

ADVOCACY REPORT

OFFICE OF CLIENTS' RIGHTS ADVOCACY

SUMMER 2002

BENEFITS

Juvenile Court Orders that County Provide Personal and Incidental Money.

R.F. is a dependent of Alameda County's Juvenile Court and a consumer at Regional Center of the East Bay. She lives in a community care facility (CCF), but because she is a "dual agency" consumer – with both regional center and county foster care eligibility – the cost of her residential placement must be paid by the county, rather than the regional center. Because R.F. does not receive SSI, the county pays the full CCF rate. Until OCRA's intervention, however, the county was refusing to provide R.F. with the personal and incidental (P&I) money she needed and which all other regional center consumers receive. Her residential service provider was giving R.F. spending money, but an extended drain on the provider's finances put R.F. at risk of losing her placement.

OCRA worked with R.F.'s court-appointed lawyer, who made a motion that the court order the county to pay her P&I money. Alameda County opposed the motion, stating that Title 17 of the California Code of Regulations defined P&I money as money available only to SSI recipients, and that R.F. had no right to P&I money, because she did not receive SSI. In support of R.F.'s claim, OCRA provided her lawyer with a memo that set forth the statutory and policy rules confirming R.F.'s right to spending money in the CCF, and requiring the county to pay not just the provider's residential rate, but also R.F.'s P&I money. OCRA's memo further argued that in order to avoid arbitrary and variable awards of such money, the county had a duty to provide R.F. with the same amount of P&I money she would receive were she getting SSI.

At the hearing, the juvenile court judge granted R.F.'s request and ordered the county to provide her ongoing P&I, plus money owed her from the time of her placement in the CCF. Marsha Siegel, CRA, Regional Center of the East Bay.

Appeals Council Reopens Unfavorable Decision for Reconsideration.

C.J. is a 35-year-old woman with mental retardation who lives with her six children. On April 11, 2000, C.J. applied for SSI benefits through the Social Security Administration (SSA) and was denied eligibility. C.J. filed for hearing and appeared before an Administrative Law Judge (ALJ) on April 16, 2001, along with the Independent Living Skills (ILS) worker serving C.J. at the time. The ALJ issued a decision on June 8, 2001, affirming SSA's determination.

C.J.'s service coordinator contacted OCRA in July, 2001, for assistance in appealing C.J.'s unfavorable ALJ decision. After reviewing C.J.'s regional center file, OCRA agreed to file a request for review with the Appeals Council on C.J.'s behalf, with OCRA hand-delivering the requisite forms to the local field office to ensure timely filing. OCRA then attempted to obtain C.J.'s SSA file and the audiotape of C.J.'s hearing through the local field office, but learned that C.J.'s case had already been forwarded to the Appeals Council on its own motion. OCRA eventually obtained a copy of C.J.'s SSA file and hearing tape in mid-December, 2001, along with a notice stating that C.J. had not filed her request in a timely fashion. OCRA challenged the notice by sending its date-stamped copy of the request form proving that C.J. had filed a timely request for review.

OCRA learned that the audio tape recording of C.J.'s hearing was mostly inaudible. Although the tape was defective, it revealed that C.J.'s ILS worker expressly stated on the record that she was not present to provide representation for C.J. The tape also made clear that C.J. did not knowingly waive her right to legal representation, despite the ALJ's written conclusion that she had. The remaining audible portion of the tape indicated that the ALJ had not acted impartially because he did not attempt to elicit favorable facts from C.J., nor did not afford C.J. the opportunity to respond to his concerns regarding her credibility, which ultimately served as the ALJ's basis for denial.

OCRA requested that the regional center perform a new psychological evaluation for C.J., which was completed in March. In early April, OCRA called the Appeals Council to check on the status of C.J.'s case and learned that it had not yet been put on docket. OCRA drafted a position statement in support of C.J.'s claim that she is eligible for SSI, and attached the new psychological report as an exhibit. OCRA then contacted C.J.'s former high school special education teacher, who agreed to sign a declaration in support of C.J. after the school semester was over.

In the meantime, the Appeals Council issued a decision denying C.J.'s request for review on May 3rd. OCRA sent C.J.'s position statement to the Appeals Council along with a cover letter containing the contact information of C.J.'s former special education teacher instead of the originally intended declaration. On May 17th, the Appeals Council vacated its May 3rd decision denying C.J.'s request for review, reopened C.J.'s case, and is presently evaluating C.J.'s file along with the new evidence and opinion submitted by OCRA. There is every expectation that C.J. will be found eligible for SSI. Brian Capra, CRA, Westside Regional Center, Meriah Harwood, Assistant CRA, Westside Regional Center.

SSA Reinstates SSI, Removes Overpayments and Grants Retroactive Benefits.

