

DATE: August 22, 2009

ORANGE COUNTY SCHOOLS
STATEMENT FOR PUBLIC RELEASE
ON McWHIRTER CASE

A State Hearing Review Officer has overturned an earlier decision and instead has upheld the decision of the Orange County Schools in a controversial special education case that has attracted a good deal of attention. On August 19, 2009, the decision on appeal in the McWhirter case found that the school system's plan met its obligation to provide the student a "free, appropriate education" in the "least restrictive environment." Specifically, the Review Officer found that the student did not need a full-day regular preschool program and that paying for regular preschool is the responsibility of parents, not the school system. The ruling, that a school system is not responsible for a student's regular education preschool program, is expected to have statewide significance. The position of Orange County Schools was supported by the ruling, which concluded that the family wanted an educational program that exceeded the school system's obligations. The Review Officer also determined that the preschool program chosen by the parents would not have been an appropriate placement for the school system to have offered, based on the information available to it in July 2008.

The Review Officer also determined the parents did not provide the required notice to inform the Orange County Schools that they intended to enroll their child in a private school at the school system's expense. The ruling found procedural errors on both sides, but the school system's errors occurred only after the educational plan had been developed. The Orange County Schools disagrees with the Review Officer's legal

conclusions as to procedural errors, but remains very pleased that its educational programming decisions were upheld. The Orange County Schools always strives to meet its obligations to all students.

As a result of this ruling on appeal, the parents' reimbursement award was drastically reduced to approximately \$2,900, far less than the amount awarded in the original decision.

The contention of the Orange County Schools all along has been that it met its obligations to offer an appropriate level of educational services and placement for the student. The Review Officer supported the decisions of the Orange County Schools, based upon the knowledge and expertise of the educational professionals who developed the plan. The Orange County Schools' professional educators believed at all times, that they were advocating an appropriate plan for the student, and are pleased that this ruling vindicates their decisions.