

THE
OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION DIVISION
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

Petitioner,

vs.

TUSTIN UNIFIED SCHOOL DISTRICT.,

Respondent.

OAH No. N2005090544

NOTICE: This decision has been UPHELD by the United States District Court. Click [here](#) to view the court's decision.

DECISION

James R. Goff, Administrative Law Judge, Office of Administrative Hearings (OAH), Special Education Division, State of California, heard this matter on January 23 through 27, 2006, in Tustin, California. The record was left open to permit the parties to submit written final arguments by February 24, 2006. The matter was submitted for decision on February 24, 2006.

Paul H. Kamaroff, Esq., of Kamaroff & Associates, represented petitioner, Student, at the hearing. Also present at the hearing on behalf of Student was her Mother.

Nancy Finch-Heuerman, Esq., of the law firm of Parker & Covert, LLP, represented respondent Tustin Unified School District (TUSD or District). Also present at the hearing on behalf of the District were Dr. Lori Stillings, Associate Superintendent, Special Education, and Christine Fletcher, Coordinator Special Education, who sat in for part of the last day.

Statement of Issues

Essentially, the Student's request for due process review stems from the contention that TUSD violated its "child find" requirements in failing to provide Student with FAPE for the school years 2001-2005, and appropriate services. Parents seek reimbursement for private school tuition at Waldorf School, the Prentice School, vision therapy services, physical therapy, occupational therapy, and all private expert assessments.

FACTUAL FINDINGS

1. Student's parents divorced in 2000, but they share joint custody. Student presently resides with her Mother in Mission Viejo, California. Her due process claims arise from a period when she resided within TUSD's boundaries. She was never enrolled in a public school. The 2001-2002, 2002-2003, 2003-2004, and the 2004-2005 school years were at issue in this hearing.

2. Student was born on June 22, 1995. After birth, Student was in intensive care for 97 days at University of California, Irvine Medical Center (UCI). The doctors at UCI diagnosed Student as being at risk for developmental delay. In August, 1996, a pediatric ophthalmologist referred Student to Dr. Beth Ballinger, a developmental optometrist, for vision therapy. Dr. Ballinger has provided treatment for Student since this time.

3. Soon after birth, Student was referred to the Regional Center of Orange County (RCOC) as an at risk child for developmental delay. RCOC was responsible for monitoring Student's development until she turned three years of age. As Student approached her third birthday, RCOC notified parents that services would end at Student's third birthday unless some other need was detected and that the school district may schedule an Individual Education Plan (IEP) prepared by a school district for children with disabilities entitled to special education services. At that time, TUSD had a working agreement with RCOC to be provided with referrals such as Student. Mother never contacted the TUSD, and at that time she was not contacted by TUSD.

4. Student attended preschool at home taught by a former teacher from Waldorf School. She was enrolled at Waldorf School in kindergarten for the 2001-2002 school year. Waldorf School is a private school located within the boundaries of TUSD. Student's brother was schooled at Waldorf. She attended Waldorf School for the 2002-2003 school year in first grade, and the 2003-2004 school year in second grade. Waldorf School also provided after school care for Student. For the parents, Waldorf School was appropriate for Student, and there was never a discussion of placing her in a public school. Waldorf School leaves it to the teachers to find the best solution for the students, when a need for special education services arises.

5. When Student struggled with her education at Waldorf School, Mother did not turn to the TUSD for help. She sought out the services of a private educational psychologist for an assessment of Student. Dr. Chris Davidson is a well-qualified educational psychologist. She evaluated Student. Her report was dated March 8, 2004. Mother was concerned with Student's reading and writing skills. Dr. Davidson observed Student at the Waldorf School on April 29, 2004, and conducted standard intelligence tests. Dr. Davidson recommended Student to Prentice School. When Dr. Davidson discussed the testing results with Mother, she recommended generally that Mother have Student evaluated by TUSD. Dr. Davidson always makes this recommendation to the parents of children that she has evaluated. Dr.

Davidson indicated that Mother might need to retain an advocate and she recommended three separate law firms to provide that aid.

