

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ORANGE COUNTY HEALTH CARE  
AGENCY.

OAH CASE NO. 2010110268

**DECISION**

The due process hearing in this matter was held on April 4, 2011, in Irvine, California, before Clifford H. Woosley, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH). Robert S. Hawekotte, Attorney at Law, and advocate Jillian Bonnington appeared on behalf of Student. Student's mother (Mother) was present for the hearing. Orange County Health Care Agency (OCHCA) did not appear at the hearing.

Student filed a Request for Due Process Hearing (complaint) on November 4, 2010, against the Fullerton Joint Union High School District (District) and the Orange County Health Care Agency (OCHCA). On November 5, 2011, OCHCA made a "special appearance" in response to Student's complaint, challenging OAH's jurisdiction, since OCHCA claimed to be relieved of the mandate to provide mental health services to special education students, as a result of former Governor Schwarzenegger's line-item veto on October 8, 2010. OCHCA requested that it be dismissed. By order of December 7, 2010, OAH denied OCHCA's request for dismissal and overruled its objection to OAH jurisdiction. Despite the order, OCHCA declined to participate in the due process proceeding.

Student dismissed District on February 8, 2011, indicating that Parent and District reached a settlement. OCHCA remained as the sole respondent.

Sworn testimony and documentary evidence were received at the hearing. At the conclusion of the hearing, Student was granted permission to file a closing brief by April 18, 2011. On April 5, 2011, the ALJ issued a letter to Student and OCHCA requesting that the closing brief also address the recently published decision of the California Court of Appeal, *California School Boards Ass'n. v. Edmund G. Brown, Jr., Governor* (2011) 192

Cal.App.4th 1507 [122 Cal. Rptr.3d 674] (*School Boards*).<sup>1</sup> In *School Boards*, the Court addressed the constitutionality of the Governor's line-item elimination of funding for state mandated special education related services provided by local mental health agencies.

Student requested an extension for good cause and the ALJ ordered the closing brief due April 25, 2011. Student timely filed his closing brief. OCHCA also timely filed a closing brief addressing *School Boards*. Upon receipt of the written closing arguments, the matter was submitted.

## ISSUES

1. Did OCHCA deny Student a free appropriate public education (FAPE) by failing to timely complete its mental health assessment of Student?
2. Did OCHCA deny Student a FAPE by failing to conduct a search for an appropriate residential placement, or to identify such placement, in accordance with OCHCA's October 14, 2010 assessment of Student?
3. Did OCHCA deny Student a FAPE by failing to make any offer of services or placement at the November 1, 2010 individualized education program (IEP) meeting?

## FACTUAL FINDINGS

1. Student is a 17-year-old, eleventh grade high school student and has been a resident of the County of Orange at all times relevant herein. He is eligible for special education services as a student with emotional disturbance (ED). At the time of hearing, Student attended Telos Academy, a residential treatment center (RTC) in Orem, Utah.

### *Student's Initial IEP*

2. Mother testified, and the documentary evidence affirmed, that Student had been evaluated and diagnosed with post traumatic stress disorder (PTSD), as well as dysthymic disorder and generalized anxiety disorder, before being assessed by District in August 2010. Student had been hospitalized for mental health issues and dangerous behaviors, eventually causing Mother to unilaterally place Student at Telos on May 28, 2010.

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<sup>1</sup> On April 6, 2011, California School Boards Association, et al., filed a Petition for Review with the California Supreme Court (S191952). *School Boards*, *supra*, 192 Cal.App.4th 1507, retains its status as published authority until and unless the California Supreme Court grants the Petition for Review, or orders *School Boards* de-published. (Cal. Rules of Court, rules 8.1105(e) and 8.1115(d).) On May 17, 2011, the time to grant or deny review was extended to July 5, 2011.

3. The District completed a comprehensive assessment of Student and held an initial IEP on August 19, 2010. Mother attended, along with the requisite District representatives. The team noted that Student currently attended a parent-funded RTC. Mother discussed Student's treatment at Telos, where he continued to require psycho-tropic medication. The psychoeducational evaluation recommended that Student be found eligible as a student with ED.

