

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

OAH Case No. 2017070535

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

DECISION

Student filed a due process hearing request (complaint) with the Office of Administrative Hearings, State of California, on July 14, 2017, naming Los Angeles Unified School District, Birmingham Community Charter High School, and El Monte Union High School District. On August 30, 2017, July 21, 2017, and July 17, 2017, respectively, each Respondent served on Student its written response to the complaint.

On August 31, 2017, OAH issued an order to bifurcate the issue of Student's residency to determine which Respondent, if any, was responsible to offer and provide special education services to Student. On September 1, 2017, OAH continued the due process hearing for good cause, and set Phase I, on the issue of residency, for hearing on October 24, 2017. Phase 2 of the hearing would proceed as to the responsible agency or agencies, if any, after the issue of residency was determined. All parties timely filed prehearing briefs on the issue of residency on October 18, 2017.

ALJ Cole Dalton heard the issue of residency in Van Nuys, California, on October 24 and 25, 2017. On October 31, 2017, OAH dismissed El Monte and Birmingham, finding that Student was a resident of Los Angeles during the time period in dispute and

setting Phase 2 of the hearing for November 6, 2017.

On November 6, 2017, OAH, for good cause, granted Los Angeles' request to continue Phase 2 of the hearing to November 13, 2017. On November 9, 2017, OAH, for good cause, granted the parties' joint second request for continuance and set the hearing for December 11 through 14, 2017.

ALJ Cole Dalton heard the remaining issue in Phase 2 of the matter in Van Nuys, California, on December 11 through 14, 2017.

Diane Weissburg, Attorney at Law, represented Student. Mother attended each day of hearing on behalf of Student.

Mary Kellogg, Attorney at Law, represented Los Angeles. Litigation Coordinator for Due Process Natalie Hofland attended each day of hearing on behalf of Los Angeles.

OAH granted the parties' request to continue the matter to January 2, 2018, to permit the parties to file written closing arguments. Upon timely receipt of closing arguments, the record was closed and the matter submitted for decision on January 2, 2018.

ISSUE¹

Did Los Angeles deny Student a free appropriate public education for the 2017-2018 school year by failing to fulfill its child find obligations when, after being notified in May 2017 of Student's need for an individualized education program to transition to high school, Los Angeles failed to conduct timely assessments in all areas

¹ OAH's October 31, 2017 order dismissing El Monte and Birmingham mooted issues pertaining to those entities. The remaining issue was rephrased and reorganized for clarity, and agreed upon by all remaining parties at a prehearing conference on October 13, 2017.

of suspected disability, review the assessments at an IEP team meeting, and make an offer of FAPE prior to the end of the 2016-2017 school year?

SUMMARY OF DECISION

Student enrolled in Westmark, a private school in Encino, in August 2016, pursuant to a settlement agreement with his former district of residence, Rosemead School District. Westmark was located within the boundaries of Los Angeles Unified School District. In preparation for his transition to high school, Student sought assessments and an individualized education program from El Monte Union High School District, based upon Father's residence within El Monte's attendance boundaries. In January 2018, however, Mother became sole education rights holder and resided in Encino, making Los Angeles Student's district of residence. However, through the end of Los Angeles' 2016 – 2017 school year, neither Attorney Weissburg nor Mother nor Westmark apprised Los Angeles of Mother's sole education rights, or Student's need for any additional assessments or an offer of a free appropriate public education. Instead, Attorney Weissburg continued advising El Monte that Parents shared joint legal and physical custody, Father resided within El Monte's boundaries, and that it should complete its assessments.

The evidence demonstrated that Los Angeles conducted appropriate child find activities during the relevant time period. Student chose not to seek assessments from Los Angeles and refused to attend an individualized education program team meeting with Los Angeles during the relevant time period. Student did not demonstrate that Los Angeles denied him a free appropriate public education.

FACTUAL FINDINGS

1. At the time of hearing, Student was a 14-year-old boy initially found eligible for special education due to speech-language impairment by Rosemead School

District in November 2008. Rosemead serves students from kindergarten through eighth grade. At the time, Student lived with both Parents, within the attendance boundaries of Rosemead. Parents exited Student from special education in September 2012. Mother subsequently retained attorney Diane Weissburg in January 2015 to obtain assessments and an IEP for Student.

2. Factual findings from OAH's October 31, 2017 Order are incorporated in this decision. On September 15, 2015, Rosemead held Student's initial IEP team meeting and again found him eligible for special education and related services due to speech-language impairment. Rosemead offered Student general education placement with speech and language services for 30 minutes per week individually and 30 minutes per week in a small group to address three goals (use of compensatory strategies in the classroom; problem solving using complete sentences and correct grammar; and use of inferences and non-literal language). Student's accommodations included repetition, review, and drills; visual copies of directions, lecture notes or outlines, and study guides; checking for understanding; short verbal directions; and preferential seating.

3. Mother and Attorney Weissburg attended the September 2015 IEP team meeting, but left early because of a disagreement with the IEP facilitator's meeting ground rules. Father stayed and consented to implementation of the IEP. Rosemead implemented Student's September 15, 2015 IEP² throughout the remainder of the 2015 – 2016 school year.

4. Student began attending Westmark, a private school in Encino, in August 2016 pursuant to a settlement agreement between Parents and Rosemead, executed on December 9, 2015. Under the agreement, Student was deemed a parentally placed

² Student's September 15, 2015 IEP became the stay put IEP pursuant to OAH's August 1, 2017 Order.

private school student. Student's attendance at Westmark was delayed, in part, over an ongoing dispute between Parents, who then shared education rights.

5. On January 18, 2017, Mother obtained a family law court order granting her sole education decision making rights for Student, to ensure that his placement at Westmark continued. Father resided in Rosemead, while Mother resided in Encino.

6. In February 2017, Dr. Marguery Lyvers, a licensed clinical psychologist, conducted a psychoeducational assessment of Student. Dr. Bea Braun, an audiologist, tested Student in March 2017.

7. On March 30, 2017, Attorney Weissburg contacted Rosemead to set up a transition IEP team meeting with El Monte Union High School District, in preparation for Student starting ninth grade in the 2017-2018 school year. El Monte was the receiving high school district for students transitioning from Rosemead, which served elementary and middle school students. El Monte was not contacted directly on behalf of Student; was not given Mother's address in Encino; and was not on notice of Mother's status as sole education rights holder at this time. The May 3, 2017 notice of IEP team meeting for May 16, 2017, identified Student's residence in Rosemead, his father's address.

