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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No. SACV 06-00118-JVS (ANx) Date August 1, 2007

Title A.C. v. Long Beach Unified School District, et al.

Present: The Honorable James V. Selna

Karla J. Tunis
Deputy Clerk

Not Present
Court Reporter

Attorneys Present for Plaintiffs:
Not Present

Attorneys Present for Defendants:
Not Present

Proceedings: Memorandum of Decision after Court Trial

I. BACKGROUND

This action arises under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §§ 1400, et seq. Plaintiff A.C., a minor, by and through his guardian ad litem, Sherry [Redacted], appeals the special education due process hearing decision by the California Office of Administrative Hearings ("OAH") in [A.C.] v. Long Beach Unified School District, OAH Case No. N2005070128, November 21, 2005 ("OAH Decision").¹

At the time of the underlying administrative hearing, A.C. was a 17 year-old student who was eligible for special education services. In 2003, A.C. was diagnosed with bipolar disorder. On July 22, 2004, A.C.'s parents and defendant Long Beach Unified School District ("District") entered into a settlement agreement in which they resolved several issues, claims, and demands that had been raised in a previous due process hearing.

During the 2004-2005 school year, A.C. attended Wilson High School in Long Beach Unified School District. During the Fall 2004 semester, A.C. continued to have difficulties completing his class work and homework and was absent from many classes. The District did not provide A.C.'s parents with weekly progress reports on a consistent basis during this time. Because they were not receiving regular reports, A.C.'s parents were not made aware that A.C. had failed to complete certain assignments.

¹Because the parties do not dispute the Hearing Officer's factual findings, the Court's recital of the factual background

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In January 2005, A.C. was hospitalized for approximately one week due to problems related to his medications. As a result, A.C. missed all of his finals for the Fall 2004 semester. An IEP meeting was convened on January 27, 2005, in which it was agreed that A.C. should be referred to Educational Partnership High School ("EPHS") for the Spring 2005 semester. Because A.C. was hospitalized at the time of the IEP meeting, the IEP did not provide a specific date on which the EPHS services would begin. A.C.'s parents notified the District when he was discharged from the hospital. From that time, there was a delay of approximately three weeks until A.C. was allowed to begin his placement at EPHS.

After the January 2005 IEP meeting, the District's tutor, Kevin Luttrell, made attempts to schedule tutoring meetings with A.C. pursuant to the July 2004 settlement agreement.² However, A.C. rarely utilized the tutoring services during the Spring 2005 semester. An IEP meeting was convened on March 17, 2005 to establish a plan which would allow A.C. to complete as many credits as possible before moving to Oregon in June 2005. In addition, the IEP team discussed a possible change of teacher for A.C. The IEP team agreed that A.C. should remain at EPHS through June 26, 2005. The District also agreed to assist in providing work from Wilson High School for the classes in which A.C. had received grades of "incomplete" during the Fall 2004 semester.

The matter was heard before the OAH over an eight-day period in July and September 2005. At the administrative hearing, the Hearing Officer considered whether, from the date of the July 2004 settlement agreement through the time of the hearing, the District denied A.C. a free and appropriate public education ("FAPE") by:

1. Failing to provide the specific accommodations set forth in A.C.'s IEP regarding incomplete work and grades;
2. Failing to provide educational services from the date of A.C.'s hospitalization in November 2004, and again in January 2005, until A.C. eventually returned to school;³

²The agreement called for individual tutoring services of up to five hours per week during the 2004-2005 school year.

³A.C. presented no evidence and made no argument regarding his November 2004 hospitalization. Thus, the Hearing Officer

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3. Improperly changing A.C.'s eligibility category from Other Health Impairment (OHI)/Learning Disabled (LD) to Emotional Disturbance (ED); and
4. Committing procedural violations by failing to:
 - (1) provide prior written notice of the District's change in eligibility classification;
 - (2) provide prior written notice of the District's refusal to abide by A.C.'s parents' request to have someone at the applicable IEP meetings who was knowledgeable about A.C.'s bipolar disorder to help identify needs arising from the condition; and
 - (3) have a person knowledgeable about bipolar disorder at the applicable IEP meetings.

