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**Client Alert**

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**RIDLEY DECISION:  
A SCHOOL DISTRICT'S COST OF WINNING?**

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A recent decision from the U.S. Court of Appeals for the Third Circuit clarifies the “stay-put” provision of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1415(j), and in doing so, also places an obligation on school districts to reimburse parents for private school education tuition during the dispute period. In *M.R. v. Ridley School District*, 2014 U.S. App. LEXIS 3083 (3d Cir. Pa. Feb. 20, 2014), the Third Circuit panel was required to delve into the IDEA and Section 504 of the Rehabilitation Act, as well as the specific history of the underlying actions, to answer two questions of first impression: **(1) whether parents can request reimbursement for private school tuition even if they do not request reimbursement until after the district court determined that the school district did not violate the IDEA; and (2) whether parents who appeal an adverse decision are entitled to tuition reimbursement throughout the course of the appeal.**

The *Ridley* matter has a long and involved procedural history that is essential for the complete understanding of the significance of the holding. E.R. was a student in the Ridley School District for kindergarten and first grade, where she received special education services. Prior to beginning second grade, E.R.'s parents, M.R. and J.R., voluntarily enrolled her at a private school called Benchmark. After enrolling at Benchmark, E.R.'s parents filed a due process complaint against Ridley School District in

which they asserted that E.R. was not provided with a free and appropriate public education (FAPE) as required by the IDEA and the Rehabilitation Act during her tenure at Ridley School District. As part of requested relief, the parents requested reimbursement for the tuition at Benchmark. After an administrative hearing, a hearing officer found that Ridley School District did not violate the IDEA during E.R.'s kindergarten school year but also found that E.R. was denied FAPE during first grade and ordered Ridley School District to reimburse the parents for the tuition and transportation costs for E.R.'s second grade school year at Benchmark. Two years later, the hearing officer's decision was reversed in part by the district court, which found that Ridley School District appropriately programmed for E.R. throughout her time at the public school. The parents appealed the decision and after another year and a half passed, the Third Circuit affirmed the district court decision.

During the entire dispute and appeal procedure, E.R. remained enrolled at Benchmark and her parents paid her tuition. However, before the decision had been published by the Third Circuit, the parents sent a letter demanding that Ridley School District should be responsible for tuition reimbursement at Benchmark from the date of the hearing officer's decision forward. Ridley School District refused. As a result, the parents filed another action in which they asserted that Ridley School District was required to finance the private education until the appeals were resolved under the “stay-put” provision of the IDEA. The timing of the letter to Ridley School District—before the Third Circuit issued its decision—is important to the final holding in this matter.

As the cause of action in *Ridley* was based solely on an alleged violation of the IDEA due to nonpayment of tuition, E.R.'s parents were permitted to file directly with the U.S. District Court for the Eastern District of Pennsylvania and did so in *M.R. v. Ridley School District*, 2012 U.S. Dist. LEXIS 113600 (E.D. Pa. Aug. 13, 2012). The district court ruled that E.R. was entitled to remain in her “then-current” placement—Benchmark—and that her parents should be reimbursed for the tuition at the private school from the



date of the decision of the hearing officer (April 21, 2009) until the end of the appeal of the initial action (May 17, 2012). Ridley School District appealed to the Third Circuit.

In *Ridley*, the Third Circuit panel upheld the district court's decision and in doing so ruled that: (1) E.R.'s parents' delay in asking for tuition reimbursement was excusable; and (2) E.R.'s parents were entitled to reimbursement until the appeal period was exhausted.

As part of the *Ridley* ruling, the Third Circuit panel dealt with a number of arguments made by Ridley School District that E.R.'s parents' claims were untimely due to statute of limitations, res judicata, and failure to counter-claim. Ridley School District's argument under Federal Rule of Civil Procedure 13(a) was perhaps the strongest procedural argument; however, the panel was unimpressed as it considered the "stay-put" provision of the IDEA controlling and determined that the provision could not be "waived."

**In essence, the "stay-put" provision acts like an automatic injunction and must be strictly adhered to until the end of an appeal.** So, although the Ridley School District successfully proved that it could provide adequate special education services to E.R. and a private educational placement was unnecessary, it was required to keep E.R. enrolled at the private school and pay for said placement. The decision of the hearing officer was consequently given practical effect over the decision of the district court and the Third Circuit. Even the fact that E.R.'s parents had not sought tuition reimbursement until after the unfavorable ruling at the district court did not bar or limit recovery. The panel, using a combination of legislative intent and plain language, held that the "important mission [of the stay-put provision is] to guarantee educational stability for all children with disabilities until there is a final ruling." Thus, even though Ridley School District was successful in the underlying FAPE action, it was still required to pay the damages requested by E.R.'s parents.

The panel was "not insensitive to the financial burden" or "the seeming incongruity" of its decision, but its decision in *Ridley* seems to open holes in the IDEA and schools' budgets. Countless questions linger. How do attorney fees—recoverable under the IDEA—fit into the decision in *Ridley*? What would have happened if the set of facts was reversed and the hearing

officer's finding for Ridley School District was overturned by the district court, and subsequently affirmed by the Third Circuit or Supreme Court?

**Based on the reasoning of *Ridley*, in such a scenario, a school may still be required to pay money damages from the time of the hearing officer's decision through the final decision/denial of appeal.** If *Ridley* stands, a school will not know how to make a student "stay put" while appellate courts review the merits of the case—should it follow the ruling of the hearing officer or district court? Indeed, a school may program correctly, but still be forced to provide educational services deemed unnecessary by the IDEA. Undoubtedly, distinctions in each case could arise that would alleviate schools from such a catch-22, but as mentioned by the frustrated district court, "rectifying the dilemma created here ... is best left to Congress." In the interim, it is likely that we will see more litigation and claims seeking reimbursement for private school tuition and possibly some confusion in the lower courts as to how to deal with the logical conundrum of forcing the prevailing party to pay money damages.

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