

Ask and You Shall Receive: Ninth Circuit Clarifies IEP Request Formalities Do Not Limit FAPE Rights

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In *L.B. v. San Diego Unified School District* (9th Cir. 2026) 168 F.4th 1150, the Ninth Circuit Court of Appeals held that both the District Court and the Office of Administrative Hearings (OAH) erred in holding that a school district was not required to offer a free appropriate public education (FAPE) to a parentally-placed private school (PPPS) child if the parents requested an “IEP meeting” instead of an “IEP document.” The Ninth Circuit held that there was no distinction between an IEP document and an IEP meeting such that whether the parents requested an IEP using the words “IEP meeting” or “IEP document” was irrelevant to the District’s obligation to offer a FAPE. **Factual Background**

L.B., a student who had a history of serious mental health diagnoses, attended Riley School, a public school that provided intensive mental health services for students with severe social or emotional difficulties within the school district. Less than one month into the school year, L.B.’s parents unilaterally placed L.B. at a residential wilderness therapy program for three months until the parents enrolled L.B. at a second residential treatment center.

The school district and L.B.’s parents subsequently convened several “individualized education program” (IEP) meetings to discuss, among other things, L.B.’s grades and disenrollment from the school district. The parents subsequently filed a due process complaint with OAH against the school district, seeking full reimbursement of L.B.’s costs of enrollment in the residential treatment centers due to, in part, the school district’s alleged failure to provide a FAPE during that time.

OAH Decision

Relying on *Capistrano Unified School District v. S.W.* (9th Cir. 2021) 21 F.4th 1125, OAH held that the school district had “no duty” or obligation to offer L.B. a FAPE because the parents had not “expressly requested an IEP” for L.B. while he was at the residential treatment centers.

OAH reasoned that the meetings and communications between the parents and the school district were for purposes other than requesting an IEP, such as disenrolling L.B. from the school district so he would not receive failing grades. Accordingly, OAH found in favor of the school district on all issues raised by the parents and ruled that the school district was under no obligation to offer a FAPE and pay reimbursement for the private residential placements.

Federal District Court Decision

L.B. appealed, and the District Court for the Southern District of California affirmed the OAH decision. Relying on *Capistrano*, the District Court held that “while Parents requested IEP meetings, there is no support from the Administrative Record that Parents requested the [school] [d]istrict to develop an IEP while L.B. was privately placed.” The District Court reasoned that L.B.’s parents had requested IEP “meetings” but not an IEP “document, and thus the school district had no obligation to prepare an IEP for L.B.”

Ninth Circuit Decision

L.B. appealed to the Ninth Circuit Court of Appeals, which reversed and remanded to the District Court, distinguishing *Capistrano*. The Ninth Circuit held that *Capistrano* involved an “unusual series of events” that did not “remotely resemble” the facts in L.B. The Ninth Circuit also held that the District Court misread *Capistrano* to create a distinction between IEP “documents” and IEP “meetings” that did not exist in the law. The Ninth Circuit determined that whether the “Parents requested an IEP using the words ‘IEP meeting’ or ‘IEP document’ is irrelevant.” Instead, the Ninth Circuit held that, because the purpose of the IEP meeting was to develop and offer an IEP that would provide a FAPE, the parent’s continued participation in the IEP meetings created a continuing obligation for the school district to offer L.B. a FAPE.

Takeaways

In *L.B. v. San Diego Unified School District*, the Ninth Circuit Court of Appeals declined to create a bright-line rule that PPPS children with disabilities are only entitled to a FAPE if the parents request an “IEP document.” In the absence of such a bright-line rule, local educational agencies should be prepared to develop an IEP and offer of FAPE for a PPPS child with a disability any time an IEP-related engagement is ongoing, regardless of whether the parents request an “IEP meeting” or an “IEP document.”

If you have any questions about this decision or need guidance related to PPPS students, or for assistance with any special education matters, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#) and [LinkedIn](#), or download our [mobile app](#).

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