

Collaborate

Advocate

Educate

LAWYER PARENTS CANNOT RECOVER ATTORNEY'S FEES FOR DUE PROCESS CASES BROUGHT ON BEHALF OF THEIR OWN CHILDREN

Districts have no exposure for attorney's fees in a special education due process proceeding, if the lawyer is also the parent of the pupil involved. On August 23, 2006, the federal Ninth Circuit Court of Appeals ruled in *Ford v. Long Beach Unified School District*, that attorney-parents have no entitlement to fees for legal services for their own children under the IDEA. This case follows the recent United States Supreme Court decision, *Arlington Central School District v. Murphy*, that parents cannot recover fees for experts assisting them in IDEA due process proceedings.

Districts, when dealing with lawyer-parents bringing due process cases on behalf of their own children, now need not consider attorney fees as a necessary element of a settlement at resolution sessions, mediations, or hearings.

In the Ninth Circuit case, the attorney/parent brought a court case to recover attorney's fees after settling a due process proceeding that she filed on behalf of her high-school-age daughter against the Long Beach Unified School District. The daughter had been in a District residential placement in Utah. Upon the daughter's return home on recommendation of the treatment center, a dispute arose concerning her IEP. The initial IEP offer provided for home/hospital instruction and Lindamood-Bell Learning Processes services. The District later determined that she should be returned to the residential placement without the Lindamood-Bell program. After three due process filings (one was voluntarily dismissed to accommodate the District lawyer's schedule and then re-filed by agreement), the parents settled with the District placing the daughter in one of the District high schools, reimbursing the parents for travel expenses to the residential placement location, and providing the daughter Lindamood-Bell instruction.

For further information, or if you would like to receive our legal Alerts in electronic form please visit our website at www.ruizlaw.com. This information is meant to provide a general overview and is not intended to provide comprehensive legal guidance. The reader is advised to consult legal counsel with specific questions on particular matters.