8. On May 16, 2017, Rosemead held a transition IEP team meeting with El Monte. In all, 16 people attended the meeting, including Dr. Lyvers; Director of Westmark Middle School Paul Curtis; Father; Mother; and Attorney Weissburg. Attendees from Rosemead included audiologist Karla Ramirez; speech language pathologist Rosemary Richards; school psychologist Victoria Torres; school nurse Nadine Wilcox; special education and general education teacher Yvonne Jongeling; Director of Special Education Dawn Rock; and attorney Karen Gilyard. Ms. Ramirez worked for the West San Gabriel Special Education Local Plan Area, which served both Rosemead and El Monte. Attendees from El Monte included school psychologist Alexi Stephens; Special Education Director Rita Donato; and attorney Jennifer Chamberlain.

9. The IEP team reviewed the assessments of Dr. Braun, Dr. Lyvers, and academic assessments from Westmark. Rosemead reported Student's grades as falling within the average range. Testing from Dr. Lyvers fell within average range. Dr. Lyvers diagnosed Student with specific learning disability based upon her observations at Westmark, not upon any formal assessment tools. Dr. Lyvers opined that Student required frequent prompting and a small class structure. She did not conduct speech and language testing. Though Student previously qualified for special education under speech-language impairment, he did not receive speech and language services at Westmark. Westmark did not have a speech language pathologist on staff. No recent speech and language assessments were conducted for review at the IEP team meeting.

10. During the course of the IEP team meeting, Mother reported that she held sole education rights for Student and discussed her residence in Encino. Based upon Mother's representations, Attorney Chamberlain requested a subsequent IEP team meeting to allow the current district of residence, thought to be Los Angeles, to be present at the meeting. Because of the discrepancy between Student's testing and services, El Monte requested to conduct its own assessments in the interim.

11. IEP team meeting notes reflect Attorney Weissburg's statement that she reviewed El Monte programs and did not believe the district could meet Student's needs. Attorney Weissburg requested continued funding of Student's placement at Westmark in lieu of filing an "expedited"³ request for due process hearing. Rosemead agreed to fund Student's 2017 extended school year services at Westmark.

12. During Phase 2 of the hearing Mother described a telephone call

³ Ms. Weissburg referred to IEP's, assessments, and requests for due process hearing as "expedited" because she wanted them to happen quickly, not because of any legal requirement that they occur within a shortened timeframe.

purportedly made by her attorney to Los Angeles after the May 16, 2017 IEP team meeting, in Mother's presence. Mother testified that counsel left her name, telephone number and identified Student. However, Mother did not know what number was dialed, whether anyone answered, and if so, what that person said. Because of Mother's lack of veracity in the Phase 1 hearing, the self-serving nature of this testimony, and the inconsistency with the weight of the evidence, it was not found credible. Los Angeles was not on notice that Student required special education services as of May 16, 2017.

13. Mother signed El Monte's assessment plan on May 17, 2017, with the caveat that El Monte not use the same testing instruments recently used by Dr. Lyvers and Westmark. As of May 17, 2017, Student was not enrolled in El Monte. Thereafter, El Monte communicated with Attorney Weissburg, attempting to verify Mother's residence and status as sole education rights holder.

14. Contradicting Mother's assertions at the May 2017 IEP team meeting that she held sole educational rights, on May 18, 2017, Attorney Weissburg provided Attorney Chamberlain with an August 22, 2014 court order showing that Parents had joint physical and legal custody. Attorney Chamberlain requested Mother's current address to determine if Los Angeles needed to be involved in the IEP process. On May 21, 2017, through an email to Attorney Chamberlain, Attorney Weissburg persisted with her assertions that Parents shared joint legal and physical custody and that Father's residence in Rosemead meant Student resided within El Monte's boundaries.

15. On May 21, 2017, Attorney Chamberlain responded to Attorney Weissburg explaining that shared custody resulted in both districts being responsible for participating in the IEP process. Because of Mother's address in Encino, El Monte believed that Los Angeles should be involved in the decision-making process regarding the development of Student's IEP. Attorney Weissburg affirmed that she was not concerned with Los Angeles but that El Monte, if they chose to, could pursue Los

Angeles. Attorney Weissburg only sought clarification that El Monte would conduct assessments in all areas of suspected disability. Attorney Weissburg stated that she would file for due process if El Monte did not assess in all areas of suspected disability.

16. On May 23, 2017, Ms. Chamberlain advised Los Angeles' due process specialist Natalie Hofland that Parents shared physical custody of Student; that Student would be transitioning into El Monte and Los Angeles from Rosemead; and that they were currently conducting assessments. At the time she received the email, Ms. Hofland believed that Attorney Chamberlain represented Student and asked for proof of representation.

17. Ms. Hofland worked for Los Angeles for 28 years, holding positions as a teacher, program specialist, and co-founder of New Open World Academy, a kindergarten through 12th grade pilot school. She worked as a specialist in compliance, support, and monitoring and at the time of hearing held the position of litigation coordinator for due process in special education. Her duties included coordinating implementation and compliance and acting as a liaison with the central office, local offices, and Los Angeles' Charter SELPA staff. She represented Los Angeles in due process resolution sessions and mediations and trained staff in all areas related to IEP's and dispute resolution. Ms. Hofland held a bachelor of arts in liberal studies; a master of science in educational administration; and was a doctoral candidate in educational leadership, administration, and policy. She held California credentials, including a professional clear multiple subjects teaching credential; a clear cross-cultural language and academic development credential; a tier II education specialist credential; a Utah teaching credential for mild to severe special education; and several other credentials and certifications in the field of education.

18. Ms. Hofland demonstrated extensive knowledge of Los Angeles' policies and procedures with regard to special education programs, compliance, and due

process. She answered questions readily, directly, and without hyperbole. For these reasons, her testimony was persuasive and credible.

19. Ms. Hofland learned of Mother's Encino address on May 23, 2017 from Attorney Chamberlain. Based upon the address, Ms. Hofland believed that Birmingham Community Charter School was Student's district school of residence. Ms. Hofland contacted Birmingham's counsel, Attorney Corr, to put her on notice of Student. Birmingham performed assessments and attended IEP team meetings for Los Angeles for students living within Birmingham's former attendance boundaries⁴, acting as an agent for Los Angeles.