4. The team followed the psychologist's recommendation, found Student ED eligible for special education services, and concluded that Student required county mental health services to benefit from his education. The team proposed referral to the OCHCA for evaluation. District subsequently referred Student to OCHCA for an AB 3632 evaluation.<sup>2</sup>

#### *AB 3632 Assessment*

5. OCHCA received the Mother's written consent to OCHCA's proposed AB 3632 assessment plan on September 2, 2011. By letter dated September 8, 2011, OCHCA informed Mother that it had received the referral from District for an AB 3632 mental health assessment. OCHCA noted the assessment required a face-to-face evaluation of Student and sought Mother's assistance in scheduling. The letter concluded by stating: "The 50-day timeline for presenting the assessment report at an IEP Team meeting is October 22, 2010."<sup>3</sup>

6. On October 8, 2011, then Governor Arnold Schwarzenegger vetoed the funding for Chapter 26.5 services, stating that the mandate was suspended for local government agencies, like OCHCA, to provide related mental health services during the 2010-2011 fiscal year.

7. David Gould, Ph.D., Clinical Psychologist, and Manuel Robles, Licensed Clinical Social Worker, conducted OCHCA's AB 3632 assessment of Student. The assessment team interviewed Mother, Student, Student's therapist at Telos, and the Telos Academic Director. They reviewed Student's records from both District and Telos, including District School Psychologist's confidential report and the August 19, 2010 initial IEP.

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<sup>2</sup> In 1984, the California Legislature passed Assembly Bill 3632, adding Chapter 26.5 to the Government Code, which provided that the mental health services to special education students would be delivered by community health agencies. These are commonly referred to as AB 3632 or Chapter 26.5 services.

<sup>3</sup> OCHCA referred to the regulation that required the community mental health agency to complete its AB 3632 assessment in sufficient time to assure the IEP meeting was held within fifty (50) days from the receipt of the written parental consent for assessment (Cal. Code Regs., tit. 2, § 60045, subd. (e)). Since the signed parental consent to assess was not submitted as evidence, the parental consent date was determined by counting 50 days backward from October 22, 2011.

8. OCHCA issued its AB 3632 Mental Health Assessment on October 14, 2010. OCHCA found Student qualified for mental health services and recommended an educational residential placement because of ongoing mental health needs. OCHCA completed its AB 3632 assessment in time to hold an IEP team meeting by October 22, 2010.

*The November 2010 IEP*

9. An IEP team meeting was held on November 1, 2010, for purposes of reviewing OCHCA's AB 3632 assessment and recommendations. No evidence indicated why the District did not schedule the IEP team meeting by October 22, 2010.<sup>4</sup>

10. District's director of special education, Dr. Gregory Endelman, a licensed school psychologist, attended the IEP and testified at the hearing. All necessary parties attended the IEP, including Dr. Gould, the OCHCA psychologist who conducted the AB 3632 assessment of Student. Dr. Gould reviewed the assessment for the IEP team, summarizing Student's reported problems, functional impairments, academic history and strengths. Dr. Gould, on behalf of OCHCA, recommended an educational residential placement.

11. Dr. Endelman testified that when OCHCA recommends an RTC, the IEP team typically affirms the placement and OCHCA requests 15 days to search for an appropriate treatment center. Once OCHCA identifies the RTC, an IEP team meeting would be held to identify and offer placement at the RTC.

12. However, at the November 1, 2010 IEP team meeting, OCHCA stated that it was uncertain if OCHCA would conduct a search for an appropriate RTC because of Governor Schwarzenegger's October 8, 2010 line-item veto of AB 3632 funding. The IEP team also discussed goals, visual motor deficits as a possible unique need, a possible speech and language assessment, and some gross motor concerns. However, the November 1, 2010 IEP team meeting ended with the District and Mother awaiting OCHCA's final decision as to whether it would conduct a search for an appropriate RTC.

13. Mother testified that OCHCA never followed up with offering placement at an identified RTC. Mother stated that OCHCA never thereafter communicated with her regarding RTC placement.

14. Mother received a form letter from OCHCA, dated December 23, 2010. OCHCA referred to a prior November 1, 2010 letter, wherein OCHCA stated that Governor Schwarzenegger vetoed AB 3632 funding and suspended the mandate on county mental health departments to provide AB 3632 services for the 2010-11 fiscal year. Therefore, the letter clearly and unambiguously stated that OCHCA considered the Governor's October 8,

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<sup>4</sup> The local educational agency (LEA), here the District, was responsible for the timely scheduling of an IEP to review and discuss the AB 3632 assessment. (Cal. Code Regs., tit. 2, § 60045, subd. (d)).

