

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CORONADO UNIFIED SCHOOL
DISTRICT and SWEETWATER UNION
HIGH SCHOOL DISTRICT.

OAH CASE NO. 2010080734

ORDER DENYING STUDENT'S
REQUEST FOR JUDICIAL NOTICE,
AND AMENDING THE ORDER
FOLLOWING THE PHC

On October 6, 2010, a prehearing conference was conducted by the undersigned Administrative Law Judge (ALJ). Student's attorney, Araceli Martinez, argued that her claim that the District did not hold timely individualized education program (IEP) meetings when requested by Parent included claims that IEP meetings were not completed in a timely manner. The parties were ordered to brief the issue. In support of her brief, Student also requested that the ALJ take "judicial notice" of a decision issued by OAH in another matter in which Coronado Unified School District (Coronado District) was a party, OAH Case No 2009010392.

There is no authority for an ALJ conducting a special education due process hearing to take judicial or official notice of other special education due process decisions.¹ However, the Office of Administrative Hearings (OAH) may look to the Evidence Code for guidance when an ALJ is asked to take judicial notice. Evidence Code section 450 et seq. governs the taking judicial notice. There is nothing in the Evidence Code that would require this ALJ to take notice of another OAH special education decision. Further, although the Coronado District was a party in Case No 2009010392, another student of the Coronado District was the subject of that case, which was decided on facts particular to that student. Therefore, this ALJ declines to take judicial or official notice of OAH Case No 2009010392.

The Districts and Student both briefed the issue of whether the completion of IEP meetings was an extension of Student's issue concerning the timeliness of those meetings. The District argues that the sole issue was whether the District convened the IEP meetings in a timely manner when parent requested one, and Student's complaint did not give proper

¹ Government Code section 11515 permits ALJs conducting hearings pursuant to Government Code section 11500 to take official notice in matters that can or must be judicially noticed pursuant to Evidence Code sections 451 and 452. However, Government Code section 11515 does not apply to due process hearings.

notice that completion of IEP meetings was an integral part of convening those meetings. Student contends that not only did District not hold IEP meetings in a timely manner when requested by Mother, but also that meetings could not be completed because the District did not schedule the meetings with sufficient time to develop an IEP.

Education Code section 56043, subdivision 1) requires an IEP meeting to be held within 30 days of receiving a parent's written request for such a meeting.² A school district is also obligated to revise a student's educational program if it becomes apparent over the course of the school year that the student's educational needs have changed and/or the student is not receiving educational benefit. (Ed. Code, § 56380, subd. (a).)

The IDEA imposes upon the school district the duty to conduct a meaningful IEP meeting with the appropriate parties. (*W.G. v. Board of Trustees of Target Range Unif. Sch. Dist. No. 23.*, (9th Cir. 1992) 960 F.2d 1479, 1485.) Parents play a "significant role" in the development of the IEP and are required and vital members of the IEP team. (*Winkelman v. Parma City School Dist.* (2007) 549 U.S. 1190 [127 S.Ct. 1994, 2000-2001; 167 L.Ed. 2d 904].); 20 U.S.C. § 1414 (d)(1)(B)(i); 35 C.F.R. § 300.322; Ed. Code, § 56341, subd. (b)(1).) In order to fulfill the goal of parental participation in the IEP process, the school district is required to conduct, not just an IEP meeting, but also a meaningful IEP meeting. (*W.G. v. Board of Trustees of Target Range Unif. Sch. Dist. No. 23 supra*, 960 F.2d 1479, 1485, *Fuhrmann v. East Hanover Bd. of Educ.*, (3d Cir. 1993) 993 F.2d 1031, 1036.)

Merely convening an IEP meeting with the appropriate parties, but not arranging enough time to complete the IEP at that meeting, or if that is not possible, arranging for a subsequent IEP meeting when the parties have sufficient time available to complete the IEP, is not conducting a meaningful IEP meeting. Accordingly, Student's issue concerning the timeliness of IEP meetings will also include the issue of whether these IEP meetings were timely completed. Issue C in the order following the PHC shall now read, "Did Coronado District and Sweetwater District deny parent meaningful participation in the development of Student's educational program by failing to conduct timely reviews of Student's IEPs and failing to timely convene and complete IEP meetings requested by Student's parent, thereby denying Student a substantive FAPE?"

IT IS SO ORDERED

Dated: October 25, 2010

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

² There are exceptions to this 30-day timeline, but they are not relevant here.