20. On May 30, 2017, El Monte sent an email to Ms. Hofland asking for an update on whom to speak with regarding Student's case. The email reference line said "IEP meeting," though the body of the text did not refer to a meeting date. Ms. Hofland replied the same day, seeking proof of Parents' educational rights and the date of the IEP team meeting. Ms. Hofland carbon copied Emily Kuwahara, Los Angeles' private school liaison, because Student attended Westmark, a private school within Los Angeles' boundaries.

21. Ms. Kuwahara had a master of arts in special education and education administration. She had worked as an inclusion specialist, least restrictive environment full inclusion facilitator, private school consultant, mentor teacher, resource specialist, and instructional support team advisor. She worked for Los Angeles in its special education division for eight years monitoring compliance with special education programs, supervising school site staff, and delivering professional development. For the past two years, she worked as administrator of the office of parentally placed private

⁴ Birmingham previously acted as an independent charter school. Birmingham retained its former attendance boundaries when it began acting as a district school.

school students and special projects. Her duties included child find search and serve; supervising private school consultants; maintaining data on parentally placed private school students; consulting with private schools' representatives on parentally placed children, child find, and individual service plans; and monitoring of timely completion of service plans and IEP's.

22. Ms. Kuwahara had extensive knowledge about Los Angeles' child find activities and about Westmark. She supervised Los Angeles' private school consultants, who held monthly meetings at Westmark. Their duties included ascertaining if any students required special education assessments or had IEP's. Ms. Kuwahara conferred with the private school consultant for Westmark and confirmed that Westmark had not notified Los Angeles that Student had an IEP or sought assessments from August 2016 through the time of hearing.

23. Ms. Kuwahara described Los Angeles' child find activities from the time Student enrolled in Westmark through the date of hearing. In addition to monthly meetings with private school consultants, Los Angeles' child find activities included maintaining a website that provided information on how to initiate or obtain assistance initiating special education assessments and IEP's and parent rights. The website provided telephone numbers and contact information for anyone seeking more information on Los Angeles' special education services.

24. Ms. Kuwahara's office held meaningful consultation meetings with private school representatives and community organizations, annually. The meetings were held to explain child find activities; use of proportionate share monies for individual service plans; and the process of referral for assessment for students who may be in need of special education.

25. Ms. Kuwahara's office sent child find posters at the beginning of each school year to all private schools operating within Los Angeles' boundaries, including

Westmark. Ms. Kuwahara's staff obtained the names and addresses of each private school located within its boundaries in the spring of each year. Information was obtained from California Department of Education's website, which maintained a list of private schools in each school district in the state. In the normal course of business, Ms. Kuwahara's staff mailed child find posters to each private school within Los Angeles' boundaries in the beginning of the 2016-2017 and 2017-2018 school years, including Westmark. On rare occasion, such mail was returned unopened. Ms. Kuwahara would be notified of such returns and did not receive any returned mail from Westmark. Ms. Kuwahara reviewed mailing lists for the relevant time period and confirmed that Los Angeles used Westmark's correct mailing address.

26. Veronica Smith was Director of Los Angeles' Division of Special Education Modified Consent Decree Monitoring/Policies and Procedures for nine years. She had a bachelor of arts in speech and hearing therapy, and a master of arts in both speech and language pathology and administration. She worked with Los Angeles since 1987. Her duties as director involved monitoring special education policy and procedures; compliance monitoring; complaint investigation; consent decree monitoring; parent engagement and training activities; and child find. Los Angeles' child find efforts were uncontroverted.

27. Ms. Smith explained that child find posters were sent annually throughout Los Angeles' attendance boundaries to agencies such as the department of children family services, regional centers, department of rehabilitation, and public libraries; private schools; pediatricians; health care agencies; and other community groups. The poster provided information on who to contact for special education referrals and was designed to reach children who may not be attending district schools. Further, Los Angeles mailed brochures to addresses of children enrolled in district schools entitled, "Are You Puzzled by Your Child's needs?"

28. At the Phase 2 hearing, Mother testified she did not see child find posters at Westmark. She did not recall receiving child find brochures mailed to her Encino home.

29. After receiving the May 30, 2017 email from El Monte referencing an IEP team meeting for Student, Ms. Kuwahara sent her private school consultant to Westmark for more information. Westmark advised the consultant that Student did not have an IEP and Westmark had no concern regarding a need for assessments. Westmark did not refer Student for assessment. Moreover, neither Mother nor Attorney Weissburg emailed, wrote a letter, or telephoned Los Angeles seeking an IEP or assessments.

30. Paul Curtis, Westmark's interim director of middle school, held a bachelor of arts in English literature and was enrolled in a master's program for educational therapy at the time of hearing. Mr. Curtis confirmed at hearing that students were not referred to Westmark through IEP's but through independent professionals and marketing. Westmark did not develop IEP's for its students and did not refer them back to school districts.

31. At the Phase 2 hearing, apparently attempting to bolster the claim that Los Angeles had notice of Student's special education needs before the end of the 2016-2017 school year, Mother testified that she dropped off enrollment paperwork with Los Angeles' special education administrator Leslie Shapiro, at Reseda High School, in June 2017. However, Mother wasn't notified that Reseda was Student's home school until the 2017-2018 school year.

32. Moreover, Mother's reporting contradicted Ms. Hofland's investigation of the matter. Ms. Shapiro did not start working at Reseda High School until the 2017-2018 school year. Michael Kessler worked as administrator of Reseda in June 2017. No other personnel named Shapiro worked at Reseda in June 2017. Further, Ms. Shapiro worked at Hale Middle School in June 2017, which was not near Reseda. District first received

enrollment paperwork on November 8, 2017 when Ms. Shapiro received the paperwork from Mother and forwarded it to Ms. Hofland. An email from Attorney Weissburg to Attorney Mary Kellogg confirmed that Mother gave the paperwork to Ms. Shapiro on November 8, 2017, not in June 2017.

33. In Phase 2, as in Phase 1, Mother's testimony was contradictory, confusing, and misleading and was therefore given little weight where not corroborated by other evidence.

