

Use of qualified, capable teacher for home instruction offers FAPE

Case name: *Los Angeles Unified Sch. Dist.*, [54 IDELR 269](#) (SEA CA 2010).

Ruling: The parent of an 8-year-old with multiple orthopedic disabilities and mental retardation failed to show that a district denied her son FAPE by declining to pair him with a particular instructor. Finding no evidence that the teacher the California district assigned was unqualified or incapable of implementing the student's IEP, an ALJ rejected the parent's request for compensatory services.

What it means: The assignment of particular employees is usually an administrative decision fully within a district's discretion. However, a district must ensure that the instructor assigned to work with a particular child is qualified and capable of implementing the child's IEP so that the child is given access to educational benefits. In this case, a parent was concerned that the student would be unable to benefit from his home program when a new instructor replaced his prior one. However, she presented no evidence that the new instructor was unqualified or incapable of meeting the child's needs.

Summary: A California district had no obligation to assign a parent's preferred teacher to her child's home program. Because the district offered home-based services taught by a qualified instructor capable of addressing the child's needs, the district did not deny the child FAPE, an ALJ ruled.

The 8-year-old with multiple orthopedic disabilities, mental retardation, epilepsy and other impairments had difficulty with change, lack of routine and lack of structure. When the district offered home instruction using a new instructor, rather than the one to which the student was accustomed, the parent objected and refused services.

She filed a due process complaint, alleging that the district denied the student FAPE and seeking compensatory education. The parent argued that using different instructors would have a "revolving door" effect on the student, preventing him from reaching his educational goals.

The ALJ noted that parents generally have no right to compel a district to assign a particular teacher to implement an IEP. Furthermore, the district demonstrated that the new teacher was qualified and capable of implementing the child's program, and the parent presented no evidence to the contrary. Moreover, the evidence showed that the child took just two weeks to adjust to his prior instructor.

Because the district was not required to assign the parent's preferred instructor, any failure to provide home instruction because of the parent's refusal did not deny the child FAPE. Accordingly, the district did not owe the student compensatory education.

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