2010, line-item veto to have relieved it of any mandate to provide AB 3632 services for the fiscal year.

15. The December 23, 2010 letter also stated that partial funding had been received from the California Department of Education (DOE), though the Orange County Department of Education, which would allow the Children and Youth Services (CYS) to continue most services through February 2011. The OCHCA form letter further stated that case management visits for children in residential facilities would occur as expected in November and December 2010. The letter clearly and unambiguously indicated that the partial funding from the DOE would enable continuing related services. As of that time, Student was not receiving any related services from OCHCA and, accordingly, the partial funding outlined in the December 2010 form letter was inapplicable to Student.

*Student's Expenses for RTC*

16. Mother testified regarding the expenses she paid for Student's placement at Telos. She provided and reviewed statements and billings, as well as proof of payments, for the Telos tuition and residential placement. Mother's and Dr. Endelman's testimony, along with the documentary evidence, sufficiently distinguished expenses associated with the educational portion of the RTC placement from the residential portion.<sup>5</sup>

17. The daily RTC charges were \$375.00. The educational portion was \$100.00 per school day. Therefore, the monthly residential portion is computed by the following formula:  $(\$375 \times \text{days in month}) - (\$100 \times \text{school days in month})$ . Using this formula, the expenses for Student's RTC placement from November 2010 through April 2011 are as follows:

Residential Expenses for RTC at Telos

Month	RTC Daily Rate	Days in Month	Total Charges for Month	Educational Daily Rate	School Days in Month	Educational Portion for Month	Residential Portion for Month
Nov-10	\$375.00	30	\$11,250.00	\$100.00	21	\$2,100.00	\$9,150.00
Dec-10	\$375.00	31	\$11,625.00	\$100.00	22	\$2,200.00	\$9,425.00
Jan-11	\$375.00	31	\$11,625.00	\$100.00	20	\$2,000.00	\$9,625.00
Feb-11	\$375.00	28	\$10,500.00	\$100.00	20	\$2,000.00	\$8,500.00

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<sup>5</sup> Student previously settled with District for reimbursement of educational costs related to the RTC. (Findings of Fact 18 through 22.) Therefore, Student sought reimbursement of the residential, noneducational RTC expenses.

Mar-11	\$375.00	31	\$11,625.00	\$100.00	23	\$2,300.00	\$9,325.00
Apr-11	\$375.00	30	\$11,250.00	\$100.00	21	\$2,100.00	\$9,150.00
Totals:			\$67,875.00			\$12,700.00	\$55,175.00

18. Mother incurred expenses for three trips by her to Telos in November 2010, January 2011, and March 2011, and two trips home by Student in December 2010 and January 2011. The hotel, travel, and related costs for these trips were reasonable and total \$2,846.00.

*Student's Settlement with District*

19. On February 7, 2011, District and Student entered into a written settlement agreement (Agreement) and, at Paragraph 2 thereof, compromised and settled:

. . . fully and finally any and all differences, disputes, and controversies existing between FJUHSD [District], Student and Parent, including, but not limited to, all of the claims and issues, known and unknown, related to the due process complaint [this due process matter] . . . as to the FJUHSD through and including June 30, 2011.

20. At paragraph 6 of the Agreement, District agreed to

. . . reimburse Parent a total amount not to exceed \$35,000.00 for any placements, assessments and/or services privately and unilaterally obtained by Parent for Student, including but not limited to Student's unilateral placement at Telos Academy and Telos Residential Treatment Center, both located in Orem, Utah and any transportation related to such placements, assessments or services, including but not limited to visits, from August 13, 2010 through and including June 30, 2011.

21. At paragraph 7 of the Agreement, Parent, on behalf of Student, agreed:

. . . to not seek reimbursement from the FJUHSD for any noneducational costs related to the Student's unilateral placement at Telos Academy and Telos Residential Treatment Center, including but not limited to, costs related to counseling and guidance or mental health services, room and board, and residential services.

