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## Ninth Circuit Holds that "Specific Learning Disability" Evaluation and IEP Satisfied FAPE for Dyslexic Student

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In *Crofts v. Issaquah School District No. 411* (9th Cir. Jan. 12, 2022, No. 19-35473) \_\_F.4th \_\_, the U.S. Court of Appeals for the Ninth Circuit held that a school district properly assessed a student for dyslexia when it conducted an evaluation for a “specific learning disability,” as provided under the Individuals with Disabilities Education Act (IDEA). The court said that, under the circumstances, no formal evaluation for dyslexia was required, and since the District conducted an appropriate evaluation, the student was not entitled to an independent educational evaluation (IEE) at public expense. The *Crofts* decision highlights the deference afforded to school districts regarding educational methodology. Since the individualized educational plan (IEP) was reasonably calculated to enable the student to make progress in light of her disability, despite not adhering to the parent’s preferred methodology, the district was not required to use the parent’s requested dyslexia teaching method.

### Background

During a 10-day administrative hearing, the student’s parent alleged that the district violated the IDEA when it evaluated the student for a “specific learning disability” and not specifically for “dyslexia.” The parent further alleged that the district denied her child a FAPE when it failed to include the parent’s preferred dyslexia instructional method (a method known as “Orton-Gillingham”) in the student’s IEP, and that the parent’s subsequent request for an IEE at public expense was improperly denied. The administrative judge denied all claims.

The district court affirmed the administrative decision, holding that the school district did not violate the IDEA when evaluating the student under a “specific learning disability”— an IDEA umbrella category that explicitly includes dyslexia – to determine whether the student had a disorder in understanding or using language and whether the student was eligible for special education services.

The school district determined that the student did, in fact, need special education services to address her reading and writing impairments, and it developed an IEP with specific goals to address those deficiencies. Though the student did not meet all her IEP goals, she made appropriate and meaningful progress toward those goals in both her general and special education classes. As such, the district court affirmed the

administrative ruling that the district correctly evaluated the student for a specific learning disability and provided the student with an IEP reasonably calculated to enable her to make appropriate progress in light of her disability. The district was not required to use the parent's preferred teaching method to provide the student with a FAPE. The parent appealed.

## **Ninth Circuit Decision**

The Ninth Circuit panel affirmed the lower court's decision. The panel concluded that the district's evaluation was not deficient simply because the term "dyslexia" was not used in the evaluation or in the IEP, as the parent preferred. The district satisfied the IDEA requirements by evaluating the student for a "specific leaning disability," thereby validating the district's denial of the parent's IEE request. Relying on *Andrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist.* (2017) \_\_\_ U.S. \_\_\_ [137 S.Ct. 988], the Ninth Circuit further held that the school district complied with the IDEA when it developed an IEP that was "reasonably calculated" to enable the student to make meaningful progress toward improving her assessed language deficiencies. What matters, the panel held, is the fact that the student's IEP goals were targeted to address the exact learning areas in which she struggled and that she was making measured progress toward those goals in both the special and general education environments.

Additionally, the Ninth Circuit affirmed that the IDEA affords educators the discretion to select from various methods for meeting the individualized needs of a student, provided those methods are reasonably calculated to provide educational benefit. In other words, without an adequate showing that the parent's preferred teaching method was "necessary" for the student to receive educational benefit, the IEP developed by the district was sufficient as it was tailored to the student's circumstances and was reasonably calculated to help the student progress in light of those circumstances, especially when the student made progress on her IEP goals.

## **Takeaways**

Similar to guidance found in California's Dyslexia Guidelines, the Ninth Circuit reiterated that under the IDEA, dyslexia may be understood as a type of "specific learning disability" for special education eligibility purposes. The panel held that while use of the term "dyslexia" is not prohibited in evaluation reports, it need not be included in evaluations or IEPs in order to satisfy IDEA requirements.

Moreover, the Ninth Circuit held that absent a showing of necessity, the school district holds discretion when it comes to determining what educational methods to use in meeting the individualized needs of a student. A school district need not utilize the parent's preferred methods so long as the district's methodology is reasonably calculated to enable the student to make progress in light of her disability without the parent's preferred methods.

Lastly, the *Crofts* decision reaffirms for educators that an IEP that effectively addresses and targets a student with dyslexia's reading and writing deficiencies, even without mentioning dyslexia, sufficiently provides a FAPE under the IDEA.

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