6. At Dr. Davidson's suggestion and intervention, Mother enrolled Student at the Prentice School. Student enrolled in third grade at Prentice School in August, 2004. Prentice School is a non-public school located within the boundaries of TUSD. It is a school for students with average to above-average intellect with a language problem. While Waldorf School focuses on arts creativity, Prentice School is a direct instruction type of school. Prentice School leaves special education issues to its teachers. Prentice School will not refer students to school districts unless a parent wants funding from the school district.

7. Dr. Beth E. Ballinger has provided vision therapy to Student since the age of fourteen months. In August, 2004, Dr. Ballinger provided an extensive report which focused on Student's visual information processing ability. Dr. Ballinger found that Student demonstrated conceptual delays within directionality awareness, which causes her to take a longer time to orient and process information. She evidenced visual acquisition, visual-motor integration, and visual information processing deficiencies. In Dr. Ballinger's opinion Student's vision problems adversely affected her educational performance over the relevant time periods at issue. It was estimated that Student would need 10-12 years of vision therapy.

8. One of Student's primary complaints was that TUSD, through its "child find" obligations, failed to contact Student or her parents and offer a free appropriate public education. Mother was not contacted by TUSD until the end of the 2004-2005 school year. She wanted TUSD to pay for Student's tuition at the private schools and pay for Student's vision therapy. When RCOC indicated that TUSD could provide services for Student, Mother assumed it would be automatic. She thought services for her daughter would come to her, that it was not necessary to seek out services. Mother never contacted TUSD to determine what TUSD could do for Student.

9. When Student attended Waldorf School for the 2001-2002, 2002-2003 and 2003-2004 school years, TUSD through OCDE had sent letters in 2002 and 2004 to Waldorf School regarding availability to provide evaluations for children with special education needs. Holly Derheim, Director of Administration at Waldorf School, was a friend of Mother, when they were both parents of Waldorf students.

10. When Student attended Prentice School for the 2004-2005 school year, TUSD through OCDE had sent a letter in 2004 to Prentice School regarding availability to provide evaluations for children with special education needs. Carol H. Clark, Administrator at Prentice School, was aware that TUSD could provide assessments for students that had no previous testing.

During this time, Prentice School did not refer Students to school districts unless parents wanted funding from the districts. It was the practice of Prentice School to refer children without previous evaluations to the districts for an assessment. Student had a previous assessment when she entered Prentice School.

11. From as early as 1992, TUSD cooperated with the Orange County Department of Education (OCDE) and other districts in “child find” activities. The districts cooperated by placing ads in general circulation newspapers that described the schools’ obligation to assess all students with disabilities, and the ads included references to each of the participating school districts for contact purposes. TUSD provided pamphlets with similar contact information to doctors, hospitals and businesses in the community. TUSD had a community action group made up of parents that made outreach efforts in the community to notify parents of assessments that TUSD would provide for children suspected to have disabilities. In 1999, TUSD compiled a list of nonpublic schools from a directory provided by OCDE of private schools in the District, and sent out letters describing the responsibilities that TUSD had to find and assess all children in the District with suspected disabilities.

12. On November 1, 2002, TUSD through OCDE sent a letter to all private schools in Orange County alerting the schools to the “child find” obligations of the districts and providing contact information for each of the cooperating districts. A list was compiled of all the private and nonpublic schools in Orange County.

In all school years at issue from 2001 through 2005, TUSD, in conjunction with OCDE and other SELPAs, published an ad in a newspaper of general circulation discussing the Districts’ responsibility to assess all children in the various districts who were suspected of having educational disabilities. The ads always contained contact information for TUSD. A webpage maintained by TUSD advised parents regarding the “child find” responsibilities and contained contact information for TUSD. The articles indicated that the District had responsibility for children from birth to age 22. At the beginning of each school year, TUSD distributed a document called “Parent/Student Rights and Responsibilities” to all families registered in the TUSD. An article in this publication explained TUSD’s responsibilities and the right of every affected parent to request an evaluation. Parents interested were directed to contact their school principal. Parents and students were directed to keep the booklet for future reference. Beginning with the 2003-2004 school year, the booklet began referring parents to “Tustin Unified Special Education Department” with a telephone number and extension. TUSD had a CAC (Community Advisory Committee), whose specific function was to circulate information in the community about special education. Parents, who made up the membership of CAC, made public appearances to discuss special education and distributed educational materials in the community.

