Major Legal Cases

Winkelman v. Parma City School District

550 U.S. 516; 127 S.Ct 1994; 167 L.Ed.2d 904 (US Supreme Court 2007)

The United States Supreme Court held that because parents have rights under the Individuals with Disabilities Education Act (IDEA), parents are entitled to pursue IDEA claims on their own behalf and may proceed in court unrepresented by attorneys. Prior to this decision, parents in some cases were prevented from pursuing IDEA claims in court unless they had obtained legal representation on behalf of their child. This decision does not grant parents any additional substantive rights under the IDEA, but it means that parents can pursue IDEA claims on their own behalf.

Arlington Central School District v. Murphy

548 U.S. 291; 126 S.Ct. 2455; 165 L.Ed2d 526 (U.S. Supreme Court 2006)

The parents of a child with a disability brought an action under the Individuals with Disabilities Education Act (IDEA) to require a public school board to pay for their son's private school tuition. The parents prevailed in the United States District Court. Subsequently, the parents sought to recover $29,350 in fees that they had paid for services rendered by an educational consultant during the IDEA proceedings. The District Court, under 20 U.S.C.S. § 1415(i)(3)(B) – which authorized a court to award "reasonable attorneys' fees as part of the costs" to parents who prevailed in an IDEA action – granted the parents' request in part, and awarded them $8,650. The Court of Appeals affirmed.

On certiorari, the Supreme Court reversed and remanded. In an opinion by Alito it was held that parents are not allowed to recover fees for services rendered by their experts in IDEA actions. The court found that the IDEA's terms overwhelmingly supported the conclusion that prevailing parents were not allowed to recover the costs of experts or consultants, and failed to provide the clear notice that was required, under the Federal Constitution's spending clause (Art. I, § 8, cl. 1), to attach such a condition to a state's receipt of IDEA funds. Additionally, the Supreme Court's decisions in Crawford and Casey strongly reinforced the conclusion that IDEA did not unambiguously authorize prevailing parents to recover expert fees; and (3) several arguments – made by the parents in the case at hand – that were not based on IDEA's text did not show that IDEA provided clear notice to states regarding the awarding of expert fees.

Schaffer v. Weast

546 U.S. 49, 126 S.Ct. 528; 163 L.Ed.2d 387 (U.S. Supreme Court 2005)

The parents of a minor with learning disabilities and speech-language impairments initiated a due process hearing challenging an IEP and seeking compensation for the cost of a private school. The administrative law judge initially held that the parents bore the burden of persuasion and ruled in favor of the school district. *The Court determined that*

the minor, as represented by his parents, bore the burden of persuasion at the administrative hearing challenging the IEP because the minor was the party seeking relief. Because the IDEA was silent as to which party bore the burden of persuasion at such a hearing, the Court based its decision on the ordinary default rule that plaintiffs bore the risk of failing to prove their claims. The Court rejected petitioners' argument that a due process balancing test applied. The Court also rejected petitioners' argument that the ordinary rule did not place the burden upon a litigant of establishing facts peculiarly within the knowledge of his adversary, because the IDEA provided procedural protections ensuring that the school district bore no unique informational advantage.

Cedar Rapids Community School District v. Garret F.

526 U.S. 66; 119 S.Ct. 992; 143 L.Ed.2d 154 (U.S. Supreme Court 1999)

When he was four years old, the student was severely injured in a motorcycle accident. While the student's mental abilities were unaffected, his spinal cord injury left him a quadriplegic and ventilator-dependent. The student required the services of an attendant at all times to see to his health needs. Beginning in fifth grade, the appellant school district refused to provide a personal attendant. The student administratively challenged the appellant's ruling, and the Administrative Law Judge found that the school district had to reimburse the student's parents for the nursing costs incurred to provide an attendant for the student and that the school district had to provide such service in the future. The District Court agreed with the Administrative Law Judge and found that the services were not within the medical services exclusion of 20 U.S.C.S. §§ 1400-1491. The Court affirmed the district court's summary judgment and held that the services were not medical services, but rather school health services or supportive services, both of which met definition of related services that appellant was required to provide under the statute.

Honig v. Doe

484 U.S. 305; 108 S.Ct. 592; 98 L.Ed.2d 686 (US Supreme Court 1988)

A public school district superintendent sought review of a 9th Circuit Court of Appeals decision finding that the suspension of two handicapped students for 30 days violated the Education of the Handicapped Act (the precursor to the IDEA). The students assert that their suspensions prior to an expulsion hearing constituted a prohibited "change in placement" under the stay put provision of the EHA, the precursor to the IDEA. The appeals court agreed and required the state (California) to provide services directly if the local school district could not. It also ruled that a 30-day suspension would not violate the EHA.

