

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

In the Matter of:

STUDENT,

Petitioner,

vs.

OAKLAND UNIFIED SCHOOL DISTRICT,

Respondent.

OAH No. N 2005070436

DECISION

Peter Paul Castillo, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), Special Education Decision, State of California, heard this matter on November 28 and 29, 2005, in Oakland, California.

Petitioner Student was represented by his parent, Mother.¹ The Petitioner was present at the hearing for the morning of November 28, 2005 and not present during the remainder of the hearing.

John Rusk, coordinator for young adult programs, represented Respondent Oakland Unified School District at the hearing. Dr. Phyllis Harris, the District's executive director of special education, was present on behalf of the District.

The Petitioner submitted written closing arguments on December 2, 2005,

¹ The Petitioner is 18 years old and at the commencement of the hearing stated on the record that Mother would represent him in this matter.

and the District on December 5, 2005, upon which the record was closed and the matter was submitted.

ISSUES

At the November 16, 2005 Prehearing Conference, ALJ Trevor Skarda issued an order that limited the contentions and proposed resolutions to the following:

I. CONTENTIONS RELATED TO ASSESSMENTS

- A. Petitioner contends that the neuro-psychological assessment completed by Dr. Peterson in May 2004, was not reviewed at an IEP team meeting in a timely manner. Petitioner contends that the assessment was not reviewed at an IEP team meeting until June 14, 2005. Petitioner seeks "vocational training" in the "animal field" as compensatory education. Petitioner also seeks assistive technology training (computer use) as additional compensatory education.
- B. Petitioner contends that his mother, Parent, requested a vocational assessment for transition services on or about May 20, 2004 at an IEP team meeting, and again in December 2004. The vocational assessment, conducted by Ms. Leslyn Henry, was not completed until January 2005 and the assessment was not reviewed at an IEP team meeting until June 14, 2005. Petitioner contends that the vocational assessment was not conducted in a timely manner, and that the IEP team meeting was not conducted in a timely manner. Petitioner seeks vocational training as compensatory education. Specifically, Petitioner seeks an order requiring to the District to implement Ms. Henry's vocational training recommendations for a period of six months.
- C. Petitioner contends Parent requested an assistive technology (AT) assessment in December 2004, and that the District completed the same in January 2005. The assessment, however, was not reviewed at an IEP team meeting until June 14, 2005. Petitioner contends that the AT assessment was not reviewed at an IEP

team meeting in a timely manner. Petitioner seeks computer training as compensatory education.

II. CONTENTIONS RELATED TO FAPE AND GRADUATION REQUIREMENTS

- A. Petitioner's primary complaint is that the Respondent failed to offer the Student the required academic courses during the 2002-2003, 2003- 2004 and 2004-2005 school. These courses were necessary for the Student to graduate in June 2005 with a diploma. As a result, argues the Petitioner, the Student's transition plan was inadequate. Petitioner specifically alleges that the Respondent should have enrolled him in a modified Algebra class. Petitioner seeks an order requiring the District to provide the Student with the modified Algebra class necessary for Petitioner to earn a diploma.
- B. Petitioner contends that the Respondent failed to inform Petitioner's parent of the transition, graduation and diploma requirements until June 14, 2005, days before graduation. Petitioner contends that the Respondent should have informed his parents at IEP team meetings during the 2002-2003, 2003-2004, and 2004-2005 school years. Petitioner argues that Respondent therefore failed to provide the Student with appropriate transition services. Petitioner seeks an order requiring the District to provide him the educational services necessary for the Student to graduate with a diploma.
- C. Petitioner contends that the District failed to inform Petitioner's parent of the Student's progress towards graduation at all IEP team meetings during the school years described above. Again, Petitioner contends that the Respondent first informed his parent that he had not met the graduation requirements at an IEP team meeting on June 14, 2005, days before graduation. Petitioner seeks an order requiring the District to provide the educational services necessary for the Student to graduate with a diploma.

D. Petitioner contends that the Student does not have to take the High School Exit Exam in order to graduate with a diploma. In the alternative, the Petitioner contends that the Student may take a modified exam to meet the diploma requirements. Petitioner seeks an order that the Student may graduate with a diploma without successfully passing the High School Exit Exam.

FACTUAL FINDINGS

1. Student (Student) is a special education student who resides within the boundaries of the Oakland Unified School District (District). The Student is currently 18-years-old and in the 12th grade. The Student is eligible for special education due to a specific learning disability (SLD), based upon global functioning at deficit levels.