Representatives of TUSD would regularly meet with doctors, hospitals, and other health providers to alert them to the District’s “child find” responsibility. The Orange County Department of Education established a program called Grand Rounds in which a doctor, a parent and the director of OCDE would visit CHOC (Children’s Hospital of Orange County) and UCI Medical Center to discuss children at risk and the importance of referring

these children to the school districts for special education evaluations. These rounds were conducted twice a year. This resulted in many referrals by doctors of children for assessment by TUSD. A meeting was held in 2005 that was intended to discuss the changes made to IDEA by the Congress effective in July 2005. Letters were sent to all the private schools inviting them to the meeting that was held at a private school. It was previously determined that each of the school districts would be responsible for mailing the letters to the private schools within each district. The Assistant Superintendent of TUSD attended the meeting and introduced herself to the representatives of the private and nonpublic schools that attended the meeting. Representatives from Prentice School were present for the meeting. Waldorf and Prentice Schools were on the list of private schools that received OCDE coordinated letters.

At the time of these activities, it was the policy of TUSD to require proof of residency before permitting a child to enroll in any of its schools or to receive special education services. The same policy was followed by all the schools in Orange County. Normally, TUSD required a parent to produce two forms of proof showing residence within the District. These forms of proof were typically a rental receipt and a copy of a utility bill showing residence in the District.

13. In addition to the previous activities carried out by TUSD, a publication was launched in approximately January 2005, which was distributed every other month to different residential parts of TUSD. Nearly 40,000 copies of "Roll Call" were distributed to residences every other month. At least one article discussed TUSD's "child find" responsibilities. Additionally, special education students enrolled in the Workability Program went into the community to disseminate information regarding special education services available at TUSD.

14. On May 18, 2004, TUSD received a letter from Student's counsel requesting Student's "cumulative record and confidential file" within five days. The letter indicated that counsel was representing Student and her Mother. It also requested that an IEP meeting be held within thirty days. The letter provided the name of counsel, the name of Mother and the name and birth date of Student. Counsel's letter directed TUSD to "forward all correspondence regarding [Student] to this office." The letter carried the implication that the Student was enrolled in TUSD. However, no records existed because Student had never been enrolled at TUSD. Dr. Stillings could find no record of Student and no referral from any source that Student was an individual in need of special education services. TUSD maintains liaison with RCOC, but there was no referral from RCOC. TUSD requested that a staff person call counsel and verify the name and information. TUSD received no confirmation from counsel or parent of the information in the letter. Despite "child find" efforts, TUSD may never discover that a student needs special education services absent a referral.

On September 15, 2004, counsel for Student sent another letter to TUSD. The letter provided notice that within ten days Student's Mother would provide Student with an "independent educational program that adequately addresses [Student's] documented

educational deficits.” The letter indicated that Student had lived in the District for the past seven years and that Student had received services from the “county regional center.” Counsel indicated that Mother would be seeking reimbursement for all costs incurred. Finally, counsel demanded an IEP meeting within thirty days. The letter did not disclose that Student had been in private school since 2000.

On September 21, 2004, an attorney representing TUSD wrote to Student’s counsel indicating that the District had received no information confirming the letter and had been unable to find any record that Student was enrolled in TUSD. The letter requested that the parents come to TUSD with evidence of residency. It also inappropriately mentioned enrollment at TUSD, as a condition to engaging in an IEP. This letter did not reference the September 15, 2004 letter.

On October 21, 2004, counsel for Student filed “Petitioner’s Request For A Due Process Hearing.” The complaint listed the Student’s address. From December 2004 to May 2004, the parties exchanged a series of letters related to assessments and proof of residency. In April 2005, counsel for Student provided TUSD with a copy of an electric bill, showing residence within the District boundaries. On May 4, 2005, counsel for TUSD provided Student with an assessment plan for signing. On May 12, 2005, Mother signed the assessment plan acknowledging her consent. Thereafter, an IEP meeting was scheduled for September 6, 2005. Student conceded that TUSD provided a FAPE for the 2005-2006 school year, and complied with its “child find” obligations for the same period.

15. The parties stipulated that Student had visual impairment that could affect her educational performance at all times in issue.