34. Los Angeles' school year ended June 9, 2017. That same day, Attorney Weissburg sent El Monte Father's utility bills to verify residency within El Monte. Attorney Weissburg advised Attorney Chamberlain that "parents share joint physical and legal custody" and that Father resided within El Monte's boundaries for the past seven years. She offered to provide any missing documents to El Monte, as she had all of Student's prior records.

35. By the end of the 2016 -2017 school year, Los Angeles did not have documents verifying Mother's residence in Encino and did not have a court order establishing Mother's sole educational decision-making rights. Rather, Attorney Weissburg continued to assert to El Monte that Parents shared legal and physical custody and that El Monte should serve Student based upon Father's address in Rosemead. Los Angeles' only information on Student came through El Monte. Neither Mother nor Attorney Weissburg provided information or documents to Los Angeles by this time. Moreover, neither contacted Los Angeles by telephone, email, or letter seeking assessments or an offer of FAPE.

36. On June 13, 2017, El Monte sent Ms. Hofland the only IEP of Student El Monte had. The IEP was dated May 16, 2017. That same day, Ms. Kuwahara recommended that Birmingham contact Rosemead to obtain Student's complete May 16, 2017 IEP. She believed the IEP was incomplete because it contained only a signature

page and notes, not a recitation of offered placement and services. The IEP meeting notes contained Mother's statement that she was the education rights holder and El Monte's request to conduct additional assessments. Based upon this information, Ms. Kuwahara recommended that Birmingham generate an assessment plan for Mother's consent, since she was the education rights holder. Ms. Kuwahara opined that this was the first notice Los Angeles received that Student had an IEP and may need assessments. Ms. Kuwahara and Ms. Hofland discussed the assessment timeline, given that the school year had already ended.

37. In June 2017, Ms. Kuwahara believed Los Angeles would have 30 days after the start of the 2017-2018 school year to conduct assessments. Ms. Hofland opined that assessments should be completed within 60 days of the new school year, as Los Angeles did not have notice of Student requiring special education services until after the end of the 2016-2017 school year. Attorney Weissburg had still not sought assessments from Los Angeles, and in fact had made no contact with Los Angeles by this time.

38. On June 16, 2017, El Monte advised Attorney Weissburg that Los Angeles' counsel Lisa Corr would be contacting Mother, would take the lead on scheduling the IEP team meeting, and that El Monte would complete its assessments and present them at the meeting. Ms. Corr was Birmingham's attorney and Birmingham was acting on behalf of Los Angeles.

39. On June 23, 2017, Attorney Chamberlain, sent an email to Attorney Weissburg and Attorney Corr with an authorization for release of information so that El Monte could share its assessments with Los Angeles, relating that, "we need to bring Los Angeles into the loop." Mother signed the authorization that day, writing on the authorization that its purpose was for educational assessment, educational planning, a transition IEP, and nonpublic school placement. The release did identify Mother's residence in Encino.

40. El Monte completed its psychoeducational assessment on June 28, 2017. By June 30, 2017, El Monte, Birmingham, and Student agreed to attend an IEP team meeting on July 13, 2017, as reflected in an email exchange between El Monte and Attorney Weissburg.

41. On July 6, 2017, Attorney Weissburg and El Monte continued to work out details for the summer IEP team meeting. El Monte forwarded the speech and language assessment to Attorney Weissburg. El Monte notified Student that Los Angeles agreed to attend and offer placement and services. At hearing, Los Angeles agreed that they planned to offer a FAPE to Student through Birmingham's attendance at the IEP team meeting. Los Angeles agreed to make a general education teacher available at the meeting. On July 10, 2017, Attorney Weissburg confirmed that she and Mother would attend the July 13, 2017 meeting.

42. On July 10, 2017, Mother provided enrollment documents to El Monte. She verified her residence in Encino.

43. On July 12, 2017, Attorney Corr began an email exchange with Attorney Weissburg offering to conduct assessments on behalf of Los Angeles. Attorney Corr sought a teleconference with Attorney Weissburg to discuss which assessments Attorney Weissburg thought were outstanding, schedule a school visit for Parents, and schedule an IEP team meeting, in addition to the July 13, 2017 IEP team meeting already scheduled with El Monte and Los Angeles.

44. At the Phase 2 hearing, Mother conceded she received a copy of the July 12, 2017 email from her attorney, but did not tour Birmingham because she wanted Student to stay at Westmark. She explained that was why they held the May 2017 transition IEP, to obtain a resolution that El Monte would be the responsible party. Mother later learned, after the Phase 1 hearing, that Los Angeles would be the responsible party, but Los Angeles had not offered to pay for Westmark.

45. On July 12, 2017, El Monte emailed Attorney Weissburg confirming the attendance of all mandatory IEP team meeting participants for the July 13, 2017 meeting, which included general and special education teachers, assessors, and district representatives from El Monte and Los Angeles. Thereafter, Attorney Weissburg cancelled the meeting, opining the meeting could not go forward without a nurse or audiologist. She referred to El Monte's assessments as being incomplete and any IEP team meeting as a "waste of time." El Monte explained that its school psychologist considered Student's prior audiological assessment and adopted the findings in her own report, making the attendance of an audiologist unnecessary. Attorney Weissburg believed El Monte and Los Angeles had predetermined an IEP offer and she advised El Monte that Student would proceed to hearing instead of attending the meeting.

46. Mother did not want to attend the IEP team meeting on July 13, 2017, because she did not believe Los Angeles could offer a placement based upon El Monte's assessments. At the Phase 2 hearing she expressed knowledge of the IEP process based upon her past experience. She demonstrated a lack of trust, generally, that Student would be offered sufficient services and that district providers would consider her input.

47. On July 14, 2017, Attorney Weissburg, on behalf of Student, filed the complaint and a motion for stay put at Westmark. She sent the documents to Attorneys Chamberlain and Corr. Attorney Corr advised Attorney Weissburg to send documents for Los Angeles to Attorney Kellogg. Attorney Weissburg had not contacted Attorney Kellogg previously in this matter.

48. On July 21, 2017, Los Angeles sent a response to Student's complaint reflecting that it was aware of Mother's residence in Encino, but that Student had not been enrolled in Los Angeles and had not requested special education services from Los Angeles and that, depending on care and custody arrangements, Student might be able to elect a district to receive services from. This position was consistent with information

Los Angeles received from El Monte, which was passed on from Attorney Weissburg: that Parents continued to share joint legal and physical custody and Father resided in Rosemead. In response, Student did not request assessments or a FAPE offer from Los Angeles.

