

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION DIVISION
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

Petitioner,

OAH No. N 2005080083

and

ENCINITAS UNION SCHOOL DISTRICT,

Respondent.

DECISION BY CONSENT

Elizabeth Feyzbakhsh, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on April 20, 2006, in Encinitas, California.

Student was represented by Eric Freedus, Attorney at Law. Joel Mason, Attorney at Law, Stutz, Artiano, Shinoff, & Holtz, represented the Encinitas Union School District. The parties have agreed to settle the matter by entering into a Stipulation for Decision by Consent.

This decision is based exclusively on the stipulation between the parties.

FACTUAL FINDINGS

1. The attorneys for petitioner and respondent have the authority to enter into this agreement on behalf of their respective clients.

2. Beginning on or around February 11, 2004 and through August 13, 2004, Petitioner was denied a free appropriate public education (FAPE) by Encinitas Union School District (EUSD) by reason of action or inaction which prevented Petitioner's parents from having meaningful participation in the formation of the IEP¹

¹failing to have appropriate members of the IEP team present at a June 9, 2004 IEP meeting; failing to discuss and failing to give parents an opportunity to discuss placement of Petitioner part-time in a general education placement with appropriate DIS services; meeting without parents outside of a noticed IEP meeting and creating a new offer of placement without the participation of parents which offer was communicated to parents by letter dated June 15, 2004; failing to make such June 15, 2004 offer clear and

3. As a result of actions by EUSD, parents unilaterally placed Petitioner in private placement and obtained privately provided services from August 2004 through summer of 2005.

4. The private placement and services were reasonable and appropriate to serve the needs of Petitioner when obtained. The parties have agreed that EUSD shall pay Parents for the placement and services in the amount of \$82,424.00. Such sum is a reasonable and necessary expense by the parents and the documentation for said amounts has already been produced. Payment shall be made by EUSD within 30 days of the Stipulation which was signed on April 24, 2006, without necessity of waiting for a formal written offer. The check will be made payable to "Trust Account of Eric B. Freedus" and mailed to:

Eric Freedus
5008 Nighthawk Way
Oceanside, CA 92056-5443

5. Parents waive all claims relating to transportation expenses in connection with the private placement.

6. EUSD waives all rights to appeal this decision.

ORDER

EUSD is ordered to pay Parents for private placement and services in the amount of \$82,424.00 to be paid within thirty days of the stipulation in this matter.

Dated: May 3, 2006

ELIZABETH FEYZBAKSH
Administrative Law Judge
Office of Administrative Hearings

unambiguous with respect to DIS services proposed in the offer; and failing to adequately respond to inquiries about the meaning of the contents of the June 15, 2004 offer.