Education & Disability Clinic

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Introduction

• Librarians are available to help you with your clinic research
• Resources you’ll use in the clinic are different from those used in LWR
• Agency websites are a valuable starting point for your education and disability clinic research
Administrative Law

- Administrative law makes up a huge portion of “the law”
  - Executive Orders
  - Regulations
  - Agency Decisions
• Regulations are “enabled” by statutes
  • Legislature authorizes an administrative agency to promulgate regulations that provide more detail than the statute
  • You need to research both the statute and the regulation
California Code of Regulations (CCR) & Notice Register (aka Z register) [http://www.oal.ca.gov/]
Select a category below to view document collections by type.

Bills and Statutes
Budget and Presidential Materials
Congressional Committee Materials
Congressional Rules and Procedures
Directories of Organizations and Officials
Executive Agency Publications
Independent Establishments and Government Corporations
Judicial Publications
Legislative Agency Publications
Proceedings of Congress and General Congressional Publications
Regulatory Information

Regulatory Information

CFR Index and Finding Aids
CFR Parts Affected from the Federal Register
Code of Federal Regulations
Federal Register
Federal Register Index
List of CFR Sections Affected
Privacy Act Issuances
Unified Agenda
Agency Decisions

• Many agencies are empowered to adjudicate disputes

• How these are published, if they are published, and what legal effect they have varies widely from agency to agency

• Begin research at the agency’s website
Search Special Education Decisions and Orders

Any person can use the search system to look up decisions and orders for Special Education cases handled by the Office of Administrative Hearings (OAH).

SEARCH THE DECISIONS DATABASE
Click the button below to visit the page on which you can search OAH's Special Education Division's Decisions database.

SEARCH DECISIONS

SEARCH THE ORDERS PAGE
Click the button below to visit the page on which you can search OAH's Special Education Division's sample orders.

SEARCH ORDERS

The search system provided herein offers a simple word search with no options for further filtering or refinement of the search. Recognizing that our community would be better served with a more advanced search capability OAH is actively working on an upgrade to the search capability available through our website to allow more responsive information retrieval. We appreciate your patience and welcome any comments or requests for additional features.

Pending completion of this upgrade, if you are experiencing issues with the Decision Search function, please try viewing the Special Education Division's Decisions using Box.com. Access Box.com by using the following link Decision Box or by copying and pasting the following URL into your browser: https://dgscloud.box.com/s/05yxfqlaa08743v0kic30pmvzphsys2i. From Box.com, a copy of the entire database can be downloaded or with the use of a Box.com account (which can be created for free) the Box.com search feature can be used, which may yield more accurate search results.

LIST SERVE
OAH maintains a list called ListServe which allows OAH to send to interested people copies of our decisions when they are issued, as well as the occasional announcement. If you wish to be added to this list please navigate to the left hand side of this page and press the blue quick link button entitled, "Add to ListServe" located in the section entitled "To Receive Copies of Decisions Via Email".

SEARCHING SPECIAL EDUCATION ORDERS
Some Special Education Orders are available through our search feature. OAH will only be posting a limited number of orders issued. As OAH issues a large number of orders on an ongoing basis...
SEARCHING SPECIAL EDUCATION ORDERS

Some Special Education Orders will soon be available through our search feature. OAH will only be posting a limited number of orders issued. As OAH issues a large number of orders on an ongoing basis, most of which are extremely similar, posting all orders provides no additional benefit. Additionally, if OAH posted all orders issued, the volume would present a barrier to learning about the types of orders issued.

The orders posted will be based on the type of order, the relief granted such as "request denied" or "request granted," and the relationship of the order to parties' access to due process of law.

SEARCHING SPECIAL EDUCATION DECISIONS

Decisions are accessible through the quick link button to the right.

Special Education decisions issued from 1993 through June 30, 2005, are maintained by California Department of Education. Go to decisions issued 1993 to July 1, 2005 to view these decisions.

General instructions on how to search for decisions or order relevant to a particular issue are provided below.

Instructions:

1. Click on either the Decision button provided on the left hand side of this screen.

2. In the Search field near the top of the page, enter the word or phrase that is an essential part of the subject you are seeking. For example, if you would like decisions or orders that discuss issues related to requests for “Stay Put” relief, type “Stay Put” in this field...
Decisions

For information and instructions regarding decision search, please visit the
Information Page.

