

Districts Have Absolute Duty to Update IEPs Annually, Despite Parents' Lack of Cooperation

The Ninth Circuit has reasonably held that school districts must hold annual IEP team meetings for each special education student, regardless of whether litigation is pending or the parents are not cooperative. (*Anchorage Sch. Dist. v. M.P.*, (9th Cir. 2012) 689 F.3d 1047.

In 2007, a disagreement developed between the Anchorage School District and M.P.'s parents regarding her special education program. The District attempted to revise M.P.'s IEP at the beginning of her third grade year, but was unable to obtain parent consent for the program. As a result of the dispute, M.P.'s parents filed for due process.

Later that year, the District scheduled an additional IEP meeting in an attempt to resolve the prospective issues regarding M.P.'s placement. Although invited to attend, M.P.'s parents chose to provide input in writing instead. The judge in the pending due process case issued a stay put order based on a resulting stipulation between the parties.

Once stay put was ordered, the District postponed additional IEP meetings to discuss prospective placement, and chose to await the result of the pending due process hearing. Due to continuing disagreement, M.P.'s parents filed again for hearing in 2008, arguing M.P. was denied FAPE due to the continued implementation of the last agreed-upon IEP, from 2006.

While various pieces of litigation were pending between the family and District, this case went all the way to the Ninth Circuit, which held that the District's obligation to convene an IEP meeting at least annually is absolute, no matter what behavior is exhibited by the parents. The Court concluded that the District's obligation to convene annual IEP meetings is not suspended or excused when parents exhibit a difficult or litigious approach. Otherwise, the child would be punished for his or her parents' exercise of their rights guaranteed by the IDEA. Here, the Ninth Circuit reaffirmed their earlier decision that a school district's failure to comply with the procedural requirements of the IDEA is not excused by blaming parents.

This case is an important reminder that districts must convene IEPs at least annually, even if parents are uncooperative or litigious.

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To ensure educational agencies are current on how changes in law may affect their special education programs, Lozano Smith hosts a statewide Special Education Legal Consortium in the fall and spring. The fall series is taking place now and registrations are limited. We encourage you to visit www.lozanosmith.com/selc for a listing of dates, locations and topics.

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

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