49. On October 30, 2017, Ms. Hofland sent Los Angeles' further response to Student's complaint, indicating that once residence was verified and enrollment paperwork completed, Student would be entitled to begin receiving services from Los Angeles. Because Student attended a private school, Los Angeles sought Student's intention that Los Angeles, instead, provide services. Los Angeles would take verification of residence within district boundaries through the completion of enrollment paperwork as Student's intent to receive services from Los Angeles. Los Angeles explained where and how to complete the enrollment process. Additionally, Ms. Hofland notified Mother and Attorney Weissburg that, if Student sought enrollment, Los Angeles would implement his September 15, 2015 stay put IEP, develop a new IEP within 30 days, hold a 30 day IEP team meeting, and conduct a comprehensive assessment. Because Student alleged that further assessments were warranted, Ms. Hofland enclosed an assessment plan.

50. Ms. Hofland's testimony established that Los Angeles did not receive documents verifying Student's residency within Los Angeles' attendance boundaries until Phase 1 of the due process hearing, which occurred October 24 and 25, 2017. Moreover, Mother delivered the authorization for release of records and the signed assessment plan to Los Angeles on November 8, 2017, with enrollment documents that Mother provided to Reseda High School. Mother wrote various conditions on the assessments plan, including that all testing had to be completed at Westmark.

51. In preparation for the Phase 2 hearing, Ms. Hofland investigated Student's allegation that a telephone message was left with Los Angeles' special education office

by Attorney Weissburg on May 16, 2017. Los Angeles maintained telephone logs for the special education telephone lines. Ms. Hofland checked the logs and found no messages from either Mother or Attorney Weissburg. Ms. Hofland's testimony was consistent with the weight of the evidence, which demonstrated that Attorney Weissburg did not seek assessments or an offer of FAPE from Los Angeles at any time prior to the Phase 1 hearing.

52. On November 15, 2017, Attorney Weissburg notified Los Angeles that Student would not attend an IEP team meeting before assessments were completed by Los Angeles and that Student would remain at Westmark until after the assessments and due process hearing resolved. Attorney Weissburg took the position that any IEP team meeting would be based on incomplete records and incomplete assessments and, as such, would be a "waste of time."

53. At the time of the Phase 2 hearing, Student had not sought assessments or an offer of FAPE from Los Angeles, refused to attend an IEP team meeting with Los Angeles and did not have an offer of FAPE from any district for the 2017-2018 school year.

LEGAL CONCLUSIONS

INTRODUCTION – LEGAL FRAMEWORK UNDER THE IDEA⁵

1. This hearing was held under the Individuals with Disabilities Education Act (IDEA), its regulations, and California statutes and regulations intended to implement it.

⁵ Unless otherwise indicated, the legal citations in the introduction are incorporated by reference into the analysis of each issue decided below.

(20 U.S.C. § 1400 et. seq.; 34 C.F.R. § 300.1 (2006)⁶ et seq.; Ed. Code, § 56000 et seq.; Cal. Code Regs., tit. 5, § 3000 et seq.) The main purposes of the IDEA are: (1) to ensure that all children with disabilities have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living, and (2) to ensure that the rights of children with disabilities and their Parents are protected. (20 U.S.C. § 1400(d)(1); see Ed. Code, § 56000, subd. (a).)

2. A FAPE means special education and related services that are available to an eligible child at no charge to the Parent or guardian, meet state educational standards, and conform to the child's individualized education program (IEP). (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17; Cal. Code Regs., tit. 5, § 3001, subd. (p).) "Special education" is instruction specially designed to meet the unique needs of a child with a disability. (20 U.S.C. § 1401(29); 34 C.F.R. § 300.39; Ed. Code, § 56031.) "Related services" are transportation and other developmental, corrective and supportive services that are required to assist the child in benefiting from special education. (20 U.S.C. § 1401(26); 34 C.F.R. § 300.34; Ed. Code, § 56363, subd. (a) [In California, related services are also called designated instruction and services].) In general, an IEP is a written statement for each child with a disability that is developed under the IDEA's procedures with the participation of Parents and school personnel that describes the child's needs, academic and functional goals related to those needs, and a statement of the special education, related services, and program modifications and accommodations that will be provided for the child to advance in attaining the goals, make progress in the general education curriculum, and participate in education with disabled and non-disabled peers. (20 U.S.C.

⁶ All subsequent references to the Code of Federal Regulations are to the 2006 version.

§§ 1401(14), 1414(d)(1)(A); Ed. Code, §§ 56032, 56345, subd. (a).)

3. In *Board of Education of the Hendrick Hudson Central School District v. Rowley* (1982) 458 U.S. 176, 201 [102 S.Ct. 3034, 73 L.Ed.2d 690] (*Rowley*), the Supreme Court held that “the ‘basic floor of opportunity’ provided by the [IDEA] consists of access to specialized instruction and related services which are individually designed to provide educational benefit to” a child with special needs. *Rowley* expressly rejected an interpretation of the IDEA that would require a school district to “maximize the potential” of each special needs child “commensurate with the opportunity provided” to typically developing peers. (*Id.* at p. 200.) Instead, *Rowley* interpreted the FAPE requirement of the IDEA as being met when a child receives access to an education that is reasonably calculated to “confer some educational benefit” upon the child. (*Id.* at pp. 200, 203-204.) In a recent unanimous decision, the United States Supreme Court also declined to interpret the FAPE provision in a manner that was at odds with the *Rowley* court’s analysis, and clarified FAPE as “markedly more demanding than the ‘merely more than the de minimus test’” (*Endrew F. v. Douglas School Dist. RE-1* (2017) 580 U.S.____ [137 S.Ct. 988, 1000] (*Endrew F.*)). The Supreme Court in *Endrew F.* stated that school districts must “offer a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances.” (*Id.* at p. 1002.)

4. The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. 300.511; Ed. Code, §§ 56501, 56502, 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).)