2. On April 23, 2003, the Student's Individualized Education Program (IEP) team convened for a triennial review. The District wished to change the Student's eligible disability from SLD to mental retardation, to which Mother objected and did not consent. On May 20, 2004, the IEP team convened again for the Student's annual review and to finalize the April 20, 2003 triennial review. Mother objected to this combined IEP and did not consent to this IEP. Finally, on June 14, 2005, the IEP team convened for an annual review, to which Mother objected, in part, as to the proposed vocational and transition services for the Student.

On June 30, 2005, the Petitioner filed a request for a due process hearing, which was assigned OAH Case No. N2005070436. On November 16, 2005, a Prehearing Conference was held in which the Petitioner's Complaint and Proposed Resolution were clarified. Sworn testimony and documentary evidence were received at the hearing.

3. At the beginning of the hearing, the District stipulated to the following:

A. The neuropsychological assessment completed by Dr. Peterson in May 2004, was not reviewed by the IEP team meeting in a timely manner. The assessment was not reviewed by an IEP team meeting until June 14, 2005. The District agrees to

provide 'vocational training' in the 'animal field' as compensatory education as well as assistive training.

- B. The vocational assessment, conducted by Ms. Leslyn Henry was not completed until January 2005 and the assessment was not reviewed at an IEP team meeting until June 14, 2005. The District agrees to implement Ms. Henry's vocational training recommendations for a period of six months.
- C. The assistive technology assessment was not reviewed at an IEP team meeting until June 14, 2005. The District agrees to provide computer training as compensatory education.

4. The Student has attended school in the District, starting in kindergarten. Since kindergarten, the Student has been determined eligible for special education services and receiving these services from the District. The Student has been eligible under the designation of SLD. The Student attended a District school through the sixth grade when Mother enrolled the Student at Spraing Academy, which later changed its name to Straunella Academy, a non-public school. The Student attended Straunella through the 2002-2003 school year when Straunella Academy unexpectedly closed. After a several month delay in trying to find an appropriate school for the Student to attend, the Student began to attend Richmond Educational Learning Center (RELC) in the fall of 2003, until it also unexpectedly closed at the beginning of July 2005. At the time of RELC's closure, the Student was taking algebra and short that class from graduating with a diploma. Also at the time of RELC's closure, RELC was providing the Student with transitional services. The student has not attended either a public or a nonpublic school since the closure of the RELC.

5. On April 23, 2003, the District convened the Student's triennial IEP as to his continued eligibility. Mother attended this IEP meeting. At this IEP meeting, the District presented the report of school psychologist Rose Velásquez that stated the special education eligibility designation of the Student should be changed from SLD to Mental

Retardation. The April 23, 2003 IEP also noted that the "IEP team has determined that this student is not a candidate for a standard high school diploma and will not take the California High School Exit Exam." Mother did not agree to the IEP team's finding as to the special education designation of the Student and felt that the Student's eligibility should remain as SLD. However, Mother did not object in either her April 23, 2003 and April 28, 2003 letters that the Student was not going to obtain a diploma, and was not going to take the California High School Exit Exam (CAHSEE).

6. As a result of the dispute concerning the special education eligibility designation, the District agreed to provide an Independent Educational Evaluation (IEE) of the Student. The District contracted with Dr. Cynthia Peterson to provide the IEE in the fall of 2003. However, Dr. Peterson did not conduct the assessment of the Student until May 2004, and the District did not consider her report until the June 14, 2005 IEP.

7. On May 20, 2004, the District convened another IEP meeting. The purpose of this IEP meeting was the Student's annual IEP, and to complete the triennial IEP that had not been completed. Mother stated in the May 20, 2004 IEP meeting that she wanted the Student to graduate using differential standards. To meet the Student's goal to graduate, the IEP team members discussed RELC teaching the Student Spanish to meet the graduation requirements. In May 2004, according Dennis Nelson, the District's program specialist, the District had a waiver from the State of California that allowed the District to waive the State's algebra requirement for graduation. Kathleen Patric, the Student's then case manager with the District, testified that at the May 2004 IEP that the Student was on a graduation track, projected at June 2006. Mother testified at hearing that the Student should have been at the 11th grade level at the time of this IEP. Although Mr. Nelson did not attend the May 2004 IEP, he testified that based on his review of the Student's transcripts for the June 14, 2005 IEP meeting, that the Student had enough units to be considered as a 12th grade student as he entered the 2004-2005 school year. Based on the testimony of Mother and Mr. Nelson, the Student established that he was in the 11th grade

at the time of the May 2004 IEP meeting, and should have had a projected graduation date of June 2005.