In a twenty-two page decision, the Hearing Officer ruled that A.C. prevailed on Issue 1, but that the District prevailed on all other issues heard and decided. (OAH Decision, ¶ 57.) The Hearing Officer ordered the District to provide A.C. with one semester of tutoring services as a compensatory education. (OAH Decision, ¶ 56.)

In the instant action, A.C. seeks reversal of the Hearing Officer's decision regarding Issue 2 and Issue 4(3). In addition, A.C. seeks an award of attorney's fees and costs as the prevailing party at the administrative hearing. A.C. makes no arguments regarding the Hearing Officer's conclusions on Issue 3, Issue 4(1), or Issue 4(2). Because A.C. makes no showing on these issues, the Hearing Officer's rulings are upheld. Schaffer v. Weast, 546 U.S. 49, --, 126 S. Ct. 528, 537 (2005).

II. LEGAL STANDARD

A. Individuals with Disabilities Education Act

only addressed the January 2005 hospitalization. (OAH Decision, ¶ 21.)

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The IDEA guarantees all disabled children a FAPE that emphasizes “special education and related services designed to meet their unique needs” 20 U.S.C. § 1400(d)(1)(A). A FAPE is defined as special education and related services that: (1) are available to the student at public expense, under public supervision and direction, and without charge; (2) meet the state educational standards; (3) include an appropriate education in the state involved; and (4) conform to the student’s IEP. 20 U.S.C. § 1401(8).

An IEP is a written statement designed specifically for the disabled child, and is created by a team including the child’s parents, teacher, a representative of the local educational agency, and the child if appropriate. An IEP must include information regarding the child’s present levels of performance, a statement of annual goals and objectives, a statement of special educational and related services to be provided the child, an explanation of the extent to which the child will not participate with non-disabled children in the regular class, and objective criteria for measuring the child’s progress. 20 U.S.C. § 1414(d).

Judicial review of the state hearing officer’s decision under IDEA is a two-step process. First, the Court must determine if the procedural requirements of IDEA have been satisfied. Second, the Court must determine whether the state has met the substantive requirement of providing a FAPE. Henry Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176, 206 (1982).

IDEA sets forth a number of procedural safeguards. See 20 U.S.C. § 1415. Procedural violations do not necessarily require a finding of denial of a FAPE. However, “procedural inadequacies that result in the loss of educational opportunity . . . or seriously infringe the parents’ opportunity to participate in the IEP formulation process . . . clearly result in the denial of a FAPE.” W.G. v. Bd. of Trustees of Target Range Sch. Dist., 960 F.2d 1479, 1484 (9th Cir. 1992).

B. Standard of Review

A district court reviews the decision of the hearing officer under a modified *de novo* standard. Ojai Unified Sch. Dist. v. Jackson, 4 F.3d 1467, 1471-73 (9th Cir. 1993); Glendale Unified Sch. Dist. v. Almasi, 122 F. Supp. 2d 1093, 1100 (C.D. Cal. 2000). The Court’s decision must be supported by the preponderance of the evidence. 20

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U.S.C. § 1415(i)(2)(C)(iii). The preponderance of the evidence standard “is by no means an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review.” Rowley, 458 U.S. at 206. Rather, the Court must give “due weight” to the administrative proceedings. Id.; Capistrano Unified Sch. Dist. v. Wartenberg, 59 F.3d 884, 891-92 (9th Cir. 1995). More specifically, the Court “should give substantial weight to the hearing officer’s decision if the court finds that the decision was careful, impartial and sensitive to the complexities presented.” Ojai, 4 F.3d at 1476. The Court must consider the findings of the hearing officer carefully and endeavor to respond to the hearing officer’s resolution of each material issue. However, the Court is free to accept or reject the findings of the hearing officer as a whole once such consideration is granted. San Diego v. Cal. Special Educ. Hearing Office, 93 F.3d 1458, 1466 (9th Cir. 1996).