5. At the hearing, the party filing the complaint has the burden of persuasion by a preponderance of the evidence. (*Schaffer v. Weast* (2005) 546 U.S. 56-62 [126 S.Ct. 528, 163 L.Ed.2d 387]; see 20 U.S.C. § 1415(i)(2)(C)(iii) [standard of review for IDEA administrative hearing decision is preponderance of the evidence].) Here, Student had the burden of proof on all issues.

ISSUE: FAILURE TO FULFILL CHILD FIND OBLIGATIONS AND OFFER A FAPE

6. Student contends that Los Angeles failed to fulfill its child find obligations because it failed to conduct timely assessments, review the assessments at an IEP team meeting, and make an offer of FAPE to Student before the end of the 2016-2017 school year. Student further contends that Los Angeles was aware of Student's need for assessment in May 2017 and had sufficient time to fulfill its duties before the end of the school year in June 2017. Los Angeles contends it did not have knowledge that Student had special needs and resided within its attendance boundaries until June 23, 2017, when El Monte provided it with a copy of Student's May 2017 IEP. Thereafter, Los Angeles offered to conduct assessments and hold an IEP team meeting. Student did not want Los Angeles to conduct assessments or offer a FAPE until after the Phase 1 hearing in late October 2017, as evidenced by Los Angeles' assessment plan, which Mother signed on November 8, 2017.

Legal Authority

CHILD FIND – PARENTALLY PLACED PRIVATE SCHOOL STUDENTS

7. The IDEA places an affirmative, ongoing duty on the state and school districts to identify, locate, and evaluate all children with disabilities residing in the state that are in need of special education and related services. (20 U.S.C. § 1412(a)(3); 34 C.F.R. § 300.111(a).) This duty is commonly referred to as "child find." California law specifically incorporates child find in Education Code section 56301, subdivision (a).

8. Child find applies to parentally-placed private school children, defined as children who are enrolled by their parents in private school. (34 C.F.R. § 300.131; Ed. Code, § 56170.) The purpose of this child find activity is to ensure the equitable participation of parentally-placed private school children in services that a school district may provide to children who attend private school in the district, as well as an accurate count of those children. (Office of Special Education Programs, *Letter to Eig*, January 28, 2009, 52 IDELR 136.)

9. Child find for children enrolled by their parents in private school is the responsibility of the district in which the private school is located. (34 C.F.R. § 300.131, Ed. Code § 56171.) (See also Analysis of Comments and Changes to 2006 IDEA Part B Regulations, 71 Fed. Reg. 46593 (August 14, 2006).) If the IEP team finds the child to be eligible for special education, then the district in which the child resides is charged with convening an IEP meeting to offer a FAPE to the child. (34 C.F.R. § 300.201; Comments to Regulations, *supra*, 46593.) If, however, the parent expresses the intention to keep the child enrolled in the private elementary or secondary school, the district of residence has no obligation to make FAPE available to the child. (Comments to Regulations, *Ibid*.)

10. The IDEA and the California Education Code do not specify which activities are sufficient to meet a school district's child find obligation, and there is no requirement that a school district directly notify every household within its boundaries about child find. However, California law obligates a SELPA to establish written policies and procedures for use by its constituent local agencies for a continuous child find system. (Ed. Code § 56301, subd. (d)(1).) The school district must actively and systematically seek out "all individuals with exceptional needs, from birth to 21 years of age," including children not enrolled in public school programs, who reside in a school district or are under the jurisdiction of a SELPA. (Ed. Code, § 56300.) The school district's duty for child find is not dependent on any request by the parent for special education

testing or services. (*Reid v. Dist. of Columbia* (D.C. Cir. 2005) 401 F.3d 516, 518.)

11. The child find activities a school district undertakes for parentally placed private school children must be similar to the activities undertaken for the school district's public school children, and must be completed in a time period comparable to that for student attending public school in the school district. (34 C.F.R. § 300.131(c) & (e); Ed. Code, § 56301, subds. (c)(1) & (3).) The U.S. Department of Education has elaborated upon the meaning of "similar" activities in this context, stating that "similar" activities might generally include, but are not limited to, such activities as widely distributing informational brochures, providing regular public service announcements, staffing exhibits at community activities, and creating direct liaisons with private schools. (Comments to Regulations, *supra*, 46593.) "Comparable" time period means that the school district's child find activities must be conducted within a reasonable period, without undue delay, and may not be delayed until after the school district conducts child find for public school children. (*Ibid.*)

12. A school district's child find obligation toward a specific child is triggered when there is knowledge of, or reason to suspect, a disability, and reason to suspect that special education services may be needed to address that disability. (*Dept. of Education, State of Hawaii v. Cari Rae S.* (D. Hawaii 2001) 158 F.Supp. 2d 1190, 1194 (*Cari Rae S.*)). The threshold for suspecting that a child has a disability is relatively low. (*Id.* at p. 1195.) A school district's appropriate inquiry is whether the child should be referred for an evaluation, not whether the child actually qualifies for services. (*Ibid.*) The actions of a school district with respect to whether it had knowledge of, or reason to suspect, a disability, must be evaluated in light of information that the district knew, or had reason to know, at the relevant time. It is not based upon hindsight. (See *Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149, (citing *Fuhrmann v. East Hanover Bd. of Educ.* (3rd Cir. 1993) 993 F.2d 1031, 1041).)

Analysis

13. Student failed to meet his burden of proof that Los Angeles' child find program was deficient in any manner. Los Angeles persuasively demonstrated that it maintained and implemented a child find program consistent with the requirements of state and federal law. Ms. Kuwahara established she was thoroughly knowledgeable about Los Angeles' special education department and the staff, resources, and business practices utilized to implement the child find program.

14. On an annual basis, Los Angeles verified private school addresses through the California Department of Education, mailed out child find posters to all such schools within its boundaries, and followed up when it received returned mail, which was rare. Child find brochures were mailed annually to the homes of children enrolled in district schools. Ms. Kuwahara established that child find mail sent to Westmark was not returned to Los Angeles. Los Angeles conducted annual meaningful consultation meetings with private school representatives and community organizations. Moreover, Los Angeles had direct contact with private schools, generally, and Westmark specifically, through private school consultants who engaged in active child find inquiries on a monthly basis.

15. From the time Student began attending Westmark in August 2016 through the end of the 2016-2017 school year, Los Angeles demonstrated ongoing efforts to search and serve children generally within its boundaries and specifically at Westmark. Mother's anecdotal evidence that she had not seen a child find poster at Westmark does not support a finding that Los Angeles failed to send the information. Student failed to offer any evidence that Los Angeles failed to conduct private school child find mailings in accordance with its normal business practices.

