



# LAW UPDATE SPECIAL EDUCATION

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## ***OFFICE OF ADMINISTRATIVE HEARINGS (OAH) HANDLES TOUGH CASE WITH SENSIBLE RULING: OAH REMEDIES ARE DESIGNED TO BENEFIT THE STUDENT AT ISSUE, NOT ALL CHILDREN GENERALLY***

*Student v. Fresno County Supt. of Schools - OAH Case No. 2020070315*

On July 9, 2020, Student filed a due process complaint against Fresno County Superintendent of Schools (FCSOS) for various free appropriate public education (FAPE) violations. On November 25, 2020, Administrative Law Judge Tara Doss released her decision granting FCSOS' Motion to Dismiss.

Parents initially requested compensatory education, including independent educational evaluations. Sadly, student passed away less than a month after the complaint was filed.

The parents then amended the complaint, seeking as remedies staff training on seclusion and child restraint policies. The decision in the case serves to illustrate the proper scope of the Individuals with Disabilities Education Act and emphasizes that the role of OAH is limited to ensuring that the special education student on whose behalf a complaint is filed receives FAPE.

While OAH has the ability to consider a wide range of remedies for FAPE violations, it does not have jurisdiction to adjudicate cases where an appropriate remedy for the affected student is not available. If there is no possible remedy OAH could award which directly benefits the student, then the case is moot.

In this case, the remedy proposed by the parents unfortunately could not have benefitted the student after his/her passing, so dismissal of the case was proper. Even though the requested staff training arguably could benefit other children, OAH's role is to design remedies specific to the child who is the subject of the hearing.

Please do not hesitate to contact us with any questions.

***– STEPHANIE VIRREY GUTCHER***

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