

Special Education in Alaska: A Recent Decision on Inclusion

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An Administrative Law Judge (ALJ) in Alaska recently held that a School District¹ failed to ensure that Student was educated in the most inclusive environment possible. It is undisputed that Student was diagnosed with mental retardation, but the degree of mental retardation is not certain due to the fact that Student is completely non-verbal. Parent raised 16 issues regarding the School Board's failure to provide the most inclusive environment for Student, including such issues as: not offering less restrictive alternatives for the Student, failure of the School Board to even attempt to place Student in a regular education classroom in any meaningful way, and failure to ensure the development and full implementation of an adequate behavioral plan for the student, resulting in Student being suspended from school.

Evidence presented at the hearing exhibited that during the Student's 2nd, 3rd, and 4th grade years, Student never received instruction in the regular education classroom. The evidence also showed that integration of this Student was never even addressed at the Student's IEP meetings. The School District argued that the justification for the Student never being in the regular education classroom was because of a concern for safety, yet this safety concern was not mentioned in Student's 2nd grade IEP. Student received all educational services during the time period in question in a "self-contained" special education classroom. No planning was ever done to work toward a goal of inclusion, and Parent never received any prior written notice from the School District that Student's involvement with regular education peers had decreased so dramatically.

The ALJ ruled that the School District failed to ensure that Student is educated in the most inclusive environment possible. The ALJ opined that the requirement to educate the Student in the "least restrictive environment" (LRE) is a fundamental element of special education law. The ALJ went on to say that when decisions were made to reduce the Student's time with other students, these decisions were repeatedly made without the participation of Student's IEP team – a major blunder on the part of the School District. In conclusion, this case emphasizes the fact that the LRE requirement is *"not an educational method, it is a mandate for placement of disabled children with their regular education peers to the greatest extent possible."* The ALJ also emphasized that each of the Student's IEPs during the time period in question were written from an objective standpoint, which made it extremely difficult to create any real goals for the Student to work toward.

The ALJ ordered the following remedies in his decision: the School Board must contract with an inclusion expert to perform a systematic analysis, rewrite Student's IEP to provide adequate baseline data, and training to staff and instruction to Student regarding how to implement the new IEP. The ALJ also awarded the Student a compensatory education award of \$50,000 in services to place the Student in the position he would have been in had the School

¹ In order to protect the Student's right to confidentiality, all references to the Student's name, family member's names and the name of the School District and specific school were not included in the hearing decision.

District not committed the above violations. This is an equitable remedy designed to compensate the student for services not received. The ALJ came to the amount of \$50,000 because it is equivalent to 300 hours of speech therapy, plus 208 hours of aide services that Student did not receive during the time period in question. The hearing decision states that the compensatory education award may be used for direct services to the Student, evaluations, assessments, training, and assistive technology. This is a major breakthrough and a huge victory for parents of special needs children, as ALJs typically do not grant equitable relief.

No word yet on if the School District plans on appealing the decision – we will keep you posted...

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