22. In return for the District's promises, the Student dismissed District as a respondent to this due process complaint.

## LEGAL CONCLUSIONS

### *Burden of Proof*

1. As the petitioning party, Student has the burden of proving its contentions at the hearing. (*Schaffer v. Weast* (2005) 546 U.S. 49, 56-58, [126 S. Ct. 528].)

### *Student's Contentions*

2. Student generally contends that OCHCA did not timely complete its AB 3632 assessment and that, thereafter, OCHCA failed to offer and provide the related mental health services (RTC placement), recommended by the assessment. Student seeks to be reimbursed for the noneducational expenses, paid by Mother, for the RTC placement at Telos

### *Issue 1: OCHCA Timely Completed AB 3632 Assessment<sup>6</sup>*

3. Student failed to prove that OCHCA did not timely complete the AB 3632 assessment.

4. When a child's behavior impedes his or her learning or that of others, the IEP team must consider, when appropriate, "strategies, including positive behavioral interventions, strategies, and supports to address that behavior." (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.324(a)(2)(i) (2006)<sup>7</sup>; Ed. Code, § 56341.1, subd. (b)(1).) California law defines behavioral interventions as the "systematic implementation of procedures that result in lasting positive changes in the individual's behavior," including the "design, implementation, and evaluation of individual or group instructional and environmental modifications . . . designed to provide the individual with greater access to a variety of community settings, social contacts and public events; and ensure the individual's right to placement in the least restrictive environment as outlined in the individual's IEP." (Cal. Code Regs., tit. 5, § 3001, subd. (e).) An IEP that does not appropriately address behavior that impedes a child's learning denies a student a FAPE. (*Park v. Anaheim Union High School Dist.* (9th Cir. 2006) 464 F.3d 1025, 1033 (*Park*); *Neosho R-V School Dist. v. Clark* (8th Cir. 2003) 315 F.3d 1022, 1028-1029.)

5. In 1984 the Legislature passed AB 3632, adding Chapter 26.5 to the Government Code (Gov. Code, § 7570 et seq.). Although the school district remains ultimately responsible for making a FAPE available to a pupil needing mental health services, (20 U.S.C. § 1414(d)(2); Ed. Code, § 56040, subd. (a)), Chapter 26.5 divided responsibility for the delivery of mental health services to special education students between the Superintendent of Public Instruction and the Secretary of Health and Human Services.

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<sup>6</sup> Unlike Issues 2 and 3, Issue 1 concerns OCHCA conduct that predates the Governor's October 8, 2010 veto of AB 3632 funding.

<sup>7</sup> All subsequent references to the Code of Federal Regulations are to the 2006 version.

(Gov. Code, § 7570.) Chapter 26.5 emphasizes that the provision of mental health services is the joint responsibility of both agencies. (*Ibid.*)

6. A student who has been determined to be an individual with exceptional needs and who is suspected of needing mental health services may, with the student's parent's consent, be referred to a community mental health service in accordance with Government Code section 7576. The student must meet criteria for referral specified in California Code of Regulations, title 2, section 60040, and the school district must, in accordance with specific requirements, prepare a referral package and provide it to the community mental health service. (Ed. Code, § 56331, subd. (a); Cal. Code Regs., tit. 2, § 60040, subd. (a).)

7. If required by a student's IEP, a community mental health service agency is responsible for the provision of mental health services after the completion of a mental health assessment. (Gov. Code, § 7576, subd. (a) and (b).) The community mental health service agency of student's county of origin is responsible for conducting the mental health assessment and provision of mental health services. (Cal. Code Regs., tit. 2, § 60200, subd. (c).)

8. Within five days of receipt of a referral, the community mental health service reviews the recommendation for assessment and determines if the assessment is necessary. If necessary, the agency contacts the referring district, develops a mental health assessment plan and provides the plan and consent form to the parent, within 15 days of receiving the referral from the district. (Cal. Code Regs., tit. 2, § 60045, subs. (a) and (b); Ed. Code, § 56321.) The local educational agency (LEA) is responsible for the timely scheduling of an IEP to review and discuss the AB 3632 assessment within 50 days of receipt of the parent's consent to the AB 3632 assessment plan. (Cal. Code Regs., tit. 2, § 60045, subd. (d)). The community mental health service must complete the AB 3632 assessment in sufficient time to ensure that an IEP meeting is held within fifty (50) days of receipt of the parent's consent to the assessment plan (Cal. Code Regs., tit. 2, § 60045, subd. (e)).