The IEP team members also discussed in the May 2004 IEP meeting providing the Student with vocational and transition services through RELC. Leslyn Henry, Career Transition Specialist for the District, stated that she would perform a vocational assessment of the Student within the next six months, and explore the Student's veterinarian technician interest. From May 2002 to the present, the Student has volunteered at the Oakland Zoo to help care for the zoo's goats and sheep, and interacts with the public who view these animals.

At this IEP meeting, Mother also raised her request that the District get a representative from DOR to attend the May 2004 IEP meeting to assist in developing the Student's vocational training. Ms. Henry provided Mother with information from DOR and stated that Mother could contact DOR to open a case with DOR. Ms. Henry testified that the District did not have the responsibility to complete an application with DOR for the Student. Mother also wanted the District to teach the Student to drive. The District responded that it does not provide driver's training to any District student.

The IEP team agreed at this meeting that the Student's most appropriate designation for special education services should continue to be SLD, and not Mental Retardation. The team reviewed the Student's goals from the prior IEP and the District representatives felt that most of the goals had been met and few will need to be continued and adjusted, and that the Student's individual needs are best met in a small school environment. Mother did not agree to this IEP since the District combined the May 20, 2004 annual IEP with the April 23, 2003 triennial IEP.

8. Subsequent to the May 20, 2004 IEP, Ms. Henry completed the vocational assessment in January 2005. Additionally, the District completed an assistive technology evaluation on February 11, 2005. However, the District did not review either the vocational assessment or assistive technology evaluation until the June 14, 2005 IEP meeting. Also,

during this time, the Student continued to attend school at RELC and progressed in the program established in the May 20, 2004 IEP, including taking Spanish as a graduation requirement. However, in the fall of 2004, according to the testimony of Mr. Nelson, who is responsible for reviewing transcripts from non-public schools to calculate the equivalency as to the District's graduation requirements, the State of California, Department of Education, informed the District that the State had terminated the waiver that allowed the District to waive the algebra requirement for graduation by special education students. The Student's May 20, 2004 IEP was gearing the Student for graduation with a diploma with the addition of Spanish, which the District would have only added to allow the Student to graduate with a diploma. However, no one from the District contacted Mother to convene another IEP to discuss the algebra requirement when the State of California terminated the algebra waiver.

9. For the convenience of Mother and Dr. Peterson, there was a delay in convening the Student's next annual IEP meeting, which caused it to be held on June 14, 2005. Since neither the April 23, 2003 triennial IEP nor the May 20, 2004 IEP had been completed, as Mother did not consent to either IEP, the June 14, 2005 IEP attempted to combine the prior two IEPs and the current annual IEP. Mother objected to the District's attempt to combine all three IEPs into one document as she still had objections to the prior IEPs. Additionally, Mother objected to vocational and transition services that the District offered based on Ms. Henry's assessment.

Mother felt that the District should provide more vocational and transitional services to the Student. She objected to the length of the proposed services through the end of August 2005 as not being sufficient. Mother asserted that the District needed to arrange all the transitional and vocational services for the Student. She objected to goals and objectives that had the Student exploring job opportunities independently, or obtaining computer training on his own. Mother contended that due to the Student's disabilities, including Attention Deficit Hyperactivity Disorder, that the Student needed more assistance.

However, Mother demonstrated the Student's ability for independence when she testified as to the Student's internship at the Oakland Zoo and his responsibilities that require independent action, such as answering questions from the public. Finally, Mother continued to contend that the District had the obligation to have a DOR representative attend the IEP meeting.

Mr. Nelson attended this IEP meeting and informed Mother for the first time that the Student needed algebra to graduate with a diploma. Mr. Nelson reviewed the Student's transcripts a couple of weeks before this IEP meeting. Mother vacillated between wanting the Student to graduate with a diploma or to graduate with a certificate of completion pending a diploma, to which the District replied that the former option did not exist. Mother objected to the District considering the Student to be in 11th grade, as the Student should be in 12th grade based on the number of credits completed. At the hearing, Mr. Nelson concurred with Mother's contention based on his review of the Student's transcript.

