, general ability, academic performance, language function, motor abilities, social-emotional status, self-help, career and vocational abilities.

9. On October 20, 2006, Ms. DeWitt and Ms. Jean S. Mueller, Assistant

³ Student testified that he looked to his parents to make his educational decisions because he was not able to make them on his own.

Principal at Lincoln, wrote to Student requesting Student verify his residency, that he agree to an assessment and sign and return both the enclosed assessment plan and release of information form to facilitate District's request for Student's records. The letter instructed Student to contact Ms. DeWitt to schedule an appointment, at which time he could bring in the completed items. District also requested Student provide proof of his father's legal right to make educational decisions on his behalf because Student was 21 years of age. The information requested was necessary to begin the IEP process.

10. On November 10, 2006, Student's father signed for receipt of the District's October 20, 2006 letter on Student's behalf. Student's father reviewed the letter and held the enclosed documents without completing and returning them. Neither Father nor Student responded to District's letter and did not contact District to make an appointment.

11. When District received no response from Student or his father, District wrote a second letter to Student dated November 15, 2006, requesting the identical information. District included a request for medical verification of Student's need for home hospital instruction. District also advised Student's attorney in writing that Student had not called District to make an appointment to be assessed.

12. Student failed to present any credible evidence that he or his father provided the completed documents or provided the District the information requested in either the October 20, 2006, or November 15, 2006 letters.⁴

13. On November 27, 2006, District's Bridge Coordinator, Ms. Pauline DeWitt,

⁴ Student's father testified that he faxed all the information requested to District, and he mailed the signed assessment plan enclosed in the District's second request letter dated November 15, 2006. Father also testified that he called District to follow up after he submitted the information and was told the paperwork had been forwarded to Ms. DeWitt. Ms. DeWitt testified she did not receive paperwork from Student or his father, Father's testimony was not persuasive on this point.

informed Student's father by telephone that he could bring Student in and enroll Student at Lincoln in the Resource Program based upon Student's October 17, 2005 IEP from Alhambra. Ms De Witt advised father, however, that District could not provide any other services or convene an IEP and no other placement decisions were feasible until Student or his parents consented to an assessment plan. While District was not obligated to adopt the October 17, 2005 IEP, District appropriately offered to provide interim placement to Student.⁵

14. On December 11, 2006, District notified Student's attorney in writing of the October 27, 2006 telephone discussion between Ms. DeWitt and Student's father in which District made its request for all of the information necessary to initiate the IEP process.

15. As of December 2006, Student had not consented to the assessment plan or provided District with any of the information requested by Ms. DeWitt. Student failed to take the required action necessary at this time to initiate the IEP process

16. On January 25, 2007, Student filed a Request for Due Process Hearing and Mediation alleging the District's violation of his procedural rights to a timely-convened IEP.

17. Student and his father appeared at Lincoln for the first time, on February 9, 2007, for an early resolution session scheduled in connection with Student's due process complaint.

18. On February 9, 2007, Student provided District with the information previously requested by District, which authorized his father to make decisions concerning his educational rights, and presented the District with two letters that purported to

⁵ Testimony of Ms. DeWitt and Ms. Mueller at hearing is that they were uncertain what placement and services were appropriate for Student because the Alhambra IEP was not approved by Student or his parent.

document Student's need for home hospital instruction.⁶ This is also the date that Student and his father signed the initial assessment plan dated October 20, 2006, which enabled District to schedule Student's assessment for March 7, 2007.⁷

19. On February 21, 2007, District invited Student and his parents to participate in an IEP team meeting scheduled for March 9, 2007. The invitation included a notice of Student's procedural rights and safeguards, and a Medical Referral Form for Home Instruction/Teleteaching to be completed by Student's physician stating the need for

⁶ Student offered into evidence a handwritten letter dated January 10, 2007, signed by Elsa C. Cruz, M.D., of Pacific Clinics which stated that Student was diagnosed with schizophrenia, paranoid type and that he would benefit from home schooling. The second letter purported to be from Stephen Cederbaum, M.D., and Erica Chang, R.N., of the University of California, Los Angeles, Division of Medical Genetics. According to Cederbaum and Chang, Student was seen by them for a rare genetic disorder which caused symptoms of muscle weakness and fatigue. Due to Student's medical and psychiatric conditions, they believed it appropriate for Student to continue to receive home-schooling. Student's father testified that the family including Student suffered from Hypomagnesemia, a rare genetic disorder that results from excessive loss of magnesium in the Kidney. Student offered no credible lay testimony and no expert testimony concerning his symptoms or conditions and need for home hospital instruction. Cruz, Cederbaum, and Chang did not testify at the hearing. Moreover, the evidence regarding the genetic disorder is irrelevant because Student's eligibility for special education was based upon ED and not Hypomagnesemia.