Ninth Circuit authority clearly states that the proper standard of review is essentially a *de novo* review of a stipulated record.⁴ Ojai, 4 F.3d at 1472. Ojai did not rule out the appropriateness of the summary judgment motion in certain instances. Id. at 1472 n.6. More importantly, Capistrano indicates that a district court trying the case anew would result in not giving the hearing officer’s decision due weight. Capistrano, 59 F. 3d at 892; Amanda J. v. Clark County Sch. Dist., 267 F.3d 877, 887 (9th Cir. 2001) (“complete *de novo* review is inappropriate”). In particular, the Ninth Circuit describes the proceeding where the administrative hearing decision is challenged as a “puzzling procedural problem” that

arises whenever the district court adjudicates administrative appeals, because the Federal Rules of Civil Procedure do not plainly speak to how such appeals should be handled. It is hard to see what else the district court could do as a practical matter under the statute except read the administrative record, consider the new evidence, and make an independent judgment based on a preponderance of the evidence and giving due weight to the hearing officer’s determinations. The district court’s independent judgment is not controlled by the hearing officer’s recommendations, but neither may it be made without due deference.

⁴Judicial review of IDEA decisions is not completely bound by the administrative record. The court must “hear additional evidence at the request of a party.” 20 U.S.C. §1415(i)(2)(C)(ii).

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Capistrano, 59 F.3d at 892.

As the party seeking relief, both at the administrative hearing and in this proceeding, A.C. bears the burden of proof. Schaffer v. Weast, 546 U.S. 49, --, 126 S. Ct. 528, 537 (2005); Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J, 481 F.3d 770, 778 (9th Cir. 2007).

III. DISCUSSION

As a preliminary matter, the Court addresses the weight it gives the Hearing Officer's decision. Having reviewed the administrative record and decision, the Court finds that the decision was well-reasoned, "careful, impartial, and sensitive to the complexities presented." Ojai, 4 F.3d at 1476. Therefore, the Court will give substantial weight to the Hearing Officer's findings and conclusions.

A.C. seeks reversal of the Hearing Officer's decisions regarding the following issues: (1) did the District commit procedural violations and deny A.C. a FAPE by failing to have a person knowledgeable about bipolar disorder at the applicable IEP meetings; and (2) did the District deny A.C. a FAPE by failing to provide services from the start of his hospitalization in November 2004, and again in January 2005, until he eventually returned to school?⁵ In addition, A.C. seeks an award of attorney's fees and costs as the prevailing party at the administrative hearing.

A. Alleged Procedural Violation

The Hearing Officer found that the District committed a procedural violation by failing to include a person sufficiently knowledgeable about A.C.'s bipolar disorder at his IEP meetings after June 2004. (OAH Decision, ¶ 51.) The Hearing Officer concluded, however, that this procedural violation did not result in a substantive denial

⁵These issues were presented, respectively, as "Issue 4(3)" and "Issue 2" at the administrative hearing. A.C., who bears the burden of proof as the party seeking relief, makes no arguments regarding the Hearing Officer's conclusions on the remaining issues. Accordingly, the Court does not discuss Issue 3, Issue 4(1), or Issue 4(2).

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of FAPE. (OAH Decision, ¶ 55.) A.C. argues that the Hearing Officer erred by requiring him to prove that his program would have been designed differently had someone knowledgeable about bipolar disorder attended the IEP meetings. A.C. argues that the failure to include such an individual clearly violates well-established federal law regarding the makeup the IEP team, and that failure to convene a properly constituted IEP team automatically results in a denial of FAPE.

School districts have a duty to conduct a meaningful IEP meeting with the appropriate parties. Target Range, 960 F.2d at 1485. The Ninth Circuit has found that exclusion of certain IEP members leads to a denial of FAPE. For example, in Target Range, the school district failed to include the minor's teacher in the IEP process. See id. at 1484. The court suggested that exclusion of required participants, although a procedural violation, automatically resulted in a denial of FAPE. See id. at 1485 ("Because we hold that [the district] failed to develop the IEP according to the procedures required by the Act and by Montana law, we need not address the question of whether the proposed partial IEP was reasonably calculated to enable [the minor] to receive educational benefits.")

Similarly, in Shapiro v. Paradise Valley Unified School District, the Ninth Circuit held that conducting an IEP without the minor's parents and without her teacher resulted in a denial of FAPE. See Shapiro v. Paradise Valley Unified Sch. Dist. No. 69, 317 F.3d 1072, 1079 (9th Cir. 2003), superseded by statute on other grounds ("Because we conclude that the [district's] procedural violations of the IDEA resulted in a loss of educational opportunity for [the minor], it is unnecessary for us to address the second prong of the FAPE analysis.").