9. Here, the IEP team recommended referral to OCHCA, the community mental health service responsible for providing Student with an AB 3632 assessment, at the August 19, 2010 initial IEP team meeting. In response, OCHCA prepared an assessment plan and forwarded it with a parental consent form to Mother. Mother signed and returned the consent form, which was received by OCHCA on September 2, 2010. (Factual Findings 3, 4, and 5.)

10. Within the span of 15 days, OCHCA received and evaluated the referral, determined an assessment was necessary, prepared an AB 3632 assessment plan, provided the plan and consent form to Mother, and received the signed consent form from Mother. Accordingly, OCHCA has met the time requirements of obtaining authorization to proceed with the assessment. (Legal Conclusion 8.)

11. OCHCA was required to complete the AB 3632 assessment in sufficient time to hold an IEP meeting by October 22, 2010, which was 50 days after September 2, 2010.

OCHCA's AB 3632 assessment of Student was dated October 14, 2010. (Legal Conclusion 8; Factual Findings 5 and 8.)

12. The October 14, 2010 assessment was completed in time to hold the IEP meeting by October 22, 2010. The LEA, here the District, was responsible for assuring the timely IEP meeting following assessment. No evidence demonstrated that OCHCA caused delay in holding the IEP team meeting, which took place on November 1, 2010. (Legal Conclusion 8; Factual Findings 8 and 9.)

13. As shown by the above facts, Student did not meet his burden of proving that the failure to hold an IEP meeting by October 22, 2010, was the consequence of an untimely AB 3632 assessment by OCHCA. Accordingly, Student was not denied a FAPE on this basis.

### *Issues 2 and 3: No Jurisdiction Over OCHCA*

14. OCHCA contests OAH's jurisdiction to determine whether it deprived Student of a FAPE under the Individuals with Disabilities Education Act (IDEA) on the grounds that Governor Schwarzenegger suspended the Chapter 26.5 mandate as of October 8, 2010. Student contends that OAH retains jurisdiction over OCHCA after Governor Schwarzenegger's suspension of the Chapter 26.5 mandate, on the ground that the suspension was unconstitutional. OCHCA declined to participate in the hearing, advising that it was making only a "special appearance" to contest OAH's jurisdiction, which it did so in its response to Student's complaint, as well as in its written brief submitted post-hearing.

15. The IDEA does not distinguish between special and general appearances. Under general legal principles governing disputes in civil actions, OCHCA made a general appearance when it responded substantively to Student's allegations. (*California Dental Assn. v. American Dental Assn.* (1979) 23 Cal.3d 346, 352 [152 Cal. Rptr. 546] (filing an answer constitutes a general appearance).) Nevertheless, OAH is duty bound to consider whether it has jurisdiction to determine OCHCA's obligations given former Governor Schwarzenegger's asserted suspension of its mandate to provide Chapter 26.5 mental health services as of October 8, 2010. As more fully set forth below, based upon the governing decisional law at the time of this decision, *School Boards, supra*, 192 Cal.App.4th 1507,<sup>8</sup> and the Factual Findings set forth herein, OAH has jurisdiction to determine whether OCHCA failed to fulfill its obligations under the IDEA as part of its Chapter 26.5 mandate prior to October 8, 2010, but does not have jurisdiction to determine OCHCA's obligations under the IDEA after October 8, 2010.

16. Under the IDEA and state law, children with disabilities have the right to a FAPE. (20 U.S.C. § 1400(d); Ed. Code, § 56000.) A FAPE means special education and

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<sup>8</sup> The original complaint was lodged against Governor Arnold Schwarzenegger. After the inauguration of Governor Edmund G. Brown, Jr., the court authorized the substitution of names. (*School Boards, supra*, 192 Cal.App.4th 1507, 1527 & fn.14.)

related services that are available to the child at no charge to the parent or guardian, meet state educational standards, and conform to the child’s IEP. (20 U.S.C. § 1401(a)(9).)