CONCLUSIONS OF LAW

1. Several evidentiary issues arose during the hearing that required resolution. Counsel for Student objected to expert witnesses not being identified as expert witnesses and not providing curriculum vitae for these witnesses. TUSD countered that there were no other expert witnesses, while in fact all of its witnesses were expert witnesses. This objection was expanded to allowing expert witnesses to testify in regard to reports previously prepared by unavailable expert witnesses. Two potential witnesses were involved. Debra Sistrunk was called by TUSD to testify in regard to an assessment report prepared by Jill Copelin, a speech and language pathologist. Nicole Angela Smith was called to testify regarding an occupational therapy evaluation prepared by Lisa Rivera. Ms. Copelin was unavailable because her sister was in the final stages of cancer and was on leave. Ms. Rivera had left the employ of TUSD and had moved to Maryland. Ms. Copelin and Ms. Smith were identified to Student as potential witnesses for TUSD. Ms. Copelin’s and Ms. Rivera’s reports were disclosed as proposed exhibits. TUSD proffered that Ms. Sistrunk’s name was provided in an amended witness list filed five days prior to the hearing.

While it may be appropriate to require TUSD to submit curriculum vitae for its expert witnesses, it has been the practice for some time not to require school personnel to submit vitae since their experience is often limited to their school experience. Their testimony regarding educational background and experience was fairly brief and noncontroversial. It was appropriate to permit a witness to testify in regard to the professional report of another school employee. Both the testimony and the reports, which are business records, were properly admitted. In *United States v. Walker* (9th Cir.1997) 117 F.3d 417, the court upheld the admissibility of a parole agent's testimony from another parole agent's file. Similarly, the California Supreme Court in *Lake v. Reed* (1997) 16 Cal.4th 448, held that a license could be suspended based on admission of an unsworn police report. (See also, *Petricka v. DMV* (2001) 89 Cal.App.4th 1341, 1348 [unsworn forensic lab report]; *Shannon v. Gourley* (2002) 103 Cal.App.4th 60, 65 [recorded test results]; *Komizu v. Gourley* (2002) 103 Cal.App.4th 1001, 1007 [report prepared from journal-type entries admissible].)

Additionally, Student sought to add the testimony of his father, who had not previously been identified as a witness. The ALJ permitted admission of the testimony subject to a later determination of its admissibility. The crux of the problem was not only the late addition of a witness, but whether father was entitled to seek reimbursement for tuition expenses that he had paid for Student's attendance at private schools. Student submitted as an exhibit canceled checks and receipts for tuition payments that father had made on Student's behalf. Father was not listed in the notice for due process hearing and had not previous to his testimony even been represented by counsel for Student. TUSD objected to the exhibits and testimony of Father. Since Father was not a party to the due process request he is not entitled to claim reimbursement in this proceeding; however, his testimony is admissible as rebuttal evidence. (See, *Emery v. Roanoke* (4th Cir. 2005) 432 F.3d 294, 299.)

2. It was stipulated that Student was vision impaired at all relevant times in litigation. (Cf. *Dekalb County School District v. M.T.V.* (N.D. GA, Atlanta D. 2005) 413 F. Supp.2d 1322.) It was also stipulated that TUSD provided Student with FAPE at the September 6, 2005 IEP. Therefore, the primary issues in regard to Student's claims for reimbursement are whether TUSD conducted appropriate "child find" efforts prior to the September 6, 2005 IEP, and/or whether the parents are barred from receiving reimbursement. This conclusion is supported by Findings of Fact 1, 7, 8, 9, 10, 11 and 15.

3. The evidence established that TUSD met its "child find" obligations in regard to Student.¹ (*Student v. Saddleback Valley Unified School District*, SEHO Case SN05-1261 (August 30, 2005).) As indicated in *Temecula Valley Unified School District v. Student*, SEHO Case SN04-0042 (2004), at page 3: "The purpose of child find is to ensure that a free appropriate public Education can be made available to all eligible children. To ensure

¹ RCOC never referred Student to TUSD for assessment and an IEP, though it was statutorily obligated to do so. (20 U.S.C. § 1437(a)(9)(A)(ii)(I) and (II); 34 CFR §§ 303.148(b), 303.344(h); Gov. Code, § 95022, subd. (e); Code Regs., tit. 17, § 52112, subd. (b)(2).) However, the ALJ cannot provide relief for RCOC's failure to comply with the law.