⁷ Student provided information on February 9, 2007, requested by District, three months prior to the filing of the due process complaint and was not necessarily provided in conjunction with the early resolution session.

home instruction.

20. On February 26, 2007, Student's father provided confirmation of his residency in the District, initiated Student's enrollment at Lincoln, and signed and returned the IEP invitation to attend the March 9, 2007 IEP team meeting.

21. On March 7, 2007, District's psychologist conducted Student's psychological assessment. The psychologist determined that further assessments of Student were needed because Student appeared fatigued during the assessment, Student's scores were low, and the tests utilized were normed to the age of 18 and Student was 21 at the time of the assessment. Student's father informed District that Student would not return to complete additional psychological assessments.

22. On March 9, 2007, Pauline De Witt conducted an academic assessment and prepared an IEP Assessment Report dated March 12, 2007. Because the assessments were not completed, the IEP team meeting was continued from March 9, 2007, to March 30, 2007.

23. The District made every effort to timely convene a new IEP, while implementing Student's Alhambra IEP when Student transferred into the District. Student's refusal to complete the psychological assessment caused the District further delay in the completion of the IEP process.

24. District policy required Student to visit his school of residence, establish his residency, and enroll before requesting an IEP. Once Student enrolled, District had 30 days to convene an IEP. District made three specific requests for proof of residence. District could not take action to provide services to Student or convene an IEP because District had no proof that Student actually lived in the District.

25. Student established his residency and initiated his enrollment at Lincoln on February 26, 2007, and Student completed his enrollment on March 17, 2007, more than

six months after the start of the 2006-2007 school year.⁸ District had 30 days from February 26, 2007, at the earliest, or 30 days from March 17, 2006, at the latest, to have convened an IEP. District timely scheduled an IEP to convene March 9, 2007. District continued the IEP team meeting to March 30, 2007, to complete District's assessments.

26. Student failed to prove District violated his procedural rights to a timely convened IEP and thereby denying him educational rights. Thus, Student failed to establish that District denied him a FAPE.

DISTRICT'S ASSESSMENT PLAN

27. District asserts that Student failed to consent to an assessment plan which District required before it could convene an IEP.

28. A child must be assessed by a school district in all areas related to the suspected disability, including, if appropriate health and social and emotional status. The school district must present a written plan to the student's parents encompassing the areas it seeks to assess. The district must timely notify parents of the assessment giving parents at least 15 days to respond or consent to the assessment plan. The school district cannot perform an assessment without parental consent. A student must permit the school district to conduct the necessary and appropriate assessments if student intends to avail himself of the benefits afforded under the IDEA.

29. The evidence supports a finding that Student did not consent to the District Assessment Plan until February 9, 2007. The assessment was necessary because District did

⁸ In their closing written arguments, Student and District posited different dates on which they believe Student's residence in the District was established. Student argues that residency was established in October because District mailed a letter to Student at the address provided by either his attorney or his father. Student's argument is not supported by the evidence and he offered no legal authority for this proposition.

not have an approved IEP from Student's last District of residence, Student was due for the triennial assessment, and District was required to assess all areas related to Student's suspected disability and implement an appropriate IEP. District conducted a psychoeducational assessment and required further testing by Student. Student refused to participate in additional psychoeducational assessments and the assessment was left incomplete.

30. The evidence overwhelmingly establishes that the delay in the scheduling of Student's IEP was occasioned by Student's failure to comply with District's numerous requests to provide documentation and information required to facilitate Student's enrollment in the District.

31. Student failed to prove District violated his procedural right to a timely IEP. Student was required to comply with the reasonable and necessary assessment requests of the District. Student did not permit the District to conduct the necessary and appropriate assessments. By his actions Student waived his right to a timely IEP.

32. Even if Student established that District failed to timely convene an IEP upon his transfer to the District any such procedural violation would not have resulted in denial of FAPE on the facts in this case. While there is evidence that Student suffered a loss of educational opportunity in the 2006-2007 school year, the loss was not caused by District's actions, but instead by Student's failure to comply with District's timely requests and Student's self-imposed and inexplicable delays in enrolling in the District.⁹

⁹ Student and his father testified that they both suffered disabling illness during the period at issue in this case, which they asserted caused the delays on their part in physically presenting at Lincoln High School to enroll, etc. While their testimony in this regard is sympathetic, Student produced no credible evidence that it was impossible for them or Student's mother to comply with District's repeated requests for information.

COMPENSATORY EDUCATION

33. Student contends that he was entitled to compensatory education services in all areas of academics in the form of home hospital instruction, two hours per day, 10 hours per week from September 2006 to the present because of District's failure to implement this service based upon the October 17, 2005 IEP.

34. Compensatory education is an equitable remedy that courts may employ to craft appropriate relief for an aggrieved party. Equitable relief requires review of the conduct of both parties to determine whether relief is appropriate.

