

FILED

UNITED STATES COURT OF APPEALS

JUN 09 2008

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK OF COURT
U.S. COURT OF APPEALS


 Plaintiff - Appellant,

 v.

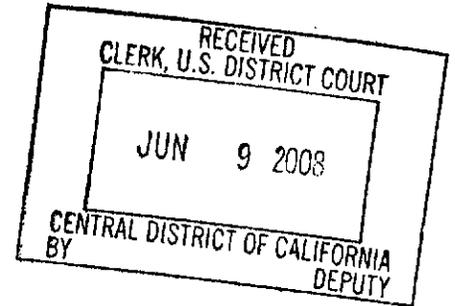
 PLACENTIA YORBA LINDA UNIFIED
 SCHOOL DISTRICT; ORANGE
 UNIFIED SCHOOL DISTRICT,

 Defendants - Appellees.

No. 07-55038
D.C. No. CV-06-02294-R
Central District of California, Los Angeles



MANDATE



The judgment of this Court, entered 5/14/08, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

Molly C. Dwyer
Clerk of Court

By: Synitha Walker
Deputy Clerk

✓ FILED

NOT FOR PUBLICATION

MAY 14 2008

UNITED STATES COURT OF APPEALS

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<p>████████████████████</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>PLACENTIA YORBA LINDA UNIFIED SCHOOL DISTRICT; ORANGE UNIFIED SCHOOL DISTRICT,</p> <p>Defendants - Appellees.</p>
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No. 07-55038

D.C. No. CV-06-02294-R

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted May 6, 2008**
Pasadena, California

Before: W. FLETCHER and GOULD, Circuit Judges, and POLLAK***,
United States District Judge

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

*** The Honorable Louis H. Pollak, Senior United States District Judge
for the Eastern District of Pennsylvania, sitting by designation.

██████████ appeals from the district court's two judgments in his Individuals with Disabilities Education Act (IDEA) and state law action against Placentia-Yorba Linda School District (PYL) and Orange Unified School District (Orange). In denying ██████████'s claims, the district court accepted in full the findings of fact and conclusions of law made by the Administrative Law Judge (ALJ). We have jurisdiction under 28 U.S.C. § 1291.

We must first decide how much deference to award the ALJ's decision. *See Ash v. Lake Oswego Sch. Dist.*, 980 F.2d 585, 587-88 (9th Cir. 1992). The record reveals that the ALJ was an active participant during the five-day hearing, and her decision contains a lengthy discussion of the facts and a detailed analysis of the law. We therefore find that the ALJ's decision was "thorough and careful," and we afford it deference. *See Hood v. Encinitas Union Sch. Dist.*, 486 F.3d 1099, 1104 (9th Cir. 2007); *Park v. Anaheim Union High Sch. Dist.*, 464 F.3d 1025, 1031 (9th Cir. 2006).

██████████ is entitled to a free and appropriate public education (FAPE) that provides supportive services for his learning disabilities. *See* 20 U.S.C. § 1401(9); Cal. Educ. Code § 56301; *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1499 (9th Cir. 1996).

██████ claims PYL and Orange denied him a FAPE because they failed to evaluate his learning disabilities; failed to provide certain educational, social-emotional, mental health, and behavioral services; and failed to design an Individualized Education Program (IEP) tailored to his needs. We agree with the district court and the ALJ that none of these claims has merit.

The IDEA and state law require a triennial assessment of special education students. 20 U.S.C. § 1414(a)(2)(B)(ii); Cal. Educ. Code § 56381(a)(2). PYL performed the required reassessment but failed to conform to the test administration instructions. The ALJ awarded ██████ an appropriate remedy for this procedurally non-conforming assessment. *See* 34 C.F.R. § 300.502(b).

██████ did not establish that PYL and Orange failed to evaluate ██████ in any area suspected to affect his educational abilities. *See Park*, 464 F.3d at 1031-32; *see also Seattle Sch. Dist. No. 1*, 82 F.3d at 1499; 20 U.S.C. § 1414(b)(3)(B).

At PYL, ██████ was enrolled in several special education classes as approved by his IEP team. That team included his mother. His transcript and academic record indicate that he was making educational progress. *See Hood*, 486 F.3d at 1107. There is no evidence that he needed any emotional or behavioral intervention services at PYL. ██████ lived in Orange for less than a year, and his school attendance during that time was erratic at best. We cannot find that the

services Orange provided or did not provide denied ██████████ a FAPE when there was so little time to evaluate the program at Orange and to determine if it would provide educational benefits for him. *See Hood*, 486 F.3d at 1108-09 and n.7; *see also Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., Westchester Cty. v. Rowley*, 458 U.S. 176, 200 (1982). ██████████'s parent rejected all offers from PYL and Orange to provide mental health services, and the schools could not include mental health goals in ██████████'s IEP without his parent's consent. *See Cal. Educ. Code* § 56321(b)(4).

██████████'s IEPs fully addressed his educational program and provided appropriate goals in his identified areas of need. *See 20 U.S.C* § 1414(d). None of his IEP team members, including his mother, objected to the identified areas of suspected disability. He has failed entirely to identify anything inappropriate about his IEP or what services PYL or Orange should have provided.

██████████'s experts failed to consider his cognitive limitations and denied any knowledge of the specific programs and services he received at PYL or Orange. The experts' testimony that the districts provided an inadequate education is thus unpersuasive.

The judgments of the district court are **AFFIRMED**.