

Magnet Schools May Have Admissions Criteria Without Violating The ADA Or Section 504

The Ninth Circuit Court of Appeals recently issued a decision holding that the admissions criteria of a magnet charter school was not unreasonable and did not violate the Americans with Disabilities Act (ADA), or Section 504 of the Rehabilitation Act ("Section 504"). (*Oman v. Portland Pub. Schs.* (9th Cir. May 14, 2012) __ F.3d __ (2012 WL 1662625).) The court also held that the Individuals with Disabilities Education Act (IDEA) does not provide a private cause of action for nominal damages.

A parent sued a school district when her eighth-grade student with disabilities, who could only write at a third-grade level, was denied enrollment in a magnet school. The parent alleged that the admissions policies for the district's magnet high schools, and specifically the minimum entry requirements and their review of applications based primarily upon grades, violated the ADA and Section 504. The parent contended that, while the admissions criteria were facially neutral, the admissions standards discriminated against disabled students by excluding some students who did not meet the admissions standards due to their disabilities.

The court held that the magnet school's policy of requiring students to meet eighth grade benchmarks was not unreasonable and did not violate the ADA or Section 504, stating that it would give judicial deference to an educational institution's academic decisions in ADA and Section 504 cases. The court concluded that Congress explicitly contemplated that magnet programs would be created by school districts, and that many had competitive admissions policies, some of which are more stringent than those at issue in this case. Finally, the court reasoned that it was unaware of any regulation adopted pursuant to Section 504, the ADA, or the IDEA which would prohibit having competitive admissions policies. Therefore, magnet schools may have competitive admissions policies without violating federal disabilities laws.

A lower court had also awarded the parent nominal damages in the amount of \$1 because the district had discouraged the parent from enforcing special education legal protections. The Ninth Circuit held that no damages, nominal or otherwise, are available under the IDEA. Thus, it was improper, and legally impermissible, for the lower court to award nominal damages under the IDEA.

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This decision is important for school districts because it establishes that magnet schools may maintain neutral admissions criteria, even if those criteria adversely affect students with disabilities who are unable to meet those criteria.

If you have any questions regarding this decision or its legal implications, please feel free to contact one of our [eight offices](#) located statewide. You can also visit our [website](#) or follow Lozano Smith on [Facebook](#).

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