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Amanda Strainis-Walker

NEWS

California School Administrator May Be Personally Liable for IDEA Violation

By Amanda Strainis-Walker

Special education administrators will face personal liability for not complying with federal procedures, if a landmark decision from the Central District of California is allowed to stand. *Goleta Union Elementary School District v. Andrew Ordway*, CV99-07745 (C.D. Cal., verdict December 5, 2002).

When a Santa Barbara High School district administrator neglected to conduct an assessment of a student with disabilities before complying with his mother's request for a school transfer, she was found personally liable for monetary damages. The federal court found that the administrator failed to comply with the Individuals with Disabilities Education Act (IDEA) and was not entitled to qualified immunity because her actions exceeded objectively reasonable conduct. 20 U.S.C. §§ 1400-1487.

"Courts have been quite consistent in reading the IDEA, and when an administrator acts under color of law and the act is so egregious that severe harm is caused, there should be liability," said Brooke R. Whitted, an attorney who practices special education law at Whitted & Cleary.

The school administrator was held personally liable after a hearing officer ruled that the agencies neglected to provide the student with a free appropriate public education, as required by the IDEA, by failing to properly assess the student before instigating a substantial change in the student's placement. The parent claimed that her child's educational needs were not met at the new school and she had to resort to private alternatives, costing an estimated $3,000 to $6,000 a month. The federal court reconfirmed the hearing officer's ruling, including the monetary award the parent sought.

The administrator later moved to be released from personal liability by claiming that she was entitled to Eleventh Amendment immunity as an employee of the school district and that the charge arose from her official capacity. Despite her claim, the court held that as a director of student services, the administrator was charged with knowledge of IDEA requirements that prevent a student change of placement at the request of the student's parents, without first performing an assessment. Furthermore, the court found that IDEA regulations clearly state that an evaluation must

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