16. Los Angeles persuasively demonstrated that it, among other things, held meaningful consultation meetings with private schools; maintained a special education

resource website, which provided child find information to the public in general; and provided mailings regarding the availability of special education and related services to the homes of all district students residing within its boundaries. Los Angeles actively and systematically conducted its child find activities in a timely manner, on an annual basis during the relevant time period.

17. Based upon the foregoing, the overwhelming weight of the evidence demonstrated that from August 2016 through May 23, 2017, Los Angeles fulfilled its child find obligations. Despite having conducted appropriate search and serve activities, neither Mother nor Westmark identified Student as having special needs. Therefore, despite active and systematic child find activities, Los Angeles had no basis of knowledge that Student required either assessment or an offer of FAPE during this time period.

Legal Authority

DUTIES ONCE A CHILD IS "FOUND"

18. The "child find" provisions are designed to assist school districts in locating pupils with special needs in private schools whose parents may not be aware that their children are entitled to a FAPE. (Ed. Code, §§ 56300, et seq.) However, once the student is "found" the district of residence must offer student a FAPE (34 C.F.R. §§ 300.101, 300.201; Ed. Code, § 56302), while the district of location may be required to offer a service plan. (See Ed. Code, §§ 56172-56174.5.)

19. A child is "found" when the district of location determines that a child needs special education and related services. (Comments to Regulations, *supra*, 46593.) A child is also "found" where parents seek assessment from the district of residence. (*Letter to Eig, supra*, [The IDEA requires districts to ensure that all resident children with disabilities, including children who attend private schools, are identified, located, and evaluated.])

20. The district of residence and district of location each have a separate duty to assess if a child's parents approach that district seeking assessment. The Federal Regulations have considered the precise situation where parents simultaneously seek assessment from both the district of location and district of residence and found that nothing in the IDEA prohibits this practice. (Comments to Regulations, *supra*, 46593.)

Analysis

21. Having determined that Los Angeles did not violate its child find duties with respect to search and serve, the analysis turns to Los Angeles' duties once it became aware that Student lived within its boundaries and required special education.

22. Student brought assessments from Dr. Braun and Dr. Lyvers to the May 16, 2017 IEP team meeting attended by Rosemead and El Monte. El Monte sought additional assessments and Mother signed an assessment plan the following day. Los Angeles did not attend the meeting and, at that time, had no basis of knowledge that Student resided within its boundaries and required assessments.

23. Student argues that Los Angeles was on notice that he required an offer of FAPE because Attorney Weissburg called Los Angeles immediately after the May 16, 2017 IEP team meeting in Mother's presence. Mother's testimony on this point lacks credibility for a number of reasons.

24. First, Mother had no knowledge of what number was dialed, who was called, whether anyone answered or said anything. Second, Los Angeles checked telephone logs for special education lines, for the relevant date, and found no evidence of a call from either Mother or Attorney Weissburg.

25. Third, the telephone call lacks any other corroboration. Mother's testimony throughout the Phase 1 hearing demonstrated that she did not want assessments or services from Los Angeles at any time prior to the end of the 2016-2017 school year. She insisted that Father maintained a residence in Rosemead, in order to make El Monte

responsible for Student's education. Mother sought assessments and an offer of FAPE only from El Monte, through the time of the Phase 1 hearing, which ended October 25, 2017.

26. Likewise, Attorney Weissburg made no direct contact with Los Angeles until filing Student's complaint on July 14, 2017. If Student sought assessments and an offer of FAPE from Los Angeles in May 2017, it follows that Attorney Weissburg would have telephoned the special education office, the litigation office or, at a minimum, sent a letter or an email to Los Angeles, or a return email to Attorney Corr asking for an assessment plan or an IEP. Instead, through June 9, 2017, Attorney Weissburg continued to provide El Monte with information on Father's residence in Rosemead and erroneously assert that Parents held joint legal and physical custody, making El Monte the district of residence and Los Angeles the district of location. The only explanation offered for providing districts with such confusing and misleading information was Mother's desire to have El Monte fund Student's continued placement at Westmark. The actions of Mother and Attorney Weissburg were not consistent with Mother seeking an assessment or IEP from Los Angeles.

27. *Falsus in uno, falsus in omnibus* is a common law principle, which means false in one thing, false in everything. The principle, initially codified in California Code of Civil Procedure, section 2061, stood for the proposition that a witness who willfully falsifies one matter is not credible on any matter. (See, *White v. Disher* (1885) 67 Cal. 402, 7 P. 826; California Civil Jury Instructions 2017, section 5003.) When an opposing attorney impeaches a witness in court, as El Monte did in the Phase 1 hearing, that impeachment discredits the witness' remaining testimony, if it is without corroboration. Mother's testimony about a May 16, 2017 telephone call by her counsel to Los Angeles lacked corroboration and was inconsistent with her prior testimony that she did not want assessments from Los Angeles through the time of the Phase 1 hearing.

28. Los Angeles' 2016-2017 school year ended on June 9, 2017. On that very date, Attorney Weissburg continued to advise El Monte that Parents shared joint legal custody and wanted El Monte to complete assessments. At that time, Los Angeles did not have proof of residency or of the court order granting Mother sole education rights. Los Angeles had only the flawed information provided to it from El Monte, who obtained its information from Attorney Weissburg. Moreover, in the response to Los Angeles' request for information, neither Mother, Attorney Weissburg, nor Westmark advised Los Angeles that Mother sought assessments or an IEP from Los Angeles.

29. Los Angeles first received notice that Student may need assessments and had an IEP on June 23, 2017, when it received a copy of Student's May 16, 2017 IEP. The IEP notes told Los Angeles what Mother and Attorney Weissburg had not: that Mother claimed sole education rights.

30. Student failed to meet his burden of proof that Los Angeles should have assessed him and made an offer of FAPE before the end of the 2016-2017 school year. The evidence showed that Student did not want Los Angeles to either assess or offer services and did not provide Los Angeles with consent to do so, in any event. For the foregoing reasons, there is no basis upon which to hold Los Angeles responsible for not offering Student a FAPE by the end of the 2016 – 2017 school year.

