

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015060450

DECISION

Student, by and through her Parent, filed a Due Process Hearing Request on May 27, 2015, with the Office of Administrative Hearings, State of California, naming Pasadena Unified School District.

Administrative Law Judge Clifford H. Woosley heard this matter in Altadena, California, on August 4 and 5, 2015.

Attorney Carolyn J. Olson, from the Law Offices of Abraham Labbad, appeared on behalf of Student. Mother and Student attended the hearing. Attorney Lisa Dennis and educational advocate Hamlet Yarijanian, from Mr. Labbad's offices, were present. Attorney Meredith B. Reynolds represented District. Special Education Director Jerell B. Hill attended on behalf of District.

On the last day of hearing, a continuance was granted for the parties to file written closing arguments and the record remained open until August 14, 2015. Upon timely receipt of written closing arguments, the record was closed and the matter submitted for decision on August 14, 2015.

private schools to send their teachers, administrators, and staff to the training. District informed the private schools on how to contact District for possible assessment of their students.

38. After mailing, the coordinator kept track and noted if any notice was returned as undeliverable to a particular school. The coordinator would then assure that the address was correct and perhaps telephone. If no contact, District would then inform the Department of Education. If a private school communicated with District, a coordinator would arrange to consult with the school regarding District's special education obligations to private school students and, if warranted, commence the assessment process for identified students. Also, the coordinators sent a follow-up letter to all the listed private schools in October of each year. These mailings were similarly tracked like the ones sent in September.

39. At the time of hearing, the coordinator who was responsible for the private school mailing was Carol Higa. With Mr. Hill, she reviewed the records of the mailings over the past few years and confirmed that District mailed the special education notice each September, and the follow-up notice in October to Pasadena Waldorf, at the Mariposa Street address in accordance with the department's usual business practice. Additionally, the records indicated that none of the mailings to Pasadena Waldorf were returned.

40. Pasadena Waldorf never contacted District to consult with District or to attend the trainings. Mr. Hill explained that District could not force the private schools to avail themselves of the services available through the District. District has no control over the private school or their personnel; District cannot enter a private school's facility unless invited.

41. Before the filing of Student's complaint, District was unaware of Student. Mr. Hill conducted a search and confirmed that Student had previously never attended a

that special education services may be needed to address that disability. (*Dept. of Education, State of Hawaii v. Cari Rae S.* (D. Hawaii 2001) 158 F.Supp. 2d 1190, 1194 (“*Cari Rae S.*”).) The threshold for suspecting that a child has a disability is relatively low. (*Id.* at p. 1195.) A school district’s appropriate inquiry is whether the child should be referred for an evaluation, not whether the child actually qualifies for services. (*Ibid.*)⁶ The actions of a school district with respect to whether it had knowledge of, or reason to suspect, a disability, must be evaluated in light of information that the district knew, or had reason to know, at the relevant time. It is not based upon hindsight. (See *Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149, (citing *Fuhrmann v. East Hanover Bd. of Educ.* (3rd Cir. 1993) 993 F.2d 1031, 1041).)

10. Child find does not guarantee eligibility for special education and related services under the IDEA. It is merely a locating and screening process which is used to identify those children who are potentially in need of special education and related services. Once a child is identified as potentially needing specialized instruction and services, the district must conduct an initial evaluation to confirm the child’s eligibility for special education. (34 C.F.R § 300.301; Ed. Code, § 56302.1.)

11. The IDEA and the California Education Code do not specify which activities are sufficient to meet a school district’s child find obligation, and there is no requirement that a school district directly notify every household within its boundaries about child find. However, California law obligates a SELPA to establish written policies and procedures for use by its constituent local agencies for a continuous child find

⁶ In a footnote in an unpublished decision, the Ninth Circuit Court of Appeals recently noted that it has not yet articulated a test for determining when the child find obligation is triggered. (*G.M. ex. rel. G.M. v. Saddleback Valley Unified Sch. Dist.* (9th Cir. 2014) 583 Fed.Appx. 702, 703, fn. 1.)