The IEP meeting broke for lunch, and Mother did not return. After lunch, the District finalized the IEP. The District gave the Student, who came back, a copy of the IEP to give to Mother. Mother wrote her objections to the IEP on the IEP document itself and in an addendum, which she returned the IEP and addendum to the District on or about June 30, 2005. Mother did not consent to the IEP. In the addendum, Mother continued her request that the Student be given a certificate of completion pending a diploma and allowed to graduate with his 12th grade peers since he had enough credits to graduate.

10. Through RELC, the District implemented the provisions of the June 14, 2005 IEP, providing the Student with transitional and vocational services and algebra. The IEP provided that these services would be completed at the end of the extended school year in August 2005. RELC could not complete the provision of services as RELC closed in the beginning of July 2005. Karen Glasser, the Student's case manager with the District, was aware of RELC's closure. Robert Maxwell, a teacher at RELC, who also taught the Student at Straunella, continued to teach the Student algebra to complete the class. Mr. Maxwell

prepared, along with the RELC director, proof that the Student completed the algebra coursework. However, this packet of material did not reach the District until it was presented to the District in the Petitioner's evidence binder. Thus, the District did not have the opportunity to review this material to determine if the Student had completed the algebra requirement. Additionally, Ms. Glasser testified and established that Mother did not inform the District of this fact at an IEP meeting held on September 28, 2005.

LEGAL CONCLUSIONS

APPLICABLE LAW

1. The Petitioner has the burden of proof as to the issues designated in Issues, paragraph 1 of this Decision. (*Schaffer v. Weast* (2005) _____ U.S. _____ [163 L.Ed.2d 387].)

2. Under both State law and the federal Individuals with Disabilities Education Act (IDEA), students with disabilities have the right to a free appropriate public education (FAPE). (20 U.S.C. §1400; Cal. Ed. Code § 56000.) The term "free appropriate public education" means special education and related services that are available to the student at no cost to the parents, that meet the State educational standards, and that conform to the student's individualized education program (IEP). (20 U.S.C. § 1401(a)(9).) "Special education" is defined as specially designed instruction, at no cost to parents, to meet the unique needs of the student. (20 U.S.C. § 1401(a)(29).)

Likewise, California law defines special education as instruction designed to meet the unique needs of individuals with exceptional needs coupled with related services as needed to enable the student to benefit fully from instruction. (Cal. Ed. Code § 56031.) The term "related services" includes transportation and other developmental, corrective, and supportive services as may be required to assist a child to benefit from special education. (20 U.S.C. § 1401(26).)

3. At the time of the IEP for the 2002-2003 school year, the applicable law, Title 34, Code of Federal Regulations section 300.347(b)(1), required a statement of the

transition service needs of the student focusing on the student's course of study. When a student turns sixteen, a school district must have in the IEP a statement of needed transition services for the student for life outside of school. (34 C.F.R. § 347(b)(2).)

The California law in effect during this action, California Education Code section 56345.1, subdivision (b), required that beginning at the age of sixteen or younger that the Student's IEP contain a statement of needed transition services. Subdivision (c) defined transitional services as a coordinated set of services that is designed to promote movement from school to post-school activities, including post-secondary education, independent living and vocational training. The transitional services are to be based on the student's needs, taking into account the student's preferences and interest, and include instruction, related services, development of employment, and when appropriate, acquisition of daily living skills and functional vocational evaluation.

4. In *Board of Educ. of the Hendrick Hudson Central Sch. Dist. v. Rowley* (1982) 458 U.S. 176, 200, 102 S.Ct. 3034, the United States Supreme Court addressed the level of instruction and services that must be provided to a student with disabilities to satisfy the requirement of the IDEA. The Court determined that a student's IEP must be reasonably calculated to provide the student with some educational benefit, but that the IDEA does not require school districts to provide special education students with the best education available or to provide instruction or services that maximize a student's abilities. (*Id.* at 198-200.) The Court stated that school districts are required to provide only a "basic floor of opportunity" that consists of access to specialized instructional and related services, which are individually designed to provide educational benefit to the student. (*Id.* at 201.)