17. “Special education” is instruction specially designed to meet the unique needs of a child with a disability. (20 U.S.C. § 1401(a)(29).) California law defines special education as instruction designed to meet the unique needs of individuals with exceptional needs, coupled with related services as needed to enable the student to benefit fully from instruction. (Ed. Code, § 56031.) In California, related services are called designated instruction and services (DIS), which must be provided if they may be required to assist the child in benefiting from special education. (Ed. Code, § 56363, subd. (a).) Mental health services are related services. (20 U.S.C. § 1401(a)(26); Ed. Code, § 56363, subd. (a).)

18. Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to “the public agency involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).) A “public agency” is defined as “a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.) Any parent, student, or agency may request a due process hearing, and OAH has jurisdiction to decide the matter under the procedures applicable to special education due process hearings. (Gov. Code, § 7586, subd. (a).) OAH’s jurisdiction extends to claims involving the identification, evaluation, or educational placement of the child with a disability, or the provision of a FAPE. (20 U.S.C. § 1415(b)(6); 34 C.F.R. 300.507 (a)(1) and 34 C.F.R. 300.507 (a)(2); Ed. Code, § 56501, subd. (a).) Disputes regarding the recommendation for mental health services are within OAH’s jurisdiction. (Gov. Code, § 7572, subd., (d)(3).)

19. On October 8, 2010, Governor Schwarzenegger released local agencies, including mental health agencies acting pursuant to Chapter 26.5, from providing mandated services during the 2010-2011 fiscal year, as a corollary to his line-item veto of appropriations for reimbursement for local mandated programs in the annual State Budget Act. On February 25, 2011, the California Court of Appeal for the Second Appellate District, in *School Boards, supra*, 192 Cal.App.4th 1507, affirmed the constitutionality of the Governor’s authority to suspend the mandate. In a sweeping analysis, the Court held that the Governor’s constitutional authority to reduce or eliminate an item of appropriation in the State Budget Act passed by the Legislature extends to a lump-sum appropriation intended for multiple purposes. (*Id.* at pp. 1519-1520.) In reaching its decision, the Court reconciled the Governor’s line-item veto authority with the ballot initiative that resulted in a constitutional amendment releasing local agencies from state-mandated responsibilities when deprived of state funding. Although the Governor acted in a legislative capacity when he exercised his line-item veto, he was permitted to do so as long as his veto power was permitted by the California Constitution. (*Id.* at p. 1519; citing *Harbor v. Deukmejian* (1987) 43 Cal.3d 1078, 1089 [ 240 Cal. Rptr. 569].) The Court determined that the Governor was authorized to exercise his authority to do so pursuant to California Constitution. (*Id.* at pp. 1524-1525.)

20. The Court relied upon the California Constitution, article XIII B, section 6, subdivision (b)(1), which provided that, for a mandate, the Legislature must either appropriate, in the annual State Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable. (*School Boards, supra*, 192 Cal.App.4<sup>th</sup> at pp. 1524-1525.) Based upon the amount of sums set forth in the schedule created by the Legislature for reimbursement of state mandates, including Chapter 26.5 services, the Court concluded that the Legislature intended to allocate the full amount. (*Id.* at pp. 1521-1522.) As required by the California Constitution, the mandate was suspended when the Governor reduced the full amount allocated by his line-item veto. (*Id.* at p. 1526.)

21. As a consequence of the Court's determination that the Governor's exercise of his line-item veto was constitutional and effectively released local agencies from implementing state mandates, OCHCA's mandate to provide mental health services was suspended as of October 8, 2010. At that time, OCHCA's Chapter 26.5 mandate reverted back to District, the local educational agency responsible for providing Student a FAPE. As such, OCHCA is not a proper party for disputes regarding Student's mental health services arising after October 8, 2010.

22. Here, Student's Issues 2 and 3 solely addressed OCHCA conduct which occurred after October 8, 2010. After the line-item veto, though, OCHCA had no legal obligation to provide services related to Student's FAPE and, as such, was not a "public agency" over which OAH has jurisdiction in a due process proceeding under IDEA. (Legal Conclusion 21.)

23. Because Student's Issues 2 and 3 failed to make claims against OCHCA over which OAH has jurisdiction, Student is not entitled to relief.

## ORDER

All Student's claims for relief are denied.

## PREVAILING PARTY

Education Code section 56507, subdivision (d), requires that this Decision indicate the extent to which each party prevailed on each issue heard and decided in this due process matter. Student failed to prevail on any issue.