On appeal, the U.S. Supreme Court ruled that an order to provide a 10-day suspension does not violate the EHA, but a 30-day suspension would violate the EHA. Under the EHA, the U.S. Supreme Court found that state or local school authorities cannot exclude disabled students from the classroom during the pendency of proceedings to review their education for dangerous or disruptive conduct that grew out of the student's disabilities. Moreover, a court has power to order the state to provide services to the student if the

local school could or would not. Finally, the U.S. Supreme Court found that a suspension greater than 10 days constituted a "change in placement" and is prohibited by the EHA.

School Committee of the Town of Burlington v. Department of Education of Massachusetts

471 U.S. 359; 105 S.Ct. 1996; 85 L.Ed.2d 385 (US Supreme Court 1985)

The town of Burlington sought review of the decision of the Circuit Court of Appeals that required the town to pay for private school expenses of the parents' handicapped son pursuant to the Education of the Handicapped Act.

The U.S. Supreme Court found that parents' son was handicapped within the meaning of the EHA and thus was entitled to receive, at public expense, specially designed instruction and transportation. Ultimately, the parents placed their son in a private school and sought review by the Massachusetts Department of Education's Bureau of Special Education Appeals. The Bureau of Special Education Appeals thereafter decided that the town's proposed IEP for the child was inappropriate, that the father's choice was more suitable, and ordered the town to pay the private school expenses for the 1979-1980 school year. The town sought review in a Federal District Court, which ultimately overturned the BSEA decision, holding that the appropriate 1979-1980 placement was the town's proposed IEP and that the town was not responsible for the cost at the private school for the 1979-1980 through 1981-1982 school years.

The United States Court of Appeals for the First Circuit remanded, holding that the father's unilateral change of placement during the pendency of the administrative proceedings would not be a bar to reimbursement if his actions were found to be appropriate at final judgment, and stating that whether to order reimbursement, and at what amount, was a question to be determined by balancing the equities

The U.S. Supreme Court affirmed. In a unanimous decision, it was held that 20 USCS section 1415(e)(2) authorizes a court to order school authorities to reimburse parents for their expenditures on private special education for a child if the court ultimately determines that such placement, rather than a proposed IEP, is proper under the Act, and that 20 USCS section 1415(e)(3) does not bar such reimbursement to parents who reject a proposed IEP and place a child in a private school without the consent of local school authorities.

J.G. v. Douglas County School District

552 F. 3d 786 (9th Cir. 2008) 2008 WL 5377696

The Ninth Circuit Court of Appeals held that parents are required to allege claims of discrimination under Section 504 of the Rehabilitation Act of 1973 to preserve such claims for appeal. In the underlying due process hearing, the parents alleged that a delay in the twin brother's assessments denied them a free appropriate public education as mandated by the IDEA. Thereafter the parents appealed the case and alleged for the first

time that the school district offered to place the brothers in a preschool for developmentally delayed students, constituting discrimination under Section 504.

The parents' claim of discrimination under Section 504 could not be heard in a due process hearing. The Ninth Circuit disagreed, holding that IDEA due process hearings are an appropriate forum for a claim of discrimination under Section 504. The Ninth Circuit ruling therefore requires parents to raise claims of discrimination under Section 504 during the initial due process hearing, or thereby forfeit those claims in a subsequent appeal to the federal court.

Forest Grove School District v. T.A.
523 F.3d 1078 (9th Cir. 2008)

This is on appeal to the United States Supreme Court, which will hear this matter. In the *Forest Grove* case, the Ninth Circuit Court of Appeals held that the 1997 amendment to the IDEA did not preclude students who never received special education in the public schools from seeking reimbursement from a private placement, and the law and principles of equity also allow courts to grant "such relief as the court determines is appropriate."

This will be the U.S. Supreme Court's opportunity to decide, once again, whether a student who has never received special education and related services from a public school may seek reimbursement for a private placement made by the student's parents. This is a critical case in that the Supreme Court will decide whether school districts may be liable for funding a student's private school placements prior to ever receiving special education service.

Mark H. v. Lemahieu, Supt. Of Hawaii Public Schools
513 F.3d 922, (9th Cir. 2008)

The availability of relief under the IDEA that requires states accepting funds under the IDEA to provide disabled children with a free appropriate public education (FAPE) does not limit the availability of a monetary damages remedy under the Section 504 of the Rehabilitation Act of 1973 for failure to provide FAPE. The court found that Section 504 of the Rehabilitation Act independently requires FAPE. The Court found that the FAPE definition under the IDEA and the FAPE as defined in the Rehabilitation Act regulations are similar, they are not identical, and therefore, damages can be separately sought under Section 504 of the Rehabilitation Act.

