

PageID #: 1 *Original*

KEITH H.S. PECK 6825-0
3360 KAMAAINA PLACE
Honolulu, Hawaii 96817
Telephone: 808-384-7325
Facsimile: 808-595-7146
lawcenterhawaii@aol.com

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JUL 14 2011 *on*
at 7 o'clock and 51 min. P.M.
SUE BEITIA, CLERK

Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

DOUG C, individually and on
behalf of his minor child,
SPENCER C.,

Plaintiffs,

vs.

STATE OF HAWAII, DEPARTMENT
OF EDUCATION and KATHRYN
MATAYOSHI, in her official
capacity as Acting
Superintendent of the
Hawaii Public Schools,

Defendants.

CIVIL NO. **CV11 00441 KSC**
(Other Civil Action)

COMPLAINT; SUMMONS IN A
CIVIL MATTER

COMPLAINT

COME NOW, plaintiffs above-named, by and
through their counsel of record, KEITH H.S. PECK, and
for a Complaint against the defendant, allege and aver
as follows:

1. This action is a complaint presented pursuant to the Individuals With Disabilities in Education Act (hereinafter "IDEA"), 20 U.S.C. §1415(e)(2); and also raises claims under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

2. This Court has jurisdiction in this action pursuant to 20 U.S.C. Section 1415(e)(4)(A).

3. Venue is appropriate in this court because all parties reside in the State of Hawaii, and all events involved herein, transpired in Hawaii.

PARTIES

4. Plaintiff DOUG C., and SPENCER C. are residents of Maui County, State of Hawaii. DOUG C., is the parent of minor child, SPENCER C, who has been certified as eligible for special education in the State of Hawaii, and is entitled to a free appropriate public education ("FAPE") under the IDEA, 20 U.S.C. §1401 et seq..

5. Defendants are the State of Hawaii Department of Education (hereinafter "DOE") and Kathryn

Matayoshi, who is sued in her official capacity as the acting Superintendent of the Hawaii Public Schools or DOE. The DOE is a political subdivision of the State of Hawai'i, which implements the State's Special Education Program pursuant to 20 U.S.C. §§ 1400 et seq., and Chapter 8-36, Hawaii Administrative Rules.

FACTS

6. On December 6, 2010, Plaintiffs requested an administrative hearing with the DOE, pursuant to the IDEA.

7. On or about May 3rd, and 4th, 2011, a hearing was convened.

8. On or about May 16, 2011, the decision of the hearing officer was received by Plaintiffs, dismissed Plaintiff's case and granted Defendant prevailing party status.

9. Pursuant to 20 U.S.C. § 1415(e), and 34 C.F.R. § 300.511 the Plaintiffs are a party aggrieved by the decision.

10. By this action, Plaintiffs seek the review and reversal of the decision where contrary to the decision, the Student was denied a free appropriate public education ("FAPE") when:

a. The DOE conducted an IEP meeting in the absence of Student's parents, and under the circumstances proven at a hearing, on 11/9/2010.

b. The DOE conducted an IEP meeting, but failed to involve persons with sufficient knowledge of Student, and under the circumstances, on 11/9/2010.

c. The DOE conducted an IEP meeting, but failed to sufficiently address Student's unique need for services and/or a process that would appropriately ameliorate for potential regression that would occur from the transfer from his private program to the offered DOE program and placement, on 11/9/2010.

d. The DOE conducted an IEP meeting, but failed to appropriately update the present levels of educational performance, on 11/9/2010.

sufficiently address transition in the absence of Student's parents, and under the circumstances proven at a hearing, on 11/9/2010.

WHEREFORE, the Plaintiffs pray that this court:

1. Receive and review the records of the hearing which was the subject of the decision;
2. Hear additional evidence as requested by the Plaintiffs;
3. Reverse the decision set forth in the decision and order and direct that Plaintiffs are the prevailing party;
4. find that the Student's private placement and services have been appropriate;
5. order reimbursements for the costs of privately obtain educational and related services;
6. Award Plaintiffs attorneys' fees and costs under 20 U.S.C. Section 1415(e) and under the Rehabilitation Act of 1973.
7. Enter such other and appropriate relief

deemed just and necessary by this court.

DATED: Honolulu, Hawaii, July 14, 2011.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke.

KEITH H.S. PECK

Attorney for Plaintiffs