

CLIENT NEWS BRIEF

California Supreme Court Concludes that Parents' District of Residence is Responsible to Provide FAPE to Adult Students Incarcerated in County Jail

On December 12, 2013, the California Supreme Court ruled on an interesting question of state law that could have significant financial implications for school districts. In *Los Angeles Unified School District v. Garcia* (2013) 9th Cir. No. 10-55879, the California Supreme Court concluded that Education Code section 56041 determines which local educational agency (LEA) is responsible to provide special education services to adult students who are incarcerated in county jail. Education Code section 56041 provides generally that for qualifying students between the ages of 18 and 22 years, the school district where the student's parent resides is responsible for providing special education and related services. Thus, the parent's district of residence is responsible for providing qualifying adult students in county jail with special education and related services. Prior to this decision, there had been no state law authority specifically addressing the provision of special education services to adult students in county jails.

Michael Garcia resided in and received special education services from the Los Angeles Unified School District (LAUSD). At age 15, Mr. Garcia was detained in a juvenile hall, where he received his special education program from the Los Angeles County Office of Education. Upon turning 18, Mr. Garcia was transferred to the county jail. However, there was no system in place for adult students in county jail to receive special education services. Mr. Garcia filed a request for a due process hearing with the Office of Administrative Hearings (OAH), alleging that he was being denied a FAPE. OAH found that pursuant to Education Code section 56041, the district in which Mr. Garcia's parent resided – LAUSD – was responsible for continuing to provide a FAPE to Mr. Garcia while he was incarcerated. LAUSD disputed that section 56041 applied to adult students in county jail and eventually appealed the decision to the Ninth Circuit Court of Appeals. The Ninth Circuit recognized that the outcome of LAUSD's appeal would be determined by reference to a novel question of state law, and therefore requested that the California Supreme Court instead address the issue of which LEA is responsible for providing special education and related services to eligible adult students incarcerated in county jail. Mr. Garcia is now 23 years old and ineligible for special education services. Although this issue is now irrelevant to him, it remains important for students and school districts going forward.

Generally, the district in which the parent resides is responsible for providing special education and related services to students with disabilities. Eligibility for special education services terminates upon: receipt of a regular high school diploma; the student's exit from special education per IEP team or parent decision; or the student turning 22 years old. Thus, some students may turn 18 years old and remain eligible to receive special education services. For such students, Education Code section 56041 provides that if the student is not under a conservatorship, the last district of residence prior to the student reaching the age of majority remains the responsible LEA, unless and until the student's *parent* relocates to a new school district. Section 56041 does not specifically mention adult students who are incarcerated, nor does any other state or federal statute. However, students in *juvenile detention facilities* are the

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responsibility of the corresponding county office of education. (Ed. Code § 56150.) The law was unclear, therefore, in establishing responsibility for *adult* students incarcerated in county jails who remain eligible to receive a FAPE.

In *Garcia*, the California Supreme Court concluded that section 56041 is the proper statute for determining responsibility for providing special education services to incarcerated adult students. Reviewing the legislative history, the Court noted that section 56041 was enacted to address when a student is placed by one district into a residential treatment center (RTC) located in another school district, and subsequently turns 18 years old. Prior to the enactment of section 56041, school districts in which RTCs are located became responsible when students in the RTC turned 18 years old, despite that the district had never been involved in the student's education nor had anything to do with the decision to place the student in the RTC. Section 56041 helped to protect LEAs in which RTCs are located by ensuring that the student's previous district of residence remained responsible to fund the student's placement even after the student turned 18.

LAUSD argued that given this legislative history, section 56041 was not intended to apportion responsibility for providing a FAPE to adult students in county jails. The Court found, however, that the language of section 56041 is sufficiently broad to apply to such students, despite what the precise intent may have been at the time of its enactment. The Court further noted that using section 56041 to determine responsibility for adult students in county jail is consistent with the more general purpose of section 56041, to delineate one specific LEA as the responsible agency and to ensure continuity in funding a student's special education placement.

The Court acknowledged that there may be difficulties when the district where the parents reside delivers services to a student in a county jail in a distant location, but the Court was not convinced that this would create an insurmountable problem. For example, state law allows districts to contract with each other and other public agencies to provide services that the student requires.

Thus, the Supreme Court concluded that section 56041 applies to determine which LEA is responsible to provide services to adult students in county jail. If the student is not conserved, the district of residence in effect prior to the student turning 18 remains the responsible LEA, until the parent relocates. If the student is conserved, the conservator's district of residence remains the responsible LEA until the conservator relocates or a new one is appointed. As such, LAUSD was responsible for providing Mr. Garcia a FAPE while in county jail.

Given the unique procedural history of the case, the appeal before the Ninth Circuit is technically still pending. The Ninth Circuit has previously acknowledged that the Supreme Court's decision will determine the outcome of the appeal. Therefore, it appears unlikely that the Ninth Circuit will rule differently.

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