In M.L. v. Federal Way School District, however, the Ninth Circuit held that exclusion of a required IEP member did not necessarily result in a *per se* denial of FAPE. Although two of the three judges concluded that the minor had been denied a FAPE, only Judge Alarcon, who authored the main opinion, took the position that exclusion of required IEP participants results in an automatic denial of FAPE. See M.L. v. Federal Way Sch. Dist., 394 F.3d 634, 648 (9th Cir. 2005) ("I conclude that the failure to include at least one regular education teacher, standing alone, is a structural defect that prejudices the right of a disabled student to receive a FAPE. Under these circumstances, a review of the findings of the ALJ and the district court regarding the merits of the substantive recommendations of an illegally constituted IEP team for clear error would

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produce a futile advisory opinion which is beyond our judicial power or competence.”). The other two members of the panel both took the position that exclusion of a required IEP member resulted in a denial of FAPE only if it resulted in a lost educational opportunity. See id. at 656 (Gould, J., concurring in part and concurring in the judgment) (“[T]he controlling issue becomes whether the failure to include the regular education teacher on the IEP team resulted in a ‘loss of educational opportunity’ within the meaning of the test established in Target Range.”); id. at 658 (Clifton, J., dissenting) (“As Judge Gould correctly observes, a procedural violation constitutes a denial of [FAPE] only when it results in a lost educational opportunity for the child or significantly restricts parental participation in formation of the IEP.”). Thus, the rule that emerges from Target Range, Shapiro, and Federal Way is that exclusion of a required IEP member results in a denial of FAPE only if it restricts parental participation or results in a lost educational opportunity for the child. See R.B. v. Napa Valley Unified Sch. Dist., ___ F.3d ___, No. 05-16404, slip op. at 8492 n.4 (9th Cir. July 16, 2007).

A.C. argues that failing to include someone knowledgeable about his bipolar disorder resulted in a denial of FAPE. Under both federal and state law, parents are entitled to include individuals with special knowledge or expertise about their child on the IEP team. See 20 U.S.C. § 1414(d)(1)(B)(vi) (“[A]t the discretion of the parent or the agency, [the IEP team shall include] other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate.”); Cal. Educ. Code § 56341(b)(6) (the IEP team shall include “[a]t the discretion of the parent, guardian, or the local educational agency, other individuals who have knowledge or special expertise regarding the pupil, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the pupil shall be made by the party who invites the individual to be a member of the [IEP] team.”).

While the District does not dispute that it committed a procedural violation by failing to include someone knowledgeable about bipolar disorder on the IEP team once requested by A.C.’s parents, it argues that A.C. fails to show that this violation resulted in a lost educational opportunity. The Court agrees. A.C.’s argument relies on the assumption that exclusion of an IEP member results in a *per se* denial of FAPE. As discussed above, that is not the law. A.C. fails to demonstrate that this procedural violation resulted in a loss of educational opportunity.

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Moreover, the IEP team made recommendations for accommodations which were consistent with those recommended by Dr. Joseph Haraszti, who diagnosed A.C. as having bipolar disorder. In a letter dated July 20, 2004, Dr. Haraszti indicated that "[A.C.'s] Bipolar condition does not require additional time or accommodations when the illness is under control," but that A.C. "does need extra time to complete examinations and also to turn in his work" due to Attention Deficit Disorder. The District received Dr. Haraszti's letter on approximately August 20, 2004, but it was never provided to the IEP team. Nonetheless, the IEP team recommended that A.C.'s accommodations include "extended time to complete homework" and "extended time to complete tests and quizzes." This suggests that the procedural violation did not result in a loss of educational opportunity. The Hearing Officer specifically found that there was no evidence that, had a bipolar specialist been present at the IEP meetings, A.C.'s IEP would have been any different. (OAH Decision, ¶ 55(b).) Accordingly, the Court finds that the record supports the Hearing Officer's conclusion on this issue.

B. Alleged Substantive Violation

A.C. argues that he was denied a FAPE because the District failed to provide services from the start of his hospitalization in January 2005 until he eventually returned to school in February 2005. A.C. was hospitalized for approximately one week in January 2005, during which time he missed finals for the Fall 2004 semester.⁶ A.C.'s parents notified the district of the hospitalization and requested an IEP meeting. At the IEP meeting on January 27, 2005, A.C.'s parents agreed that A.C. should be transferred to EPHS in order to make up the classes that he had fallen behind in. A.C. was not allowed to start at EPHS until February 27, 2005, some three weeks after his parents notified the District that he had been discharged from the hospital.

