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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

A.M., a minor, by and through his
parents, DAVID MARSHALL and
KARLA MARSHALL; DAVID
MARSHALL and KARLA
MARSHALL, on their own behalf,

Plaintiffs,

v.

MONROVIA UNIFIED SCHOOL
DISTRICT; WEST SAN GABRIEL
VALLEY SPECIAL EDUCATION
LOCAL PLANAREA,

Defendants.

CASE NO. CV 07-00243 RSWL (JTLx)

JUDGMENT

Defendants' Motion for Summary Judgment having been granted, IT IS ORDERED AND
ADJUDGED that the judgment be entered on behalf of Defendants.

DATED: January 13, 2008



Honorable Ronald S.W. Lew
United States District Judge

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

A.M., a minor, by and through his
parents, DAVID MARSHALL and
KARLA MARSHALL; DAVID
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MARSHALL, on their own behalf,

Plaintiffs,

v.

MONROVIA UNIFIED SCHOOL
DISTRICT; WEST SAN GABRIEL
VALLEY SPECIAL EDUCATION
LOCAL PLAN AREA,

Defendants.

CASE NO. CV 07-00243 RSWL (JTLx)

JUDGE: Ronald S.W. Lew
CTRM: 21

STATEMENT OF UNCONTROVERTED
FACTS AND CONCLUSIONS OF LAW
FOLLOWING MOTION FOR SUMMARY
JUDGMENT, OR IN THE ALTERNATIVE,
FOR SUMMARY ADJUDICATION

DATE: December 9, 2008
TIME: 9:00 a.m.
CTRM: 21

Before the Court are: (1) Defendants Monrovia Unified School District (“District”) and West San Gabriel Valley SELPA’s Motion for Summary Judgment, or in the Alternative, for Summary Adjudication; and (2) Plaintiff’s Motion for Summary Adjudication of the First Claim for Relief. These Motion were taken under submission by the Court on December 2, 2008. After consideration of the evidence presented in support of and in opposition of both Motions, and the papers submitted, the Court determines that the following facts have been established:

UNCONTROVERTED FACTS

First Claim for Relief - (Review of ALJ's Decision pursuant to Individuals with Disabilities

1 Education Act ("IDEA"), 20 U.S.C. §1400, et seq.)

2 1. The District complied with the procedures set forth in the Individuals With
3 Disabilities Education Act, 20 U.S.C. §1401, et seq. ("IDEA") for the development of the
4 individualized education program ("IEP").

5 a. The District offered a comparable interim placement after the plaintiff
6 transferred into the District.

7 b. The District developed an IEP and commenced the IEP meeting within 30
8 days after the plaintiff began receiving services after transferring into the
9 District.

10 2. The IEP offered the plaintiff a free appropriate public education ("FAPE").

11 a. The District's proposed placement and services were designed to meet the
12 plaintiff's unique needs.

13 b. The placement and services were reasonably calculated to provide educational
14 benefit.

15 (1) The IEP goals and objectives were appropriate and reasonably
16 calculated to provide educational benefit.

17 (2) The IEP's related services were appropriate and reasonably calculated
18 to provide educational benefit.

19 c. The placement and services offered conformed to the IEP.

20 d. The District's program was offered in the least restrictive environment.

21 Second Claim for Relief: (Section 504)

22 1. Plaintiff was an individual with a disability.

23 2. Plaintiff was qualified to receive educational benefit from defendants.

24 3. Plaintiff was not denied the benefit of an educational program by reason of
25 disability. The District offered or provided an appropriate educational program to plaintiff
26 which was designed to provide educational benefit while accommodating plaintiff's
27 disability in the least restrictive environment. Adopting a valid IEP under IDEA is
28 sufficient to satisfy the Section 504 FAPE requirements, both substantive and procedural.

1 *Mark H. v. Lemahieu* 513 F.3d 922, 933 (9th Cir. 2008).

2 **CONCLUSIONS OF LAW**

3 1. The Court has jurisdiction of this action pursuant to 20 U.S.C. §1415(i)(2).

4 2. This Court, having reviewed the administrative law judge's October 10, 2006
5 Decision, using the "due weight" standard (*Board of Education of the Hendrick Hudson*
6 *Central School District v. Rowley*, 458 U.S. 176 at 206 (1982)), finds that sufficient
7 evidence exists to support the ALJ's findings that:

8 (a) the District offered the plaintiff a comparable interim placement upon his
9 transfer into the District;

10 (b) the District developed an IEP and convened the IEP meeting within 30 days
11 after the plaintiff began receiving services after his transfer into the District;

12 (c) the District offered plaintiff a free appropriate public education in the least
13 restrictive environment for the 2005-2006 school year and prospectively for
14 the 2006-2007 school year; and

15 (d) the District did not commit procedural violations in connection with the
16 December 9, 2005 CAVA IEP, the December 20, 2005 intake meeting, the
17 February 9, 2006 IEP meeting, or the May 1, 2006 IEP meeting.

18 3. The District offered plaintiff a free appropriate public education in compliance with
19 the IDEA in that the goals and objectives, and the placement and services offered by the IEP
20 were designed to meet the plaintiff's unique needs and were reasonably calculated to provide
21 some educational benefit. The placement and services offered conformed to the IEP and
22 were offered to be provided in the least restrictive environment.

23 4. The District adopted a valid IEP under IDEA, which is sufficient but not necessary
24 to satisfy both the substantive and procedural requirements of Section 504 of the
25 Rehabilitation Act of 1973 (29 U.S.C. section 794). (34 C.F.R. sections 104.33(b)(2),
26 104.36; *Mark H. v. Lemahieu* 513 F.3d 922, 933 (9th Cir. 2008).)

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1 5. Plaintiff's evidentiary objections to Defendants' statement of uncontroverted facts are
2 **OVERRULED**. The Court finds this evidence relevant to the question of what constitutes
3 a free appropriate public education in the least restrictive environment.

4 6. Defendants' Motion for Summary Judgment is **GRANTED** and Plaintiff's Motion
5 for Summary Adjudication is **DENIED**. Summary judgment shall be entered in favor of
6 defendants Monrovia Unified School District and West San Gabriel Valley Special
7 Education Local Plan Area consistent herewith.

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9 DATED: January 13, 2009

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Honorable Ronald S.W. Lew
Senior, U.S. District Court Judge

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