35. There is no support in the record for an award of compensatory education. Compensatory education can only be awarded where it is found that there was a substantive denial of FAPE. Moreover, even if Student had proved a substantive violation and hence his entitlement to compensatory education, Student's dilatory conduct in this case would preclude an award.

36. Student did not meet his burden to show District denied him a FAPE.

LEGAL CONCLUSIONS

APPLICABLE LAW

1. Student has the burden of proof that District failed to timely convene an IEP and such action resulted in a loss of educational opportunity or benefit to Student. (*Schaeffer v. Superintendent, Montgomery County Public Schools, et al., Weast* (2005) 546 U.S. 49, [126 S.Ct. 528, 163 L.Ed.2d 387].)

2. A child with a disability has the right to a FAPE. (20 U.S.C. §1412(a) (1) (A);¹⁰ Ed. Code, § 56000) A FAPE is defined in pertinent part as special education and related services that are provided at public expense and under public supervision and direction,

¹⁰ All statutory references are to the Individuals with Disabilities Education Act (IDEA), title 20 of the United States Code, unless specifically noted otherwise.

that meet the State's educational standards and that conform to the student's IEP. (20 U.S.C. § 1401(9); Cal. Code Regs., tit. 5, § 3001, subd. (o))

3. There are two parts to the legal analysis in suits brought pursuant to the IDEA- Procedural and Substantive. First, the court must determine whether the school system has complied with the procedures set forth in the IDEA. (*Bd. Of Ed. Of the Hendrick Hudson Sch. Dist v. Rowley* (1982) 458 U.S. 176, 200 [*Rowley*].) Second, the court must assess whether the IEP developed through those procedures was designed to meet the child's unique needs, reasonably calculated to enable the child to receive educational benefit, and comported with the child's IEP. (*Rowley*, at pp. 206-207.)

4. In *Rowley*, the United States Supreme Court recognized the importance of adherence to the procedural requirements of the IDEA. But procedural violations constitute a denial of FAPE only if the violations caused a loss of educational opportunity to the student or significantly infringed on the parents' right to participate in the IEP process. (*Rowley*, at pp. 206-207; *M.L. v. Federal Way Sch. Dist.* (9th Cir. 2004) 394 F.3d 634, 646; *MM v. Sch. Dist. Of Greenville County* (4th Cir. 2002) 303 F.3 523, 534; *Amanda J. v. Clark County Sch. Dist.* (9th Cir. 2001) 267 F. 3d 877, 892.)

5. For non-conserved pupils, the last district of residence in effect prior to the pupil's attaining the age of majority shall become and remain as the responsible local educational agency, as long as and until the parent or parents relocate to a new district of residence. At that time, the new district of residence shall become the responsible local educational agency. (Ed. Code, § 56041, subd. (a).) Residency under the IDEA is measured by "normal" standards. (20 U.S.C. § 1413 (a)(1); *Union Sch. Dist. v. Smith* (9th Cir. 1994) 15 F.3d 1519, 1525.)

6. When an individual with exceptional needs reaches the age of 18, with the exception of an individual who has been determined to be incompetent under state law, the local education agency shall provide any notice of procedural safeguards required by this part to both the individual and the parents of the individual. All other rights accorded

to a parent under this part shall transfer to the individual with exceptional needs. (Ed. Code, § 56041.5.)

7. If an individual with exceptional needs has an IEP and transfers to a district from a district not operating programs under the same local plan in which he or she was last enrolled in special education program within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized educational program, in consultation with the parent, for a period not to exceed 30 days, by which time the local educational agency shall adopt the previously approved individualized education program or shall develop, adopt, and implement a new individualized education program that is consistent with federal and state law, pursuant to paragraph (1) of subdivision (a) of section 56325. (Ed. Code, § 56043, subd. (m)(1).)

8. To facilitate the transition of an individual with exceptional needs, the new school in which the individual enrolls shall take reasonable steps to promptly obtain the pupil's records, including the individualized education program and supporting documents and any other records relating to the provision of special education and related services to the pupil, from the previous school in which the pupil is enrolled, pursuant to paragraph (2) of subsection (a) of section 99.31 of title 34 of the Code of Federal Regulations. (Ed. Code, §56325, subd. (b)(1).)

9. A child must be assessed by a school district in all areas related to the suspected disability (Ed. Code, §§ 56320(f), 56381 subd. (f)), including, if appropriate health and social and emotional status. (34 C.F.R. § 300.532(g).) A district's evaluation is held to a standard provided in the statute of "reasonableness." (*Rowley*, at page 200.) The school district must present a written plan to the student's parents encompassing the areas it seeks to assess. The district must timely notify parents of the assessment giving parents at least 15 days to respond or consent to the assessment plan (Ed. Code, § 56321, subd. (a).) The school district cannot perform an assessment without parental consent. (Ed. Code, §

56321, subd. (c).) If a parent refuses to provide consent for a school district assessment, the school district can request a due process hearing to override the refusal to consent. (Ed. Code, §§ 56321(c), 56501(a)(3), 56506 subd. (e).)