5. To determine whether the District offered the Student a FAPE for the 2002-2003, 2003-2004, 2004-2005 school years, the focus is on the adequacy of the placement the District actually offered to the Student, rather than on the placement preferred by the parent. (*Gregory K. v. Longview School District* (9th Cir. 1987) 811 F.2d, 1307, 1314.)

6. To constitute a FAPE as required by the IDEA and *Rowley*, the District's offer must be designed to meet the Student's unique needs and be reasonably calculated to provide the Student with some educational benefit. Although not the focus of the dispute here, additional requirements are that the District's offer must conform to the IEP, must be in the least restrictive environment (LRE), and provide the student with access to the general education curriculum. (See 20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. §§ 300.347(a), 300.550(b); Cal. Ed. Code § 56031.) *Rowley* also recognized the importance of adherence to the procedural requirements of the IDEA as part of the FAPE analysis.

DETERMINATION OF ISSUES

ASSESSMENTS

7. Mother argued that the District needed to provide the Student with additional transitional services to assist him as he left high school. The Student contended that the District's June 14, 2005 IEP only offered the Student with two months of transition services, and that the District did not timely present a transition plan. The District contends that the failure to provide the Student with transitional services rests with the RELC, which was to provide these services as part of the tuition that the District paid. However, the District did stipulate that it did not timely consider the vocational assessment of Ms. Henry, Dr. Peterson's assessment and the District's own assistive technology assessment.

8. The District in its November 28, 2005 Stipulation admits that it did not timely consider the evaluation conducted by Dr. Peterson, the vocational assessment conducted by Ms. Henry and the District's assistive technology evaluation. With the District's admissions, the only issue to be determined is the appropriate level of services to provide the Student. The District in its Stipulation agreed to provide the Student with vocational training in the animal field as compensatory education, along with assistive technology training. The District has agreed to implement Ms. Henry's vocational training

recommendations for a period of six months, and provide computer training. All of the District's stipulated resolutions correspond to the Petitioner's proposed resolutions.

9. Even though the District agreed to the Student's proposed resolutions concerning issues involving the Student's assessments, Mother requested that the training be provided to the Student in a manner that takes into consideration the Student's disability and limitations, which have been noted and documented in the prior IEPs introduced at hearing. Primarily, Mother requested that the training occur in a small class environment. Mother challenged Ms. Henry's vocational plan during Ms. Henry's testimony as to Ms. Henry not knowing that the Student was eligible for special education services based on a designation of SLD, which Ms. Henry acknowledged. However, Mother did not establish that Ms. Henry's assessment was not an accurate vocational assessment of the Student and incapable of providing the Student with appropriate vocational skills. Mother was also not able to establish that the District's proposed assistive technology program and computer training did not meet the needs of the Student, other than the length of time for the services was too short. Mother did not establish that the Student had no obligation to complete the application to become a client of DOR to obtain further vocational services, or that the Student was incapable of independently accessing information to assist in his transitional plan.

CONTENTIONS RELATED TO FAPE AND GRADUATION REQUIREMENTS

10. Further, Mother contended that the District unduly delayed in informing her as to the courses that the Student needed to take to graduate with a diploma. Ms S. asserted that it was not until the June 14, 2005 IEP meeting that the District informed her that the Student needed an algebra class to meet the State of California high school graduation requirements. Because of this delay, the Student could not graduate in June 2005 and had to return to RELC to complete the required algebra class. The District asserts that the delay in informing Mother of this graduation requirement was caused by Mother

vacillating as to whether she wanted a diploma or certificate of completion for the Student during prior IEP meetings.

11. Concerning Issue II(A), the Student did not establish that the District failed provide to him FAPE by failing to provide the Student with required education courses for the 2002-2003 and 2003-2004 school years. The District established that Mother did not request that the Student be on a graduation track for these two years. The April 23, 2003 IEP stated that the Student is not a candidate for a high school diploma, and Mother did not challenge that goal in her objections to this IEP. It was not until the May 20, 2004 IEP that the District began to develop an academic plan for the Student designed to have him graduate with a diploma from the District. The change in graduation dates can be traced to the confusion as to the grade level of the Student as the District believed in May 2004 that the Student was in the tenth grade. However, the Student, through the testimony of Ms. Nelson after reviewing the Student's transcripts, showed that the Student had enough credits then to be completing the 11th grade and moving to the 12th grade for the 2004-2005 school year. Because of the District's confusion as to the Student's grade level, it was not until the June 2005 IEP that District realized that the Student was in the 12th grade. This confusion, coupled with the State of California rescinding the algebra waiver for graduation after the May 2004 IEP, led to the rush to develop an algebra program for the Student. Thus, for the 2004-2005 school year, the District denied the Student FAPE by not realizing in the May 2004 IEP, which was developed for the 2004-2005 school year, that the Student was entering the 12th grade. When the State of California rescinded the algebra graduation waiver, the District needed to reconvene the IEP team to redraft the classes that the Student needed to graduate by adding algebra.

