



**PRESS RELEASE
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www.learningrights.org
Janeen Steel, Executive Director
janeen@learningrights.org
TELEPHONE (213) 489-4035

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**Foster Youth Educational Rights Bolstered By
New Ruling Against Los Angeles Unified School District**

**-- Ninth Circuit Court of Appeals Finds LAUSD Violated the Individuals with Disabilities Education Act
and Upholds District Court Decision Finding Same --**

Los Angeles, CA - On Thursday, January 24, 2019, a three-judge panel from the Ninth Circuit Court of Appeals upheld a ruling from the U.S. District Court which found that Los Angeles Unified School District violated the Individuals with Disabilities Education Act (IDEA) by refusing to consider an educational residential placement for a foster student. The District Court had reversed a prior decision in favor of the school district and held that foster children, whose circumstances are governed in part by state law, must be given all the special education rights guaranteed to them by federal law.

M.S. was in the foster care system at the time of the original decision and had a severe emotional disturbance that qualified her for special education services. Because she was a foster youth, the Department of Children and Family Services (DCFS) was responsible for M.S.'s residential and mental health needs. To fulfill those needs, DCFS placed M.S. in Vista Del Mar Community Treatment Facility, a twenty-four-hour residential treatment facility. M.S.'s representatives told the school district M.S.'s education plan should include the residential placement because she also needed it for educational reasons, but the school district refused to even consider her request. M.S. sought review from an administrative law judge, who ruled in favor of the school district. She then appealed to the District Court, which reversed the administrative law judge in a ruling in September of 2016. In its ruling today, the Ninth Circuit Court of Appeals upheld the District Court's decision, affirming both the holding and the District Court's analysis in the case.

Before the Ninth Circuit, the school district argued that it was not legally obligated to discuss or even consider whether M.S. needed placement in a residential treatment center for educational reasons because DCFS was already required under state law to provide M.S. with a residential placement and did in fact provide such a placement. Plaintiff argued, and both the District Court and Ninth Circuit agreed, that the school district had an "independent obligation to consider whether M.S. is entitled to a 'residential placement,' pursuant to the IDEA, in light of her educational needs." (District Court Order at 13, Appendix A to Ninth Circuit Ruling)

Learning Rights Law Center, together with co-counsel (listed below), believe this ruling will better protect the rights of foster youth, who already face significant adversity, to a public education from which they can benefit. The public school district should not make it harder for foster youth to obtain the necessary supports, since at this time only 50% of foster youth receive a high school diploma and just 10% will attend college. Additionally, foster youth who change placements are less likely to complete high school.

“M.S. was entitled to the same rights as other students who are not court-involved. This case will ensure that all foster youth have the right to an education with all the supports necessary for them to thrive,” says Janeen Steel, Co-Executive Director of Learning Rights Law Center, who has been working with M.S. since January 2012.

Shawna L. Parks adds: “It is vitally important that our foster youth, and especially those with challenging mental health conditions, receive all of the required educational supports under federal law. This ruling makes clear that school districts are obligated to follow the law and offer those supports, regardless of what other agencies are doing.”

Plaintiff in this case is represented by Learning Rights Law Center, Allison B. Holcombe of Skadden, Arps, Slate, Meagher & Flom LLP, and the Law Office of Shawna L. Parks. Ms. Holcombe argued the matter at the Ninth Circuit. The Council of Parent Attorneys and Advocates Inc., and California Association for Parent-Child Advocacy, as well as Disability Rights California, filed *amicus curiae* briefs in support of Plaintiff. The California School Boards Association’s Educational Legal Alliance filed an *amicus curiae* brief in support of the school district.

Learning Rights Law Center seeks to achieve education equity for low income and disadvantaged students in the public education system in the greater Los Angeles area. Learning Rights changes the lives of at-risk students who have disabilities, face discrimination or are involved in the dependency or juvenile justice systems by providing free legal services, education advocacy, and community training.

The case before the Ninth Circuit is *M.S. v. Los Angeles Unified School District*, Case No. 16-56472. The District Court case number 2:15-cv-05819-CAS-MRW in the United States District Court for the Central District of California. The case before the Office of Administrative Hearings of the State of California is consolidated under matters #2014120059 and #2014120530. The District Court’s decision was issued September 12, 2016. The original administrative decision was issued on May 4, 2015.

ADDITIONAL CONTACT INFO:

Janeen Steel

Learning Rights Law Center
205 S. Broadway
Suite 808
Los Angeles, CA 90012

Phone: (213) 489-4035

Fax: (213)489-4033

E-mail: janeen@learningrights.org

Shawna Parks

Law Office of Shawna L. Parks
4470 W. Sunset Blvd
Ste 107-347
Los Angeles, CA 90027

Phone: (323) 389-9239

Fax: (323) 389-9239

E-mail: sparks@parks-law-office.com