

STATE OF ARIZONA
OFFICE OF ADMINISTRATIVE HEARINGS

Student, by and through Parent

No. 11C-DP-011-ADE

Petitioners,

-v-

Sierra Vista Unified School District,

Respondent.

ADMINISTRATIVE
LAW JUDGE
DECISION
(Order of Dismissal)

Parent brings this due process complaint, alleging that she is being denied, by Respondent School District, a copy of a transcript of the proceedings in a due process hearing conducted earlier in the year in which she was a party. The law governing these proceedings is the Individuals with Disabilities Education Act ("IDEA"), 20 United States Code (U.S.C.) §§ 1400-1482 (as re-authorized and amended in 2004),¹ and its implementing regulations, 34 Code of Federal Regulations (C.F.R.) Part 300.

Respondent School District has moved to dismiss the complaint on the grounds that Parent is not entitled to a due process hearing on the transcript issue. Parent has filed an objection to the motion. This tribunal finds that Parent is not entitled to a hearing on this issue and that the complaint, on its face, is without merit. Therefore, this tribunal dismisses this matter for the following reasons.

Parent and Respondent School District were parties to a due process hearing held by this tribunal on August 12-13, 2010.² As part of her hearing rights under the IDEA, Parent has a right to "obtain a written . . . verbatim record of the hearing. . . ."³ In addition, Parent may present a due process complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child. . . ."⁴

¹ By Public Law 108-446, known as the "Individuals with Disabilities Education Improvement Act of 2004," IDEA 2004 became effective on July 1, 2005.

² The matter was a consolidation of multiple complaints and amended complaints under docket number 10C-DP-041-ADE.

³ 34 C.F.R. § 300.512(a)(4).

⁴ 20 U.S.C. § 1415(b)(6)(A).

1 Parent's complaint in the current case is that she has not yet received a copy of
2 the transcript made by the court reporter at the August 12-13, 2010 hearing and that
3 she does not want a copy of the transcript sent from Respondent School District or from
4 counsel for Respondent School District, but straight to her from the court reporter. The
5 court reporter was hired by, and paid by, Respondent School District, who bears the
6 costs for due process hearings. Thus, Respondent School District and its counsel are
7 in charge of distributing copies of the transcript to the parties and the tribunal.⁵

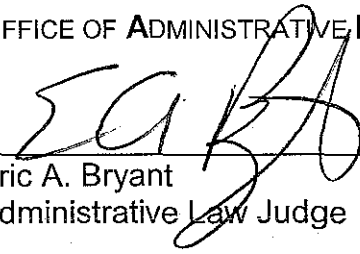
8 Respondent School District has moved to dismiss this matter because it does not
9 relate to the identification, evaluation, or educational placement of Student, nor the
10 provision of a free appropriate public education to Student.⁶ This tribunal agrees.
11 Furthermore, the complaint is insufficient on its face, as Parent is entitled to only a
12 written verbatim record of the proceedings, not any particular incarnation of such written
13 verbatim record, nor from any particular sender.⁷

14 **ORDER**

15 IT IS HEREBY ORDERED that the due process complaint be **dismissed**.

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17 Done this 27th day of October 2010.

18 **OFFICE OF ADMINISTRATIVE HEARINGS**

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21 _____
22 Eric A. Bryant
23 Administrative Law Judge
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28 ⁵ This tribunal has not yet received the transcript either.

29 ⁶ Respondent School District's counsel also makes avowals (supported by documentation attached to
30 Parent's filings) that Respondent School District is not refusing to provide a transcript, that a copy of the
transcript has been recently mailed to Parent, and that another will be mailed if there is a problem with
receipt of the first.

⁷ The e-mail correspondence attached to Parent's filings show that Respondent School District is trying to
get a copy of the transcript to Parent.

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RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to 20 U.S.C. § 1415(i) and A.R.S. § 15-766(E)(3), this Decision and Order is the final decision at the administrative level. Furthermore, any party aggrieved by the findings and decisions made herein has the right to bring a civil action, with respect to the complaint presented, in any State court of competent jurisdiction or in a district court of the United States. Any action for judicial review must be filed within 90 days of the date of the Decision or, if the State has an explicit time limitation for bringing this type of action, in such time as the State law allows.

Copy sent by **electronic mail** and regular mail
this 27 day of October 2010, to:



Copy sent by **electronic mail** and regular mail
this 27 day of October 2010, to:

Denise M. Bainton
Deconcini, McDonald, Yetwin & Lacy, PC
2525 E. Broadway Boulevard, Suite 200
Tucson, AZ 85716-5300
Attorneys for Respondent School District
dbainton@dmyl.com

Copy mailed by interdepartmental mail this 27 day of October 2010, to:

Colette Chapman, Exceptional Student Services
Arizona Department of Education
ATTN: Kacey Gregson
1535 West Jefferson
Phoenix, AZ 85007

By _____

A handwritten signature in cursive script, appearing to read "Colette Chapman", written over a horizontal line.