

37 | Case Law

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Case 1

Student: 1st grader with autism who was nonverbal had successfully been using an electronic device to communicate outside of the school environment. Student used the Picture Exchange Communication System (PECS) when prompted at school, however, continued to be unable to communicate in an effective manner.

Student exhibited behaviors at school that were significant enough to report on an IEP.

School's Participation: Tried an iPod and iPad with a communication app but was not successful. Provided communication supports via the Picture Exchange Communication System (PECS) that was also ineffective as a communication tool for the student.

Problem: The school continued to use the PECS even though it continued to be an ineffective way for the student to communicate. A behavior plan and assistive technology had not been considered on the IEP.

Results: School was considered in violation of IDEA for not providing a FAPE and was required to provide over 180 hours of compensatory education.

North Hills School District (Pennsylvania SEA 2014)

Case 2

Student: High school freshman with a print disability needing speech-to-text software on a laptop to help with completing longer writing assignments.

School's Participation: Provided the student with assistive technology on classroom-based computers.

Problem: School did not provide the speech-to-text software on a laptop in a timely manner waiting 7 weeks into the start of the school year.

Results: School was considered in violation of IDEA for not providing a FAPE. Student was denied equal access to the educational programs and services afforded the nondisabled peers.

Iowa State Educational Agency, 112 LRP 27514, (2012)

Case 3

Student: Student with a hearing impairment is not able to call home independently due to lack of a captioned telephone. Mother offered to provide the district with a captioned telephone.

School's Participation: School did not allow the phone stating it was not required for FAPE.

Problem: The ADA requires that districts ensure that communication is effective and shall give primary consideration to the requests of the individual with disabilities (or the student's family in an educational context) when determining what type of aid and service is necessary.

Results: Office of Civil Rights found the school in violation of the ADA.

Seattle (WA) School District N. 1 (67 IDELR 22 (OCR 2015))

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Case 4

Student: Eleven-year-old student initially diagnosed with cerebral palsy; while case pending diagnosis changed to PKAN.

School's Participation: IEP indicated a communication plan based on "thumbs up/thumbs down" system and an iPad with buttons or icons.

Problem: "Thumbs up/thumbs down" system not "appropriately ambitious"; iPad not designed to provide "meaningful access to education based on his individual needs."

Results: School was considered in violation of IDEA for not providing a FAPE.

In re: *Student with a Disability, 71 IDELR 119 (SEA NM 2017)*

Case 5

Student: High School student who is moderately to profoundly deaf but uses assistive listening devices for amplification struggles to hear in class, misses much of what is said, often leaves school with a headache, makes good grades, and participates in school.

School's Participation: Provided an FM system for assisted listening and other aids and met the student's need for a FAPE.

Problem: Student was not provided effective communications under the ADA.

Results: School was made to provide Communication Access Real-Time Translation or CART services for the student.

by *Harrington v. Poway Unified Sch. Dist., 113 LRP 52143 (SD Cal 2013)*

Case 6

Student: Ninth grader with autism, a speech-language impairment, and former diagnosis of intellectual disability on an IEP transitioned from a middle school building to a high school building within the same school district. Student previously used an iPad to achieve educational goals.

School's Participation: School indicated in the student's IEP the need for an iPad to achieve educational goals. School provided student with an iPad for educational purposes in middle school. When the transfer of the iPad did not occur in a timely manner from the middle school, student was provided a Kindle Fire to use at the high school.

Problem: Technical difficulties, including licensing issues, delayed the transfer of the iPad to the student at the high school until March of the ninth grade year. Once the student received the iPad, the support teacher and one-on-one aide were not trained in using the iPad as assistive technology to support the student.

Results: School was considered in violation of IDEA for not providing a FAPE. The district was ordered to contract with a private speech pathologist and/or an expert in iPad educational application technology to research, acquire, and teach the student, parent, teachers, and aide how to use appropriate educational applications to assist the student in a variety of ways and how these applications can be useful in supporting the IEP goals.

School District of Philadelphia, 114 LRP 37532 (Pennsylvania SEA 2014)

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Case 7

Student: Middle School student with Autism. Parent asked for AT Evaluation in 2013 and 2014.

School's Participation: AT Evaluation in 2013 determined AT not needed but made recommendations for a written agenda, social stories and visual supports for requesting help and communicating emotions, and a text to speech program. No meeting was held with the parent to discuss the AT Evaluation at that time. In 2014 team reviewed prior assessment and concluded AT still not needed. In 2015 IEP team determined no need for AT or evaluation. In 2016 IEP did not mention AT.

Problem: In 2016 goals were essentially the same as in previous year. The school did not fully address the need for AT that could have been appropriate for and beneficial for the student in overcoming weaknesses in reading, vocabulary, and written expression.

Results: Hearing officer found that IEP was not designed to provide meaningful educational benefit and school was in violation of FAPE.

Penn Hills School District, 117 LRP 24165 (SEA PA 04/15/17)

Case 8

Student: Student with emotional disturbance and specific learning disability.

School's Participation: School utilized Georgia Project for assistive technology protocol to assess AT needs. Results were the recommendation of the use of computers, speaking dictionary, Co:Writer, and WriteOutloud.

Problem: Parent requested Independent Educational Evaluation in 7 categories, including AT. District filed due process to defend its evaluations.

Results: Hearing officer found that the evaluator used a variety of tools and assessments, the IEP team implemented her suggestions, and the resulting plan was designed to provide meaningful educational benefit.

B.G. v. City of Chicago School District 299, 69 IDELR 177 (N.D. Ill 2017)

Case 9

Student: Middle school student with Attention Deficit Hyperactivity Disorder.

School's Participation: IEP included implementation of several AT devices.

Problem: Mother requested Dragon software be included. School disagreed with reasoning that voice-to-text would be difficult in the classroom environment. Mother filed due process.

Results: Hearing officer found that the IEP team repeatedly considered and responded to the student's need for technology devices and services. The petitioner introduced insufficient evidence to merit the conclusion that the district's provision of assistive technology was inadequate.

Cobb County School District, 9 GASLD 71 (SEA GA 2017)

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