A.C. argues that the District should have provided home-hospital services that focused on core curriculum during this three-week period. The District argues that A.C.'s parents never requested home-hospital services and that the delay occurred because A.C. was required to attend an orientation at EPHS, which took several weeks to arrange. In addition, the District argues that Mr. Luttrell attempted to schedule tutoring sessions, but A.C. did not utilize those services.

⁶The parties do not indicate, and it is not clear from the record, what the exact dates of A.C.'s hospitalization were.

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An IEP must be implemented as soon as possible after the IEP meeting. 34 C.F.R. 300.342(b)(1)(ii). Although it is not clear from the record why it took three weeks for the District to arrange an orientation session at EPHS, it was A.C.'s burden under Schaffer to demonstrate that the delay was unreasonable or that his placement at EPHS could have started earlier. A.C. failed to meet this burden.

The record does demonstrate, however, that A.C. received no classroom instruction or other accommodation during that three-week period. It was the District's duty to ensure that A.C. was offered and provided a FAPE. The fact that tutoring was offered under the settlement agreement is irrelevant. Prior to A.C.'s January 2005 IEP, his FAPE consisted of receiving tutoring *and* attending regular classes. Thus, receiving tutoring alone would not be sufficient to provide a FAPE. The District's failure to provide educational services during the three-week period in which A.C. was awaiting placement at EPHS constituted a denial of FAPE. Accordingly, the Court finds that the record does not support the Hearing Office's conclusion on this issue.⁷

C. Attorney's Fees

A.C. seeks an award of attorney's fees and costs related to the due process hearing. "In any action or proceeding brought under [20 U.S.C. § 1415], the court, in its discretion, may award reasonable attorneys' fees as part of the costs . . . to a prevailing party who is the parent of a child with a disability." 20 U.S.C. § 1415(i)(3)(B)(I).

1. Prevailing Party

For purposes of awarding attorney's fees, a prevailing party is one which

⁷It is unclear what remedy A.C. seeks on this issue. His placement at EPHS commenced in February 2005, and A.C. did not receive any interim private services for which equitable reimbursement might be appropriate. At the administrative hearing, A.C. was awarded compensatory education in the form of tutoring and the opportunity to complete missed work. It does not appear that additional compensatory education is appropriate, or necessary, now. (See Pl.'s Supp. Brief at 3 ("Should the Court overturn portions of the due process decision, there is truly no compensatory education that it can award A.C., who is now, finally, about to graduate."))

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“succeed[s] on any significant issue in the litigation which achieves some of the benefit the parties sought in bringing the suit.” Parents of Student W. v. Puyallup Sch. Dist., No. 3, 31 F.3d 1489, 1498 (9th Cir. 1994) (quoting Hensley v. Eckerhart, 461 U.S. 424, 433 (1983)). Here, there is little doubt that A.C. achieved success at the administrative hearing which brought about at least some of the benefit that he was seeking. Specifically, the Hearing Officer concluded that A.C. prevailed on Issue 1 and ordered the District to provide one semester of tutoring services as compensatory education for failing to provide a FAPE. (OAH Decision, ¶¶ 56-57.) Thus, A.C. was a prevailing party for purposes of awarding attorney’s fees. In addition, the Court has found that A.C. should have prevailed partially on Issue 2.

2. Degree of Success

Once the plaintiff has been deemed a prevailing party, a district court’s discretion to entirely deny a request for attorney’s fees is narrow. Abu-Sahyun v. Palo Alto Unified Sch. Dist., 843 F.2d 1250, 1252 (9th Cir. 1988). Where the plaintiff has prevailed on some claims but failed on others, the district court must consider the plaintiff’s “degree of success” in determining an appropriate fee award. Aguirre v. Los Angeles Unified Sch. Dist., 461 F.3d 1114, 1121 (9th Cir. 2006).

There is no precise rule or formula for making these determinations. The district court may attempt to identify specific hours that should be eliminated, or it may simply reduce the award to account for the limited success. The court necessarily has discretion in making this equitable judgment. This discretion, however, must be exercised in light of the considerations we have identified.

Id. (quoting Hensley, 461 U.S. at 436-37).

