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## From the Desk of Lana L. Traynor

Welcome the May issue of The Light! Hard to believe we're almost at the end of another school year! We've faced a lot of challenges together and seen some great outcomes. In this issue, we've presented a case analysis focusing on Child Find compliance, a book review for all of you who enjoy the outdoors, and an introduction to A Hope for Autism, an outstanding resource! We hope you'll find the information useful and informative! Thanks for your consideration!

All the best!

*Lana*  
Lana

## Case Analysis: Child Find

Compton Unified School District v. Addison, 07-55751 (9th Cir. March 22, 2010):

**Lesson learned:** A district cannot argue successfully that the notice/child find requirements are not triggered when the district chooses to ignore multiple "red flags" raised by a student struggling in school.



In June 2009, I analyzed a United States Supreme Court case that involved a "child find"/"notice" issue under the Individuals with Disabilities Education Act (IDEA). See <http://www.traynorlawfirm.com/katu-supreme-court-special-needs.html> (analyzing Forest Grove School District v. T.A., 129 S.Ct. 2484 (2009) (on appeal from the Ninth Circuit Court of Appeals) (Forest Grove)). On March 22, 2010, the Ninth Circuit addressed the child find/notice issue again. Compton Unified School District v. Addison, 07-55751 (9th Cir. March 22, 2010)

(Addison).

Addison involved a high school student in a general education placement. During ninth grade, the student had "very poor grades" and performed academically "at a fourth-grade level." Addison, 07-55751 at 4668. The school counselor attributed the student's challenges to "'transitional year'" issues. Id. In tenth grade, the student "failed every academic subject," "sometimes refused to enter the classroom, colored with crayons at her desk, played with dolls in class, and urinated on herself in class." Id. The student's teachers noted that she was "'like a stick of furniture' in class, and that her work was 'gibberish and incomprehensible.'" Id. In response, the District referred the student to a mental health professional who "recommended that the School District assess [the student] for learning disabilities." Id. at 4669. The District advanced the student to eleventh grade and did not conduct the recommended evaluation. Id.

In Fall 2004, the student's mother referred the student for a special education evaluation. Id. A few months later, the District declared the student eligible for special education services under the IDEA. Id. The student then filed a Due Process Complaint against the District under the IDEA, alleging that the District failed to perform its "child find" duties, thereby denying the student a Free Appropriate Public Education (FAPE). Id. The Administrative Law Judge (ALJ) ruled in favor of the student. On appeal, the district court affirmed the ALJ's order. Id. The District raised several arguments on appeal to the Ninth Circuit Court, but one in particular (related to the child find and notice requirements under the IDEA) generated significant discussion. Id. at 4670-72.

Under 20 U.S.C. §1415(a)(3)(A), a district is required to "child find" – establish policies/procedures so that "all children with disabilities" who are in need of special

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education services[] are identified, located, and evaluated.'" Id. at 4669-70. Under 20 U.S.C. §1415(b)(3), a district must notify a parent, in writing, when it "'proposes to initiate or change' or 'refuses to initiate or change the identification, evaluation, or educational placement of the child\*\*\*.'" Id. at 4670. In Addison, the District argued that it "chose to ignore [the student's] disabilities and take no action" and, therefore, the District "has not affirmatively refused to act." Id. at 4670. (Emphasis in original.) Since the District "has not affirmatively refused to act," the District reasoned, the notice provision outlined in 20 U.S.C. § 1415(b)(3) did not apply. Id. at 4670-71. The Ninth Circuit rejected the District's argument. Id. at 4671-72

The Ninth Circuit first stated that the Court must "read statutes as a whole , and avoid statutory interpretation which would produce absurd results." Id. at 4671 (citations omitted). The Ninth Circuit then cited Forest Grove and reasoned: "As the Supreme Court recently stated in the context of an unrelated provision of the IDEA, a 'reading of the [Individuals with Disabilities Education] Act that left parents without an adequate remedy when a school district unreasonably failed to identify a child with disabilities would not comport with Congress' acknowledgment of the paramount importance of properly indentifying each child eligible for services.'" Id. at 4671 (citing Forest Grove School Dist. v. T.A., 129 S.Ct. 2484, 2495 (2009)). Id.