Porter v. Bd. of Trustees of Manhattan Beach Unified School District
307 F.3d 1064 (9th Cir. 2002)

After a due process hearing, the school district and its officials were directed to provide the student with a compensatory education program, but the program was never implemented. Plaintiff student sought judicial enforcement of the order under the IDEA. Defendant school district contended that the plaintiff student was required to seek

enforcement of the order through the due process procedures or through the compliance complaint resolution procedure prior to bringing the lawsuit. The Ninth Circuit Court of Appeals held that plaintiff student was not required to exhaust any further state administrative remedies prior to bringing an IDEA action in court. Any further exhaustion would be futile since the state hearing agency (SEHO) lacked jurisdiction to enforce its own orders. Also, even though the state compliance complaint resolution procedure was an available remedy, the IDEA did not require exhaustion of the compliance resolution procedure (CRP) remedy because the state hearing officer's order was deemed final and the CRP constituted an additional procedural step that was not contemplated or required by the IDEA.

Lucht v. Molalla River School District
225 F.3d 1023 (9th Cir. 2000)

The school district appealed the decision of the United States District Court, which granted attorney's fees to plaintiff parents of the IEP meeting. This IEP meeting was convened after the state complaint resolution procedure, which determined that the school district violated the IDEA.

The Ninth Circuit Court of Appeals found that the State Complaint Resolution procedure had determined that the school district had violated the IDEA regarding the educational program of the student and directed that an IEP meeting be convened. The student's parents sought attorney's fees for attendance at the IEP meeting, and the school district asserted that the attorney's fees were not recoverable by the parents. The Ninth Circuit Court of Appeals held that the student's parents were entitled to payment of their attorney's fees as the prevailing party since they were granted relief in a proceeding brought under the complaint resolution procedure. The state complaint resolution procedure, even though detailed only in the implementing regulations, constituted an alternative to the impartial due process hearing mandated by the statute, and so the parents were entitled to payment of their attorneys fees.

Hoeft v. Tucson Unified School District
967 F.2d 1298 (9th Cir 1992)

The parents appealed an order from the United States District Court for Arizona. The parents brought a class action concerning extended school year services. They alleged that the school district's policies violated the IDEA and Arizona education law. The district court dismissed the complaint based upon the parents' failure to exhaust administrative remedies. The Ninth Circuit Court of Appeals affirmed, finding that the parents' action did not fall into any of the exceptions to the IDEA's exhaustion requirements. Therefore, the court found that the parents were required to exhaust their administrative remedies before maintaining a class action challenging the school district's policies, and therefore, the court dismissed the parents' complaint.

R.K. v. Hayward Unified School District
2007 U.S. Dist. LEXIS 89271 (N.D. Cal. 2007)

The court considered whether there was a private right of action to challenge the complaint resolution procedure (California Department of Education compliance complaint procedure). Although the IDEA expressly created a private right of action under 20 USCS section 1415 for those aggrieved by the due process procedure, the court found that the IDEA did not expressly provide for a private right of action with respect to the complaint resolution procedures under 34 CFR 300.151-300.153. Further, the court did not find an implied private right of action, as it stated that Congress did not intend to create a private right of action for violations of the complaint resolution procedures. Thus, dismissal of the student's appeal to the federal court of the compliance complaint procedure was proper.

L.M. v. Capistrano Unified School District

2007 U.S. Dist. LEXIS 97057 (C.D. Cal. 2007)

The federal court considered a dispute between the parents of an autistic child over whether the district had denied the child FAPE by limiting the parents' hired psychologist's classroom observation to 20 minutes. The court said the question before it was whether the district's 20-minute limit on parents' psychologist's observation seriously infringed on the parents' participation in the IEP process. The court found that the school district's 20-minute limit was a procedural flaw. However, it did not deprive the parents of their right to meaningfully participate in the development of the child's IEP and therefore the district did not illegally deny the student a FAPE. However, the school district should, in the future, allow the same amount of time to the parents' hired private evaluators that the district's evaluators are allowed to observe the student.