Legal Authority

ASSESSMENTS AND OFFER OF FAPE

31. California regulations make it clear that "[a]ll referrals for special education and related services shall initiate the assessment process and shall be documented." (Cal. Code Regs., tit. 5, § 3021, subd. (a).) The school district must provide the child's parent with a proposed assessment plan within 15 days of the referral for assessment, not counting days such as school vacations. (Ed. Code, § 56321, subd. (a).) Once the parent signs his or her consent to the assessment, the school district is required to

complete the assessment and hold an IEP team meeting to review the assessment within 60 days of receiving parental consent. (Ed. Code, § 56302.1, subd. (a).)

32. Violations of child find, and of the obligation to assess a student, are procedural violations of the IDEA and the Education Code. (*Cari Rae S.*, *supra*, 158 F.Supp. 2d at 1196; *Park v. Anaheim Union High School Dist.* (9th Cir. 2006) 464 Fed.3d 1025, 1031-1033.) A procedural violation results in liability for denial of a FAPE only if the violation: (1) impeded the child's right to a FAPE; (2) significantly impeded the parent's opportunity to participate in the decision-making process; or (3) caused a deprivation of educational benefits. (20 U.S.C. § 1415(f)(3)(E)(ii); Ed. Code, § 56505, subd. (f)(2); see *W.G. v. Board of Trustees of Target Range School Dist. No. 23* (9th Cir. 1992) 960 F.2d 1479, 1484.)

33. The IDEA does not require parents to enroll children with disabilities in public schools. (34 C.F.R. § 300.134.) A school district cannot refuse parents' request for assessment of a private school student simply because parents would not enroll student first. (*Moorestown Township Board of Education v. S.D. and C.D.* (D.N.J. 2011) 811 F. Supp. 2d 1057.) Districts have a duty to evaluate a child and propose an IEP when parents seek assessment. (*District of Columbia v. Oliver* (D.D.C., Feb. 21, 2014, No. CV 13-00215 BAH/DAR) 2014 WL 686860; *Dallas Independent School District v. Woody* (N.D. Tex. 2016) 178 F.Supp.3d 443, aff'd in part, rev'd in part (5th Cir. 2017) 865 F.3d 303.)

34. The IEP is "the centerpiece of the statute's education delivery system for disabled children." (*Honig v. Doe*, 484 U.S. 305, 311 (1988).) The IDEA's requirements for IEP team meetings emphasize collaboration between parents and educators, requiring careful consideration of each child's unique circumstances. (See, *Endrew F.*, *supra*, 137 S.Ct. 994.) Moreover, the nature of the IEP process ensures that parents and school representatives will fully air their respective opinions on the degree of progress a child's

IEP should pursue. (*Id.*, at 993.)

Analysis

35. Student contends that Los Angeles did not have enough information to make an appropriate offer of FAPE and that Los Angeles' willingness to attend an IEP team meeting at the end of the 2016-2017 school year showed predetermination.

36. Ms. Weissburg's argued that any IEP team meeting with districts, either the July 13, 2017 meeting or subsequent meeting offered by Los Angeles, would be a "waste of time." The argument ignores the purpose of the IDEA's procedural requirements. The IEP is the centerpiece of the IDEA's education delivery system for students with special needs. The process contemplates that participants share information, including assessment results demonstrating a student's unique needs. The participants then collaborate on the variety of educational components available to meet those needs, determine whether further information is necessary, and discuss placement and services. Throughout the process, the IDEA contemplates that parent will provide input. It is not meant to be a one-way street.

37. After June 23, 2017, Los Angeles was authorized to review independent assessments conducted by Dr. Lyvers, Dr. Braun, and Westmark, and El Monte's June 28, 2017 psychoeducational and July 6, 2017 speech and language assessments. Based upon these assessments, Los Angeles opined that it had enough information, pending discussions with Mother at an IEP team meeting, to make an offer of FAPE. Los Angeles did not contend that any specific offer was developed, as the meeting did not take place. Student offered no evidence to support his claim of predetermination by Los Angeles.

38. Los Angeles was prepared to attend the July 13, 2017 IEP team meeting to review the above-referenced assessments and offer Student a FAPE. Los Angeles did not require Student to enroll in its district before agreeing to attend the meeting. Los

Angeles' school year ended June 9, 2017. Nonetheless, between El Monte and Los Angeles, the districts secured the attendance of all mandatory IEP team meeting members: Mother, who held educational rights; special and general education teachers; district representatives; and individuals who could interpret the instructional implications of assessment results. (20 U.S.C. § 1414(d)(1)(B)(i), (iv-vi); Ed. Code, § 56341, subds. (b)(1), (5)-(6).)

39. On July 12, 2017, Attorney Corr sought a teleconference with Attorney Weissburg to determine whether Parents sought assessments from Los Angeles, schedule a school tour for Parents, and schedule an IEP team meeting, which would not obviate the need for the July 13, 2017 meeting with Los Angeles and El Monte.

40. Attorney Weissburg responded by filing Student's complaint and cancelling the IEP team meeting. Through the end of the Phase 1 hearing, Student refused to receive assessments from or attend an IEP team meeting with Los Angeles. Such actions are not consistent with Student's Phase 2 claim that he sought assessments and an IEP from Los Angeles, which it failed to offer.

41. Under these circumstances, Los Angeles was not obligated to make FAPE available to Student until Mother expressed a desire to receive an offer of FAPE from Los Angeles. Mother expressed no such desire until the end of the Phase 1 hearing, long after the end of the 2016-2017 school year. Once Mother sought assessments, Los Angeles timely provided an assessment plan, which Mother signed on November 8, 2017.

42. For the foregoing reasons, Student failed to demonstrate by a preponderance of the evidence that Los Angeles failed to conduct timely assessments of Student or make an offer of FAPE before the end of the 2016-2017 school year.

ORDER

All of Student's claims for relief are 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. Here, Los Angeles prevailed on all issues.

RIGHT TO APPEAL

This Decision is the final administrative determination and is binding on all parties. (Ed. Code, § 56505, subd. (h).) Any party has the right to appeal this Decision to a court of competent jurisdiction within 90 days of receiving it. (Ed. Code, § 56505, subd. (k).)

DATED: January 24, 2018

_____/s/_____
COLE DALTON
Administrative Law Judge
Office of Administrative Hearings