The Ninth Circuit rejected the District's analysis and held that "'child find' claims based on a local educational agency's failure to meet the "'child find'" requirement are cognizable under the IDEA, and that here, the School District had clear notice of this fact." Id. at 4673. The Ninth Circuit upheld the "district's courts orders granting judgment on the pleadings and awarding attorneys' fees." Id.

### Wise Words...

"Never give in--never, never, never, never, in nothing great or small, large or petty, never give in except to convictions of honour and good sense. Never yield to force; never yield to the apparently overwhelming might of the enemy."

— Sir Winston Churchill

### Client Testimonial

"Lana helped me get completely out of special ed. It was important because the teachers were

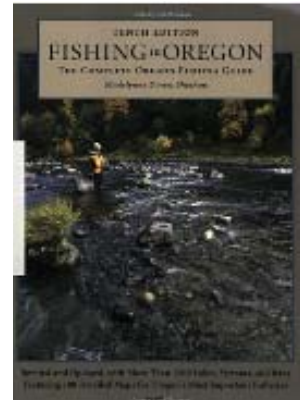
treating me bad. I liked being out of special ed because I could be with more kids." -- High School Student

### Between the Lines ~ Book Review

"Fishing in Oregon: The Complete Oregon Fishing Guide" by Madelynne Diness Sheehan (<http://amzn.com/0916473155>)

Book Review by Reed Traynor

Madelynne Diness Sheehan's guide to fishing in Oregon is a comprehensive book filled with maps, guides, resources and advice for fishermen of all ages and gender. She lays out the book by regions in Oregon. This provides a quick and easy way to look for the area you are interested in. She also includes maps of rivers and reservoirs. These maps outline the depths of the lakes and fishing holes for rivers. She even labels the holes with names, showing the most lucrative places to fish.



In the back of the book, Mrs. Sheehan has created several appendices that categorize the places to fish for specific wants. Appendices include Record Catches, Disabled Angler waters and Fisheries for Youngsters. These pages create a simple way to find exactly what you are looking for. This guide is the guide I use throughout the year when I am planning a fishing trip. This is her 10th edition, so her facts are recent and up to date.

### Someone You Should Know...

#### A Hope for Autism

Gayle Woodruff, the mother of a five-and-a-half-year-old son with autism, has partnered with renowned therapist and board certified Associate Behavior Analyst Robbin Sobotka-Soles to create A Hope for Autism.



The duo formed A Hope for Autism to focus on connecting with children with autism and provide learning opportunities that are personalized for each child. With their combined knowledge of autism spectrum

disorder, they have put together an effective educational program providing a safe, loving environment that is conducive to teaching and learning.

The mother and therapist team focuses on using a child's interests to motivate learning opportunities and create an environment where learning is fun, effective and efficient. Each child with ASD varies in their ability to learn, communicate and relate to others. A Hope for Autism provides consultation for families setting up custom home programs, family support, training, supervision and in-home treatment.

Woodruff was inspired to launch A Hope for Autism after searching numerous avenues for help with her son Miles. Through determination to make a difference with her son, she received intensive training in various theories of how to best work with him. She has also assembled a team of professionals that work with her son on a regular basis.

Sobotka-Soles has been working with children with ASD for over 15 years. She earned a Bachelor of Arts from Linfield College and completed graduate work in behavior analysis at the University of North Texas. As an experienced behavior analyst and therapist, Sobotka-Soles has had the opportunity to work as an in-home instructor, a program supervisor in the Northwest and has worked alongside school professionals in order to create an optimal learning environment for each child she works with. Her current focus is developing individualized teaching programs and promoting a more natural learning environment, including using relevant teaching materials and focusing on the child's interests.

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www.ahopeforautism.org

## Events

Oregon Mega Conference

June 3-5, 2010

Hilton Eugene & Conference Center

66 East 6th Avenue

Eugene, Oregon 97401

Phone (541) 342-2000

<http://www.oregonmegaconference.org/>



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