access, Districts are responsible for disseminating information to the local community to create awareness that public services exist for disabled students. In carrying out child find for parentally placed private school students, school districts undertake activities such as widely distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs and other community activities, and creating direct liaisons with private schools.” TUSD did all that the law required. (*Miller v. San Mateo-Foster City Unified School District* (N.D. CA 2004) 318 F.Supp.2d 851, 854; *J.H. v. The Board of Education for Transylvania County* (W.D. N.C. 2000) 113 F.Supp.2d 856, 860-861; 20 U.S.C. § 1412(a)(3), 1412(a)(10)(ii); 34 C.F.R. §§ 300.451, 300.454(a)(1), 300.455(a)(2); Ed.Code §§ 56300, 56301, 56302, 56302.1.) This conclusion is supported by Findings of Fact 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15.

4. Effective July 1, 2005, TUSD’s “child find” obligations were extended to include students attending private schools within its boundaries. Prior to that time, TUSD’s obligation under “child find” was to students that resided within its boundaries. TUSD had a policy of requiring proof of residence before it would enroll a student or seek and serve a student with special education needs. Under state law, a student cannot enroll in school unless she is a resident within a school district’s boundaries. Residency under IDEA is determined by state law. (Ed. Code § 48200 [embodies the general rule that parental residence dictates a pupil’s proper school district]; *Katz v. Los Gatos-Saratoga Joint Union High School District* (2004) 117 Cal.App.4th 47, 57; *Union School District v. Smith* (9th Cir. 1994) 15 F.3d 1519, 1525.) Under IDEA, a district retains its “child find” duties even if the child is removed from the public system and placed in a private facility. (20 U.S.C. § 1412 (a) (3); 34 C.F.R. § 300.125; *J.S. v. Shoreline School District* (W.D. WA, 2002) 220 F.Supp.2d 1175, 1191.) Student contended inaccurately that TUSD required enrollment, not just residency, before it would provide an IEP. However, TUSD only sought minimal evidence of residency in compliance with school policy and state law.

Student’s failure to provide TUSD with evidence of residency from May 18, 2004 until April 20, 2005, is inexplicable and unreasonable. A parent may be denied reimbursement if the ALJ determines that the parent’s conduct has been unreasonable. (20 U.S.C. § 1412(a)(10)(C)(iii)(III); *P.S. v. The Brookfield Board of Education* (D. Conn. 2005) 353 F.Supp.2d 306, 315 [failure to make Student available for assessment]; *Schoenbach v. District of Columbia* (D.D.C. 2004) 309 F.Supp.2d 71, 85-86, fns 14 & 15 [refusal to attend IEP, failure to provide notice to district that placing child in private school, failure to object to placement]; *M.C. v. Voluntown Board of Education* (2d Cir. 2000) 226 F.3d 60, 68; *Loren F. v. Atlanta Independent School System* (11th Cir. 2003) 349 F.3d 1309, 1319, fn. 10.) Reimbursement of tuition and compensatory relief involve equitable remedies. As the court indicated in *Miller v. San Mateo-Foster City Unified School District, supra*, 318 F.Supp.2d 851, 859-860: “equitable relief is a fact-specific inquiry in which the Ninth Circuit had held that ‘the conduct of both parties must be reviewed to determine whether relief is appropriate.’” Mother’s failure to provide evidence of residency created an unreasonable delay in allowing TUSD to provide a FAPE. Mother refused to attend the IEP that she now stipulates provided her daughter FAPE. Mother provided the TUSD with notice of her intent to place her daughter in a private school and her demand for reimbursement for the private

placement on September 15, 2004. By that time Student had been in private school for several years. Student had attended a private in-home pre-school taught by a former Waldorf School teacher in the year 2000. From 2001-2002, 2002-2003, and 2003-2004, she attended Waldorf School. She enrolled at Prentice School in August, 2004, a month prior to providing notice to TUSD. The notice was part of an effort to obtain money to pay for private placement. It was a false gesture. It fails to comply with the purpose of the notice requirement, which is to give the District an opportunity to comply with FAPE. (*Greenland School District v. Katie C.* (1st Cir. 2004) 358 F.3d 150, 161, 162; *Carmel Central School District v. V.P.* (S.D. NY 2005) 373 F.Supp.2d 402, 414.) Father testified that the parents never intended to place Student in a public school. Mother testified she would consider a public school if it would pay for private placement and Student's vision therapy. Parents' conduct was unreasonable and they are not entitled to reimbursement or compensatory relief even if they could establish a denial of FAPE in the school years at issue. (*Carmel Central School District v. V.P.*, *supra*, 373 F.Supp.2d 402, 417.) This conclusion is supported by Factual Findings 1, 3, 4, 5, 6, 7, 9, 10, 11, 12, 14 and Conclusions of Law 2 and 3.

