

SCHOOL AND COLLEGE LEGAL SERVICES of California

General Counsel
Carl D. Corbin


Attorneys
Monica D. Batanero
Nancy L. Klein
Margaret M. Merchat
Loren W. Soukup
Patrick C. Wilson
Frank Zotter, Jr.

A Joint Powers Authority serving school and
college districts throughout the state

Reply to:
Santa Rosa Office
5350 Skylane Blvd.
Santa Rosa, CA 95403
(707) 524-2690
Fax: (707) 578-0517
santarosa@sclscal.org


LEGAL UPDATE

Of Counsel
Robert J. Henry
Janna L. Lambert
Virginia A. Riegel


Susanne K. Reed
(1947 – 2010)

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To: Superintendents, Member School Districts (K-12)

From: Carl D. Corbin, General Counsel 

Subject: District in which Parents of Adult County Jail Inmate Reside Responsible for Provision of Special Education Services
Memo No. 01-2014

On December 12, 2013, the Supreme Court of California issued a unanimous decision in *Los Angeles Unified School District v. Garcia*¹ that held the school district in which the parents of a student (who qualifies for special education services² and is 18 to 22 years of age) reside is responsible for providing the student with special education services while the student is incarcerated in county jail.³

The Supreme Court found that while Education Code section 56041 did not specifically address the issue of county jail inmates, the statute was sufficiently broad enough to cover this issue. The Supreme Court further suggested that the California Legislature could change which state agency was responsible for the provision of special education services for adult students incarcerated in county jail if it chose to do so.

While the Supreme Court recognized that the responsibility of a potentially distant school district to provide special education services to a student incarcerated in county jail raises “valid, palpable concerns” this argument was not persuasive. Instead, the Supreme Court suggested that

¹ Available at: <http://www.courts.ca.gov/opinions/documents/S184583.PDF>.

² Pursuant to Education Code section 56026(c)(4) a student must be identified as eligible prior to age 19 in order to be potentially eligible for special education services until the student either receives a regular high school diploma or turns 22 years of age.

³ This case has a complicated procedural history and is currently pending before the Ninth Circuit Court of Appeals (on other issues). Prior to issuing a decision in the case, the Ninth Circuit Court of Appeals requested that the California Supreme Court decide this state law issue.

responsible school districts could “contract with another school district or agency to deliver the necessary services” through a contract similar to those established with a Non-Public School or Non-Public Agency.

Please contact our office with questions regarding this or any other legal matter.