If experiencing issues with the Decision Search function, a full set of Education Division’s Decisions using Box.com:
https://dgscloud.box.com/s/0yxefqaa08743v0kic30pmyz
of the entire database can be downloaded or with the use of the search feature can be created for free) the Box.com search feature can be
an accurate search results.

1. Did San Bernardino deny Student a free appropriate public education from
   July 7, 2015 to the date the complaint was filed by failing to:
   a) Provide Student with a one-to-one assistant after parental request;
   b) Develop a behavior intervention plan;
   c) Provide Student with an appropriate amount of speech and language
      services to meet his unique needs?

2. Did San Bernardino deprive Student’s parents of the ability to participate in
   the educational decision-making process by failing to provide copies of
   services records relating to speech and language services offered in
   Student’s individualized education plan?

SUMMARY OF DECISION

Student met his burden on Issue 1(c). The evidence established that San Bernardino
did not provide Student with an appropriate amount of speech therapy services. At hearing,
Special Education Director Mr. Dominguez admitted Student should have received more
speech therapy sessions and he was entitled to make up missed sessions. San Bernardino
eventually gave Parents the speech therapist’s service logs which reflected missing weeks
of services, without explaining to Parents that a discrepancy existed in Student’s initial IEP
regarding the amount of speech therapy he was entitled to receive. However, Student did not
prove he had communication needs that required more speech therapy services during the
regular school year than those San Bernardino offered in his July 7, 2015 initial IEP.

Student also met his burden on Issue 2. San Bernardino deprived Parents the
opportunity to meaningfully participate in the development of the October 28, 2015 IEP
meeting regarding speech services. Parents asked for but did not receive service logs from
a private college as a remedy for the denial of FAPE.
Tips for Searching CA Special Ed. Decisions

- Search feature is rudimentary – keep keyword search broad (OAH is currently upgrading its search capability)
- **Alternative 1:** Search OAH’s [database of special education decisions](#) in PDF on Box.com and use Box’s search
- **Alternative 2:** Receive future special education decisions in your email by emailing a request to [SEListServ@dgs.ca.gov](mailto:SEListServ@dgs.ca.gov) and use Google’s search
- OAH’s database covers June 2005-present
- Special Education Decisions issued from 1993 through June 30, 2005, are maintained by [California Department of Education](#)
- Consider searching all similar decisions by the judge in your case
Orders

This section contains rulings on procedural or dispositive motions that the Special Education Division deems to be of sufficient importance to be of assistance to members of the public appearing before the Agency on special education matters. Each section provides a sample of rulings on the type of motion identified.

Amend Complaints

The party that filed a Request for Due Process (often called a “complaint”) may add more claims or add more facts to the original complaint. If a party wants to include more claims or facts in the complaint, they must send OAH a “Motion to Amend the Complaint.” This section contains a sample of how some judges have ruled on motions to amend complaints.

Consolidate Matters

Any party may make a motion to consolidate two or more cases when the cases involve the same parties and facts. “Consolidate” means to combine the cases so that there is only one hearing. This section contains a sample of how some judges have ruled on motions to consolidate different cases.
Tips for Searching CA Special Ed. Orders

- Remember this database provides just a sample of representative rulings, organized by type of procedural or substantive motion
- Best approach is to browse based on your procedural or substantive issue
- Search bar only searches type of motion/issue, not the facts of the case
- Sample orders are available in Spanish, Cantonese, Mandarin, and Arabic translations, and may be requested in additional languages
CALIFORNIA DEPARTMENT OF EDUCATION
SPECIAL EDUCATION

HTTP://WWW.CDE.CA.GOV/SP/SE/
Special Education

Information and resources to serve the unique needs of persons with disabilities so that each person will meet or exceed high standards of achievement in academic and nonacademic skills.

Administration & Support
Activities of special education advisory groups and other related information.

Announcements & Current Issues
Current and upcoming events, time-sensitive issues, and hot topics.

Common Core Resources for Special Education
Resources and guidelines on the Common Core State Standards (CCSS) for the Special Education Community

Data Collection & Reporting
Searchable databases and software for reporting and retrieving special education related information.

Equal Opportunity & Access
Discloses the practices of the California Department of Education to ensure equal, fair, and meaningful access to its employment and program services.