The District remediated this problem in the June 2005 IEP by having RELC provide the Student with an algebra course. However, when RELC informed the District that it was closing, the District needed to reconvene an IEP meeting to discuss how the Student would complete the algebra requirement. If the District reconvened the IEP team then, the District

would have discovered that Mr. Maxwell had completed the algebra instruction and determined whether this instruction met the District's class requirements. However, Mother should have also contacted the District to inform the District that Mr. Maxwell completed the algebra course, and raised this issue at the September 28, 2005 IEP meeting, which about Ms. Glasser testified. In any event, the District agrees in its Closing Argument that the instruction provided by Mr. Maxwell, as evidenced by the documentation provided at the hearing, is sufficient for the Student to complete his algebra requirement for graduation.

12. Concerning Issue II(B), the Student did establish that the District failed to inform the Student in a timely fashion of the Student's transition, graduation and diploma requirement until the June 14, 2005 IEP. The District stipulated that it did not timely consider Ms. Henry's vocational assessment until the June 14, 2005. This delay caused the development of a transition and vocational plan for the Student that would only last through August 2005 with the extended school year and the Student's graduation upon completion of algebra. As to the diploma and graduation requirements, the District should have more timely reviewed the Student's academic courses for graduation once the District became aware that the State of California had terminated the District's algebra graduation waiver. However, as noted above, the District is willing to grant the Student a diploma as the District now has proof that the Student completed the required algebra course.

13. As to Issue II(C), the Petitioner did not establish that the District failed to adequately inform the Petitioner of the Student's graduation progress in the April 2003 and May 2004 IEPs. In the April 23, 2004 IEP meeting, Mother did not indicate that she wished for the Student to graduate as she was asking for a certificate of completion. It was not until the May 2004 IEP meeting in which Mother indicated that she wished for the Student to graduate, which led to the Student taking Spanish to graduate. However, the Petitioner is correct that the District should have more promptly notified the Petitioner about the Student's need to take algebra once the District became aware that the State of California had ended the algebra waiver. However, as noted above, the District is willing to grant the

Student a diploma as the District now has proof that the Student completed the required algebra course.

14. Finally, as to Issue II(D), the Student contends that he need not take the CAHSEE to graduate. (Cal. Ed. Code § 60851.) The Student's IEPs had indicated that the Student would not be taking CAHSEE. The Student would not have needed to pass CAHSEE if he graduated in August 2005 after completing the algebra course. The Petitioner did not present any evidence that the District required the Student to take CAHSEE. If the Student were to graduate with a diploma in the 2005-2006 school year, the Student would be required to take and pass this exam. However, since the Student did complete the algebra course as projected by the IEP before the start of the 2005-2006 school year, there is no requirement that the Student pass CAHSEE to obtain his diploma.

ORDER

1. The District shall immediately convene an IEP meeting to develop a vocational and transitional service plan for the Student. The vocational and transitional service plan shall implement the recommendations in the report prepared by Leslyn Henry for a period of six months as compensatory education. The vocational training shall be in the "animal field," and the vocational and transitional services shall also include assistive technology and computer training. The District shall consider the recommendations of Dr. Peterson in creating its six-month vocational and transitional service plan for the Student.

2. The District shall issue the Student a diploma as the Student has completed the algebra graduation requirement and is not required to take CAHSEE since the Student completed algebra before the start of the 2005-2006 school year.

PREVAILING PARTY

Pursuant to California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to each party has prevailed on each issue heard and decided. The following findings are made in accordance with this statute:

1. As to Issues I(A), (B) and (C) and II(A), (B) and (C), the Petitioner has prevailed.
2. As to Issue II(D), the District prevailed.

RIGHT TO APPEAL THIS DECISION

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

Dated: December 22, 2005

PETER PAUL CASTILLO

Administrative Law Judge

Special Education Division

Office of Administrative Hearings