5. Student argues that neither Waldorf School nor Prentice School received letters from TUSD and that the failure to write to these two schools is fatal to TUSD's "child find" obligations. Student errs. There is substantial evidence that TUSD, in conjunction with OCDE, mailed letters to both private schools. The testimony of Ms. Derheim and Ms. Clark that they did not see the letter fails to compel the conclusion that it was not received. Neither Ms. Derheim nor Ms. Clark had much interest in TUSD's problem with "child find." They both indicated that the problem was one between parents and the Student's teacher, not the private schools. In this regard, Mother testified that Waldorf would never refer a student to a public school. In addition, both private schools had knowledge of assessment services provided by school districts. Ms. Clark knew of TUSD's availability to assess students with special educational needs. Prentice School had been aware of TUSD's availability for assessments for a number of years. (See, *Student v. Saddleback Valley Unified School District*, SEHO Case SN05-1261 at pp. 6-7.) Ms. Clark testified that a student without prior evaluations was referred to the school district for an assessment. Similarly, if a student neared graduation he/she was referred to the school district for assessments and development of a transition plan. Finally, she testified that if a student had an evaluation before entering the school, they would be referred to the school district only if the parents needed financing to pay for the private school tuition. In *Student v. San Mateo-Foster City School District*, SEHO Case SN02- 2682 (April 18, 2002), relied on by Student, the school district admitted not sending a letter to the private school. The private school had never referred a student to a school district for an assessment. This is in contrast to Prentice School which did refer students for assessment. This conclusion is supported by Factual Findings 9 and 10.

6. Student contends that TUSD had a "child find" obligation even if parents rejected special education services. However, parents may withdraw their child from public schools and waive any rights to special education services. (*S.F. v. Camdenton R-III School District* (8th Cir. 2006) 439 F.3d 773.) TUSD was not required to "child find" those that did not want services. This conclusion is supported by Factual Findings 1, 3, 4, 5, 6, 7, 9, 10, 11, 12, 14, 16 and Conclusions of Law 2 and 3

7. Additionally, Mother's unilateral placement of Student in private schools from pre-school until now bars her claim to reimbursement for the private school tuition. Reimbursement for private school placement is governed by 20 U.S.C. § 1412(a)(1)(C)(ii), which provides that: ". . . if the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school . . . then those parents may receive reimbursement for the cost of enrollment in certain situations." If, as in this case, the parents never received special education from a public school then there is no authority for providing reimbursement. (*Baltimore City Board of School Commissioners v. Isobel Taylorch* (D. Md. 2005) 395 F.Supp.2d 246, 250; *Carmel Central School District v. V.P.*, *supra*, 373 F.Supp.2d 402, 414-415; *J.H. v. The Board of Education For Transylvania County*, *supra*, 113 F.Supp.2d 856, 862; *Greenland School District v. Katie C.*, *supra*, 358 F.3d 150, 161.) This conclusion is supported by Factual Findings 1, 3, 4, 5, 6, 7, 9, 10, 11, 12, 14, 16 and Conclusions of Law 2, 3 and 4.

ORDER

Accordingly, Student's claims for reimbursement from TUSD are denied in total.

PREVAILING PARTY

Pursuant to California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided. The following findings are made in accordance with this statute: *The District prevailed on all issues heard and decided.*

RIGHT TO APPEAL THIS DECISION

The parties to this case have the right to appeal this Decision to a court of competent jurisdiction. If an appeal is made, it must be made within ninety days of receipt of this decision. California Education Code section 56505, subdivision (k).

Dated: May 16, 2006

JAMES R. GOFF
Administrative Law Judge
Office of Administrative Hearings
Special Education Division