Family Involvement & Partnerships
Resources and support for parents, guardians, and families of children with disabilities.

Laws, Regulations, & Policies
Federal and state legislation, laws, regulations, policies, legal advisories, and guidance.

Quality Assurance Process
Resources to improve educational outcomes for students with disabilities while ensuring compliance with state and federal laws and regulations.

Secondary Transition Planning
Resources and guidelines to assist youth with disabilities as they transition from school to adult life, including education and training, employment and independent living.
Laws, Regulations, & Policies
Federal and state legislation, laws, regulations, policies, legal advisories, and guidance.

State

Laws

- California Special Education Reference (CASER) (Posted 22-Jan-2015)
  A word-searchable database of special education-related state and federal statutes and regulations, federal guidance documents, and editions of the Federal Register.

Policy

- Size And Scope (Updated 30-May-2008)
  Of Special Education Local Plan Areas as approved by the State Board of Education at the November 17-18, 1983 meeting.

Guidance

- Official Letters from the California Department of Education, Special Education Division, State Director of Special Education (Updated 06-Apr-2021)
  Provides program clarification on procedural and/or implementation issues.

- Special Education Transportation Guidelines (Updated 26-Dec-2018)
  Guidelines for use by Individualized Education Program (IEP) Teams when determining required transportation services.

Legislative Report

  Report to the Legislature, Department of Finance, and the Legislative Analyst’s Office.

Federal
California Department of Education, Special Education Division Web page

http://www.cde.ca.gov/sp/se/

The purpose of the Special Education Reference™ is to provide accurate and trustworthy information on special education, statutory and compliance information as well as curriculum, instruction and assessment policy. The Special Education Reference™ is available for use with the understanding that MicroScribe Publishing, Inc. is not a provider of legal advice. Appropriate legal services should be secured if legal advice is needed.

California Special Education Reference
of those sections to be a surrogate parent.

(24) Parent organization

The term "parent organization" has the meaning given the term in section 1471(g) of this title.

(25) Parent training and information center

The term "parent training and information center" means a center assisted under section 1476 of this title.

(26) Related services

(A) In general

The term "related services" means transportation, and such developmental, corrective, and supportive services (including speech-language pathology and audiology services, including psychological services, physical and occupational therapy, recreation, including therapeutic, social work services, school nurse services designed to enable a child with a disability to obtain appropriate public education as described in the individualized education program of such child. Services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only, and are required to assist a child with a disability to benefit from special education, and inclusive of medical, educational, identification and assessment of disabling conditions in children.

(B) Exception

The term does not include a medical device that is surgically implanted, or the replacement of such device.

(27) Secondary school
Learning Knows No Bounds

The San Diego Unified School District is dedicated to identifying, locating and assessing all students within the district from birth to 21 years of age who may have disabilities, and providing appropriate support and/or related services to those students determined by an educational evaluation.

The District is committed to providing eligible students with disabilities a free and appropriate public education consistent with federal and state laws, including those students enrolled in private schools, wards of the state, highly mobile students with exceptional needs, etc. For information call 619-725-7700.

These services are provided based on the individual needs of the student. After a team, comprised of educational professionals and the parent(s), determines a students’ unique needs and consider a variety of factors, an Individual Education Program (IEP) is created. An IEP is a legal document that describes how the San Diego Unified School
The safety of all Californians with intellectual and developmental disabilities is our highest priority. We have experienced changes in almost every part of our lives during the public health emergency. Regional centers and service providers are dedicated to working with consumers and their communities to find different ways to help people and limit the spread of COVID-19.

This page provides COVID-19 links and resources. If you still have questions after reading this information and talking with your local regional center and/or your local county public health office, you can email DDSC19@dds.ca.gov. DDS checks this email daily and routes questions to staff for response(s).
Department Directives

- August 25, 2021: Extension of Waivers, Modifications and Directives due to COVID-19
- August 13, 2021: Guidance Regarding Alternative Nonresidential Services
  - Enclosure: Engagement Guide
- August 9, 2021: State Public Health Officer COVID-19 Orders and Related Guidance
- July 29, 2021: Extension of Waivers, Modifications and Directives due to COVID-19
- July 22, 2021: Guidance Regarding Reimbursement for Transportation Services for Alternative Nonresidential Services
- July 21, 2021: Rescission of Directive Regarding Day Services for Consumers at High Risk for Serious Illness due to COVID-19
- June 29, 2021: Extension of Waivers, Modifications and Directives due to COVID-19
- May 28, 2021: Extension of Waivers, Modifications and Directives due to COVID-19
- May 5, 2021: Extension of Waivers, Modifications and Directives due to COVID-19
- April 27, 2021: Updated Overtime Rate for Participant-Directed Respite Services During the COVID-19 State of Emergency
- April 21, 2021: Visits to Individuals Residing in Licensed Residential Facilities
  - Summary
- April 21, 2021: In-Person Monitoring Visits
  - Summary
- April 2, 2021: Extension of Waivers, Modifications and Directives Due to COVID-19
- March 29, 2021: Provider Attestation for Absence Payments for Nonresidential Services During COVID-19
  - Enclosure: eBilling Provider Certification
- March 29, 2021: Guidance Regarding Reimbursement for Group Supported Employment for Alternative Nonresidential Services
DDS oversees the coordination and delivery of services for Californians with developmental disabilities through a statewide network of 21 community-based, non-profit agencies known as regional centers. Regional centers provide assessments, determine eligibility for services, and offer case management services. Regional centers also develop, purchase, and coordinate the services in each person's Individual Program Plan.
Who are "Consumers?"

DDS serves more than 330,000 individuals, also known as consumers, who have developmental disabilities including cerebral palsy, intellectual disability, Down syndrome, autism, epilepsy and related conditions. The programs, services and resources here are designed to empower consumers who have developmental disabilities and help guide the families, advocates and professionals who help them live their best lives.
Appeals & Complaints

The state's developmental services community is best served by an open exchange of information and opinions, and DDS is committed to resolving problems and concerns when they occur. Below are the multiple options consumers, family members, vendors and providers have for filing appeals and complaints.

Consumers/Families

Consumer Rights Complaint Process
This process is a mechanism to be used when an individual consumer, or any representative acting on behalf of a consumer, believes that any right has been wrongly or unfairly denied by a regional center, developmental center, or a service provider. This process is not to be used by consumers to resolve disputes about eligibility, or the nature, scope, or amount of services.

Fair Hearing
This process is for resolving disputes with a regional or developmental center about eligibility or the nature, scope, or amount of services and supports. This process is not to be used by consumers to resolve issues related to denials of rights.

Vendorization Appeals
This process can be used to appeal a denial of vendorization application, termination of vendorization, or failure of a regional center to comply with regulations.

Early Start Complaint Processes
(For Children From Birth to Age 3)
Early Start is for infants and toddlers under the age of three who are at risk of having a developmental disability or have a developmental disability or delay, and their families. These are three separate processes in Early Start.

Vendors/Providers

Family Home Agency Appeals
The Family Home Agency (FHA) appeal process can be used by a FHA applicant or vendor to appeal the following regional center actions: denial or termination of FHA vendorization; movement of a consumer from a family home approved by a vendored FHA; and/or revocation of a family home's Certificate of Approval.

The appeal process is defined in Title 17 of the California Code of Regulations Section 56096 and 56097. The FHA must appeal in writing to the DDS Director within 30 days after receiving notice from the regional center of its intended action.

Vendorization Appeals
This process can be used to appeal a denial of vendorization application, termination of vendorization, or failure of a regional center to comply with regulations.

Residential Facility Appeals
This is where a vendored community care facility may appeal the actions taken by a regional center regarding service level disapproval, sanctions, findings of substantial inadequacy or immediate danger, or enforcement of any

Related Links

Whistleblower Complaints
Citizen Comments and Complaints (English | Spanish)
Language Access Complaint Process

Contact Information

Appeals, Complaints & Projects Section
Department of Developmental Services
1600 9th Street, Room 340 (MS 3-12)
Sacramento, CA 95814
Voice: (916) 651-6309
Fax (916) 654-3641

Department of Developmental Services
Early Start and Health Services Section
1600 9th Street, Room 320 (MS 3-11)
Sacramento, CA 95814
Phone: (916) 654-2773
Email: earlystart@dds.ca.gov
SAN DIEGO REGIONAL CENTER
HTTP://SDRC.ORG
COVID-19: Click here for all information regarding VACCINES and the Coronavirus Disease

Follow us on Twitter @SDRegionalCtr

Social Justice and the disability experience
By Paul Moseley
https://t.co/eE3YpHNpZ...
June 26, 2021
Welcome to the U.S. Department of Education's Individuals with Disabilities Education Act (IDEA) website, which brings together IDEA information and resources from the Department and our grantees.