Under California law, the hearing officer must designate the prevailing party for each issue on which a decision was rendered at the due process hearing. Cal. Educ. Code § 56507(d). Here, the Hearing Officer found that A.C. prevailed on Issue 1 at the hearing, and the District prevailed on Issues 2, 3, and 4. (OAH Decision, ¶ 57.) In addition, the Court has found that A.C. should have prevailed partially on Issue 2.

3. Findings

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Following the hearing in this matter, the Court requested supplemental briefing on the issue of attorney's fees to enable it to apply the "degree of success" standard and to make a determination of fees. The Court makes the following findings:

a. Based on his degree of success, A.C. is entitled to recover one-half his of reasonable attorney's fees. The case law recognizes that there may be no easy formula, and the form of A.C.'s counsel's billing statements do not lend themselves to precise parsing of service rendered versus the issues on which A.C. prevailed. The Court arrives at the one-half figure by considering the number of issues on which A.C. prevailed and their significance as well as the fact that a certain amount of bedrock work would have been necessary even if only the issues on which A.C. prevailed had been litigated. Importantly, A.C. obtained the relief that he was seeking – an order for compensatory education in the form of tutoring and time to make-up his necessary class work – even though he did not prevail on several of the issues.

b. Ms. Whiteleather's hourly rate of \$350.00 is reasonable in the community for her type of specialized representation. (Whiteleather Decl., Exh. 1; see Pl.'s Request for Judicial Notice, filed May 29, 2007, Exh. 1.) Moreover, the District does not argue that the requested fees are unreasonable, other than requesting an adjustment to reflect the degree of success.

c. As part of the attorney's fee award, A.C. seeks to recover \$9,712.50 in fees for Ms. Rice, a paralegal/advocate. The District argues that A.C. cannot recover these fees because Ms. Rice is an education advocate. See Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy, 126 S. Ct. 2455, 2463 (2006) (plaintiffs may not use the attorney's fee provision of the IDEA to recover the costs of educational consultants or experts who advocate on their behalf at administrative hearings). Although Ms. Rice may have advocated on behalf of A.C. during IEP meetings, the record supports A.C.'s position that she was assisting his attorney as a paralegal rather than acting as an advocate at the administrative hearing. For example, all questioning and argument on behalf of A.C. was done by his attorney. The fact that Ms. Rice may previously have performed services as an advocate does not preclude her from assisting A.C.'s attorney as a paralegal during the administrative hearing. The record also reflects, however, that Ms. Rice appeared as a witness on July 18, July 21, and September 6, 2005. Because she was not performing paralegal services during this time, the Court finds it appropriate to

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reduce the time billed by Ms. Rice by five hours.⁸ Ms. Rice's hourly rate of \$150.00 is reasonable in the community, and the District does not argue otherwise.

d. The proper loadstar amount here is \$51,671.50: \$48,483.75 in attorney fees and \$8,962.50 in paralegal costs, less the prior balance of \$5,774.75, which is shown on the first invoice in Exhibit 3 to the Whiteleather Declaration. There is no reasonable basis to assess the balance forward. This flaw was pointed out by the District (Def.'s Responsive Trial Brief at 3-4) and not cured in A.C.'s supplemental filing on the attorney's fees issue.

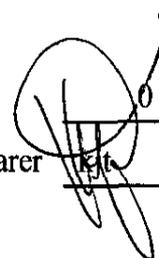
e. The Court finds that the only adjustment to the loadstar applicable here is a one-half reduction to reflect the degree of success.

f. Based on the foregoing, A.C. is entitled to \$25,835.75 in reasonable attorney's fees.

IV. CONCLUSION

For the foregoing reasons, the Court finds that the record does not support the Hearing Officer's decision as to Issue 2. The record supports the Hearing Officer's decision as to the other issues. The Court also finds that A.C. is entitled to an award of attorneys' fees as a prevailing party at the administrative hearing, and awards \$25,835.75 in reasonable attorney's fees.

The Court directs the plaintiff to submit a proposed form of judgment forthwith. The Court will hold the proposed judgment for 7 days to receive any objections.

Initials of Preparer  : _____

⁸The Court arrives at this figure by considering the proportion of the transcript during which Ms. Rice was testifying relative to length of the administrative hearing on that day.