10. A reassessment shall occur at least once every three years, unless the local educational agency and parent agree, in writing, that a reassessment is unnecessary. A reassessment may not be conducted, unless the written consent of the parent is obtained prior to reassessment, except pursuant to subdivision (e) in section 56506. Pursuant to paragraphs (1) and (2) of subsection (c) of section 300.505 of title 34 of the Code of Federal Regulations, informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the local educational agency can demonstrate that it has taken reasonable measures to obtain that consent and the child's parent has failed to respond. To meet the reasonable measure requirements of this subdivision, the local educational agency shall use procedures consistent with those set forth in subsection (d) of section 300.345 of title 34 of the Code of Federal Regulations. (Ed. Code, § 56381, subds. (a)(1), (2), (e), (f) & (g).)

11. A student must permit the local educational agency to conduct the necessary and appropriate assessments if student intends to avail himself of the benefits afforded under the IDEA. (*Wesley Andress v. Cleveland Independent School District* (5th Cir. 1995) 64 F.3d 176, 178; *S.F. v. Camdenton R-III School District* (8th Cir. 2006) 439 F.3d 773; *see also*, 20 U.S.C. § 1414 (a)(1)(D)(ii)(II); 34 C.F.R. § 300.505 (a) (1) (ii).) Until student's parents waive all claims under IDEA, they must comply with the reasonable and necessary assessment requests of the District. (*Dubois v. Connecticut State Board of Education*, (2d Cir. 1983), 727 F.2d 44, 49.)

12. An Administrative Law Judge may order a school district to provide compensatory education to a pupil who has been denied a FAPE. (*Student W. v. Puyallup Sch. Dist.* (9th Cir. 1994) 31 F.3d 1489, 1486.) Compensatory education is an equitable remedy that courts may employ to craft appropriate relief for an aggrieved party. The law

does not require that day-for-day compensation be awarded for lost or missed time. Equitable relief requires review of the conduct of both parties to determine whether relief is appropriate. (*W.G. v. Bd. Of Trustees of Target Range Sch. Dist. No. 23* (9th Cir. 1992) 960 F.2d 1479, 1484.) As the court indicated in *Miller v. San Mateo-Foster City Unified School District*, supra, 318 F.Supp.2d 851, 859-860: "equitable relief is a fact- specific inquiry in which the Ninth Circuit had held that 'the conduct of both parties must be reviewed to determine whether relief is appropriate.'"

DETERMINATION OF ISSUE

Did District deny Student a Free Appropriate Public Education (FAPE) by failing to timely convene an IEP meeting when Student transferred to the District in the 2006-2007 school?

13. District did not violate Student's procedural rights to have an IEP scheduled in a timely manner within 30 days of Student's transfer to the District or within 30 days of Student's request. In this case the evidence demonstrates that upon receipt of notice from Student's attorney of Student's possible residence in the District, the District invited Student to appear and enroll. District also undertook a series of attempts to obtain Student's consent to an assessment plan and collect other additional information necessary to facilitate District's provision of a FAPE. District was not required to adopt Student's last IEP for the reasons set forth in Factual Findings 4 through 13. In fact, District essentially had no obligation to Student until he was enrolled in the District. Nevertheless, District made every effort to comply with the requirements under the IDEA to schedule an IEP. District was entitled to assess Student and to develop and implement an appropriate IEP. The Student delayed the process by failing to respond to District's requests and instead filed a due process complaint. After filing the complaint, Student consented to assessment and enrolled in school. Student could not avail himself of the benefits afforded under the IDEA until he consented to the assessment. Even then, Student refused to

cooperate fully with District in the completion of his psychological assessment. It was Student's enrollment that triggered District's obligation to convene an IEP. Since there was no procedural violation, there can be no determination that Student suffered a loss of educational opportunity which would warrant an award of compensatory education. Based upon Factual Findings 2 through 36 and Legal Conclusions 1 through 12, the District did not deny Student a FAPE.

ORDER

Student's request for relief is denied.

PREVAILING PARTY

Pursuant to California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided. The District prevailed on the single issue presented.

RIGHT TO APPEAL THIS DECISION

The parties to this case have the right to appeal this Decision to a court of competent jurisdiction. If an appeal is made, it must be made within ninety (90) days of receipt of this decision. (Ed. Code § 56505, subd. (k).)

April 17, 2007



STELLA L. OWENS-MURRELL

Administrative Law Judge

Office of Administrative Hearings

Special Education Division