

Parent can't inspect incident reports not maintained in student's files

Case name: Saddleback Valley Unified Sch. Dist., [57 IDELR 298](#) (SEA CA 2011).

Ruling: Deciding that a California district didn't deny FAPE to a student with an SLD by failing to provide her parent with copies of two incident reports, an ALJ denied all of the parent's requested relief.

What it means: The IDEA permits parents' access to their children's relevant education records. In California, a document is considered a part of a student's educational record if it relates to the student's private educational interests and is maintained in her permanent file by a single, central school custodian in the normal course of business. Here, the district's incident reports weren't maintained in student files; rather, they were confidentially kept in the district business office's risk management department in anticipation of litigation. Thus, the reports weren't educational records that the parent of a student with an SLD had the right to inspect.

Summary: Because a California district didn't maintain a student's incident reports in her permanent file, it didn't have to allow her parent the opportunity to inspect them. The student, who had an SLD, had twice been injured on her school's playground. On the first occasion, she fell, broke the foot-ankle brace she needed for support, and bruised her calf. The second incident resulted in the injury of her wrist. On both occasions, district personnel informed the mother that the student was fine when in fact, on the second occasion, she had actually fractured her radius bone.

The district had compiled incident reports for the two accidents. The mother requested copies of the reports, but her requests were denied. She subsequently filed for due process alleging that the district denied the student FAPE by failing to timely provide copies of her educational records.

An ALJ explained that pursuant to [20 USC 1415](#) (b)(1), the IDEA guarantees parents the opportunity to make informed decisions about their child's education by permitting them the right to inspect all of their child's relevant education records. Education records under the IDEA are defined by FERPA at [20 USC Sec. 1232g](#) (a)(4), which states that records, files, documents, and other material containing information directly related to a student, which are maintained by an educational agency, are educational records.

The ALJ referred to *Owasso Independent School District v. Falvo*, 534 US 426, [36 IDELR 62](#) (2002) in which the U.S. Supreme Court held that not every record that relates to a student satisfies the FERPA definition of education records. The Supreme Court explained that education records are those kept in one place with a single record of access. The ALJ pointed to California case law, expounding on

the Supreme Court decision, which states that education records are those maintained in the normal course of business by a single, central custodian of the school that pertain to a student's private educational interests.

The district explained that its incident reports were maintained in its risk management department at its business office and not in the student's permanent file. The ALJ noted the confidential manner in which the incident reports were kept and that they were maintained in anticipation of litigation. Thus, the reports weren't related to the student's private educational interests; so the ALJ concluded that they weren't a part of the student's education record and weren't subject to parent inspection.

Kimberly Liverpool-Settle, Esq., covers special education legal issues for LRP Publications.

December 21, 2011
Copyright 2011© LRP Publications