

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF
EDUCATION, ET AL.

OAH CASE NO. 2010110325

ORDER DENYING PETITIONERS'
REQUEST TO BE DESIGNATED
PREVAILING PARTY AS TO ISSUE
TWO

On November 8, 2010, Parents on behalf of Student (Student) filed a request for due process hearing (complaint). In the complaint, Student raised as an issue (Issue Two): What agencies or agency are responsible for providing Student's educationally related mental health services from November 10, 2010 to present?

Torrance Unified School District (TUSD) filed a response to the complaint stating that Issue Two was moot because TUSD would provide and fund the nonpublic school portion of Student's placement at a residential treatment center and that the Los Angeles County Department of Mental Health (LACDMH) would fund the residential and mental health portions of such a placement when Student was released from juvenile hall.

On December 22, 2010, TUSD filed a motion to dismiss Issues One and Two. In its motion, TUSD stated that Issue Two was not ripe. On December 22, 2010, the Office of Administrative Hearings (OAH), per ALJ Darrell Lepkowsky, granted TUSD's motion as to Issue Two on the basis that the issue was speculative and not ripe as to TUSD because "Student does not allege that TUSD has stated or otherwise communicated that it will not implement his IEP after November 8, 2010, or that it will not implement the IEP if Student is removed from juvenile hall and placed in a residential treatment center."

At the January 26, 2011 Prehearing Conference (PHC), ALJ Robert Helfand agreed to reconsider the December 22, 2010 ruling pursuant to *Francois v. Goel* (2008) 35 Cal. 4th 1094. On January 31, 2011, TUSD filed a pleading entitled "Motion to Dismiss Issue Two." In the pleading, TUSD contended that Student had failed to allege or provide any evidence that TUSD will not continue to implement Student's last agreed upon and implemented IEP should LACDMH cease providing and/or funding AB3632 services. TUSD also stated (TUSD's Motion to Dismiss Issue Two dated January 31, 2011, p. 4):

TUSD understands its responsibilities under IDEA to provide/fund educational mental health services described in Student's last agreed

upon and implemented IEP, should LACDMH cease providing/funding those services. Such an order is not required, needed, or necessary.

After considering written argument and oral arguments on the first day of the hearing, the ALJ found that the issue was moot because Torrance had implemented a new IEP on January 5, 2011, which included placement in a residential treatment center and educationally related mental health services. Thus, the ALJ did not reverse the December 22, 2010 order dismissing Issue Two as to TUSD. Student's request to be designated the prevailing party as to Issue Two is without merit and is hereby DENIED.

IT IS SO ORDERED.

Dated: February 28, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings