

# CLIENT NEWS BRIEF

## Court Clarifies “Basis of Knowledge” for Special Education Student Discipline

A federal court in California recently considered what constitutes a “basis of knowledge” that could entitle a general education student to special education student discipline protections. (*Anaheim Union High School District v. J.E.* (C.D. Cal. May 21, 2013 \_\_\_ F.Supp.2d.\_\_(2013 WL 2359651).)

A general education student is entitled to special education student discipline protections, such as a manifestation determination, if a school district has a basis of knowledge that the student has a disability before the misconduct occurred. Three circumstances can give rise to a basis of knowledge: (1) a parent has expressed concerns in writing that the student requires special education services; (2) a parent has requested a special education evaluation; or (3) a teacher or other staff has expressed concerns about a student’s “pattern of behavior” to the director of special or other supervisory personnel. (20 U.S.C. § 1415(k)(5)(B).)

In *Anaheim*, the court considered what constitutes a “pattern of behavior.” The court held that a pattern of behavior can include behaviors that do not involve disciplinary issues. For example, a student with autism could exhibit a pattern of behavior, such as not speaking or engaging with others, that does not involve the violation of any rules. The court further held that comments made at a Section 504 meeting can put school districts on notice of a pattern of behavior.

This case establishes that school districts cannot narrowly interpret a “pattern of behavior” when determining whether there is a basis of knowledge that a student has a disability. When considering whether the district has a “basis of knowledge,” it is important to consider information provided in *all* contexts, including Section 504 meetings and student study team meetings. Also, districts must not limit “patterns of behavior” to behaviors that are associated with disciplinary incidents.

If you have any questions about this case, please feel free to contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).

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