Whether you are a student, parent, educator, service provider, or grantee, you are here because you care about children with disabilities and their families and want to find information and explore resources on infants, toddlers, children, and youth with disabilities.

Thank you for visiting the IDEA website. If you have feedback regarding the site, please let us know on our blog.
Return to School Roadmap under IDEA (Aug. 24, 2021)

Summary
OSERS sent a letter to its state and local partners reiterating its commitment to ensuring children with disabilities and their families have successful early intervention and educational experiences in the 2021-2022 school year.

Letter

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
OSEP DCL 21-01

August 24, 2021

Dear Special Education and Early Intervention Partners:
SAN DIEGO COUNTY SUPERIOR COURT OF CALIFORNIA

HTTP://WWW.SDCOURT.CA.GOV
Conservatorship

- What is a conservatorship?
- Conservatorship of the Person
- Conservatorship of the Estate
- General Conservatorship v. Limited Conservatorship
- What is a Temporary Conservatorship?
- What are the alternatives to a Conservatorship?
- What type of investigation is involved with becoming a Conservator?
- Forms for filing for Conservatorship

For more information, visit the website: https://www.sdcourt.ca.gov/sdcourt/probate2/conservatorship
Few Education Law Treatises on Westlaw and Lexis

None on Westlaw

Only a few on Lexis
### Secondary Sources and Practice Guides

Use these books to get an overview of special education law and specific legal issues your clients may have. Some contain detailed step-by-step guidance and sample letters for parents and attorneys.

- **Special Education Law in a Nutshell (E-book)** by Ruth Colker  
  Call Number: West Academic ebook  
  ISBN: 1683285891  
  Publication Date: 2018

- **A Guide to Special Education Advocacy: What Parents, Clinicians, and Advocates Need to Know (E-book)**  
  Call Number: Copley Internet - KF4209.3 .C64 2009ab  
  An electronic book downloadable by USD users. Includes an appendix with sample letters that parents may use when requesting due process hearings, records, and evaluations, or when placing a child unilaterally into a private school.

- **Special Education Law** by Laura F. Rothstein, Scott F. Johnson  
  Call Number: LRC Reading Room KF4210 .R88 2014  
  ISBN: 9781452241098  
  Publication Date: 2013

- **Special Education Law and Litigation Treatise**  
  Call Number: LRC Clinic KF4210 .W4 2017  
  Analyzes and deﬁnes key elements of special education law in language appropriate for both lawyers and non-lawyers. Available for use only in the legal clinic.

### Approaching Education and Disability Clinic Research

Resources for the clinic are different than those used in Legal Writing and Research. In addition to statutes and caselaw, you will need to use administrative law sources.

- **Federal and state regulations**
  - CFR and Federal Register  
  - California Code of Regulations and Notice Register

- **Agency policy materials and decisions**
  - U.S. Department of Education  
    - Office of Special Education and Rehabilitative Services (OSERS)  
    - Office of Special Education Programs (OSEP)  
  - California Department of Education, Special Education Division  
    - Website includes California-speciﬁc resources and information  
    - Searchable special education administrative hearing decisions from 1993-2005  
  - Ofﬁce of Administrative Hearings, Special Education Division  
    - Searchable special education administrative hearing decisions from 2005-present
Statutes

• If there’s a statute on your issue, start there
• Use the annotations
  • important cases on topic
  • valuable secondary source analysis and practice guides
• Don’t forget regulations!
Case Law Research

• Avoid keyword searching, at least initially
• Use the statutes and secondary sources to identify important cases
• Use those cases to branch out to others that address your specific issues.
• Use the digest topic and key numbers on Westlaw; use the Headnotes on Lexis.
• Don’t forget to Shepardize/KeyCite!
Slides available on LRC website

https://www.sandiego.edu/law/library/research-trainings/clinics.php
Questions?

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www.sandiego.edu/law/library