Newport Mesa Unified School District v. State of California Department of Education

371 F.Supp.2d 1170 (C.D. Cal. 2005)

This case was a lawsuit between a school district and the CDE. The Court found that special education test protocols are "school records" for the purposes of California Education Code section 56504 and that copies of the special education test protocols must be provided to parents upon their request. The court also found that school districts may take steps to minimize the improper use of copied records: "In order to minimize the risk of improper use, the District may choose to use safeguards, such as requiring a review by parents of the original test protocols before obtaining a copy, a written request for a copy, a nondisclosure or confidentiality agreement or other reasonable measures."

However, the California Department of Education found in connection with a recent compliance complaint that a school district may not require parents who request copies of test protocols to meet with the assessor and may not require parents to sign a non-disclosure agreement prior to providing copies of the requested test protocols. Therefore, the district should treat request for copies of the protocols like any other request for student records and make the copies available to parents within five business days.

Goleta Union Elementary School District v. Ordway

248 F.Supp.2d 936; (C.D. Cal. 2002)

Plaintiffs, school districts and agencies, sued defendants, a special education student and his mother, appealing an administrative decision that plaintiffs failed to offer the student a free and appropriate public education under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.S. § 1400 et seq. The mother counterclaimed against a school district official.

The school official had agreed to placement of the student in a public high school without first investigating whether that was appropriate. The administrator made the decision apart from the IEP team. A showing of heightened culpability was not required to establish a violation of IDEA. All that was required to establish a 42 U.S.C.S. § 1983 claim was proof of a violation of IDEA under color of law. The court awarded summary judgment to the mother only on her claim that the official, in her individual capacity, failed to investigate the appropriateness of the student's high school placement. The official was found personally liable.

The court granted summary judgment to the student's mother on the question of the official's liability in her individual capacity for failing to investigate the student's high school placement, and denied the official's motion for reconsideration of the court's ruling that a civil rights claim could be based on a violation of IDEA.

American Nurses v. Jack O'Connell et al

Sacramento County Superior Court Case (November 2008)

On November 14, 2008, Judge Lloyd Connelly ruled that unlicensed school personnel, including classified employees, cannot legally give insulin injections to students. (There are exceptions for emergency situations.) Judge Connelly found that federal law does not require California to dispense with its requirements that nurses and trained personnel administer injections. Judge Connelly issued a ruling that which prohibited the California Department of Education from implementing a legal advisory which authorized a school employee "who is unlicensed by who has been adequately trained" to administer insulin to students with diabetes. The Court found that California law authorized the administration of insulin to a student only by a licensed health care professional acting within the scope of practice for which he or she is linked or by an unlicensed person who is expressly authorized by statute to administer insulin in specified circumstances.

This decision reverses the Legal Advisory Statement issued in August 2007 by the State Superintendent of Public Instruction, Jack O'Connell, after the settlement of another lawsuit in federal court. (*K.C., et al. v. Jack O'Connell*.) It is likely that there will be appeals in this matter. However, at this time, unlicensed school personnel are not legally allowed to give insulin injections.

Student v. Camptonville Academy

California Office of Administrative Hearings (March 18, 2009) Case No. 2008090659

The Office of Administrative Hearings ("OAH") held that statutes that require public charter schools to have a written independent study agreement in place for each of its students cannot override the federal requirement to make placement changes through the IEP process. In this case, the court found that when a public charter school authorized a student to enroll in an independent study program, the student must have a written independent study agreement in place each semester (Ed. Code section 51747(c)) The independent study agreement must be signed and consented to by the student's parent if the student is under 18 years of age.

In this case, the Student was enrolled in the public charter school for the 2006-2007 school year. The student was not a resident of the school district that issued the charter. At the beginning of the year, the student's parent refused to agree to the student's IEP because she disagreed with the courses and material recommended by the IEP team. As a result of the disagreement, the parents also refused to sign the independent study agreement.

Based upon the parent's refusal to sign the independent study agreement, the charter school unilaterally disenrolled the student and refused to schedule an IEP team meeting. The charter school asserted that it was no longer responsible for the student's education. The student then remained out of school. The student's parent ultimately requested a due process hearing before OAH. OAH held that charter school statutes do not supersede special education law under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) which requires placement changes to occur through an IEP meeting. OAH held that a public charter school must serve special education students in the same manner as the chartering school district. As a result, the charter school's decision to disenroll the student constituted a unilateral change in placement resulting in a denial of FAPE to that student. OAH found that in the event of a dispute, the charter school district is required to request a due process hearing to resolve the dispute.

This decision found that any change in the placement of a child in a charter school must be made through the IEP team, and the student's education remains the responsibility of the chartering school district, whether or not the student is actually a resident of the chartering school district.

However, this case is not binding legal authority. OAH decisions are not binding on school district, but they are persuasive authority for future special education due process hearing decisions.