M.G. is a 12-year-old young lady with Down's syndrome who lives with her parents and two siblings. M.G.'s SSI was terminated after a miscommunication occurred between the Social Security Administration (SSA) and M.G.'s mother during a reporting interview. Based on a response to a question M.G.'s mother misunderstood, SSA believed that M.G.'s parents reported that they owned property in Mexico worth approximately \$4,000.00. However, M.G.'s grandparents are the true owners of the property. Further, the actual value of the property is \$1,888.00, which would not have exceeded M.G.'s resource limitation for parental deeming, even if the property had belong to M.G.'s parents. As a result of the miscommunication, SSA notified M.G. that her parents' resources were over limit and that it over paid her \$17,782.00. This was the total amount M.G. had received since becoming eligible for SSI benefits.

M.G.'s mother filed a request for reconsideration while a private attorney and M.G.'s regional center service coordinator tried to resolve this matter

through numerous letters to SSA, Their actions were unsuccessful. Consequently, M.G. went without SSI benefits for over two years.

M.G. was referred to OCRA by her regional center service coordinator. OCRA provided M.G.'s mother and service coordinator with technical assistance on explaining M.G.'s situation to SSA, submitting relevant documentation, requesting reopening of M.G.'s reconsideration request, requesting reinstatement of M.G.'s SSI benefits, requesting removal of M.G.'s overpayment, and requesting that SSA pay retroactive benefits totaling \$13,284.00 to M.G for the two-year period she went without payments. SSA informed M.G.'s service coordinator that M.G.'s overpayment would be removed and that M.G. would receive retroactive benefits. M.G. began receiving benefits again in June, 2002. SSA also paid the first of three reimbursement installments into a dedicated account that M.G.'s mother established. Brian Capra, CRA, Westside Regional Center, Meriah Harwood, Assistant CRA, Westside Regional Center, Maria Ortega, Los Angeles Office Manager and Bi-Lingual Translator.

Seat Elevator for Wheelchair Granted.

Even though A.N. suffered great pain when using a standard wheelchair, Medi-Cal denied the request for a seat elevator. A. N.'s service coordinator and the health care provider had explained to Medi-Cal that A.N.'s severe muscular degeneration made the lift a necessity.

The CRA filed for a hearing. After writing to and speaking with the hearing coordinator in San Francisco, the CRA was pleased to be able to tell the service coordinator that Medi-Cal reversed its decision and approved the seat elevator. The client was extremely pleased to know that she would receive some relief from her pain. Lynne Page, CRA, Redwood Coast Regional Center, Eureka.

OCRA Representation Helps M.K. Succeed in SSI Overpayment Hearing.

M.K. lives with her mother and two brothers, and uses her SSI to pay her share of the family's basic household expenses. Social Security, however, became convinced that M.K. lived with her mother and only one brother. As a result Social Security determined that the family's expenses were too high for M.K. to pay her fair share, which in turn meant she was receiving in-kind

food and shelter and was ineligible for the maximum SSI payment. M.K. received a lowered amount of SSI and an SSI overpayment covering the years she had received the full SSI amount. M.K.'s mother spent many days visiting the Social Security office in an effort to understand what was happening. This proved impossible, in part because SSI rules are complex, and in part because her primary language is Mandarin. She turned to OCRA for assistance in an appeal of the overpayment.

Working with M.K., her mother, and the Asian Community Mental Health Services case manager, who speaks Mandarin and English, OCRA was able to understand what the household situation was and why Social Security had become convinced of something quite different. The second brother did live with M.K. but was absent much of the time. Social Security had not spent sufficient time to get the full story and M.K.'s mother did not understand Social Security terminology. OCRA explained the rules and issues to the family and then presented testimony and documentary evidence that convinced the administrative law judge to issue a hearing decision granting M.K.'s claim. Her SSI check has been increased, and Social Security reimbursed her for the SSI money she had lost during the appeal period. Marsha Siegel, CRA, Regional Center of the East Bay.

Erroneous Denial of IHSS Rescinded.

On April 30, 2002, consumer's parents received a notice of termination from the Riverside County's In Home Supportive Services stating services were being terminated as of April 30th because the consumer was no longer medically eligible. The parents appealed this decision within 10 days of the notice, so aid paid pending a hearing decision should have been given. However, benefits ceased. The parents called the County Appeals Specialist and he conceded that the county had issued an inadequate notice. He agreed to a Conditional Waiver but would not agree to reinstate the benefits pending review.

The parents contacted the OCRA office for assistance. After reviewing the documentation, the CRA advised the parents that the County's offer was not appropriate because the notice was inadequate and the County failed to provide aid paid pending while it was investigating eligibility. The family also informed the CRA that the County had not performed any assessments since November, 2001.

The CRA agreed to provide technical assistance. The parents attended the hearing. At the hearing, the parties agreed to a Conditional Withdrawal. The county agreed to re-instate the consumer's benefits from the date of termination and continue eligibility. Aleyda Toruno, CRA, Inland Regional Center.

Approval for SSI.

J.M. is a 31-year-old consumer who was denied SSI eligibility. J.M., who has been applying for Social Security benefits since he turned 18-years old, became eligible for regional center services two years ago based on a diagnosis of epilepsy that is substantially handicapping. J.M. has been incarcerated twice and had been living at a shelter prior to becoming a regional center consumer. J.M. received medical and financial assistance through General Relief. J.M also had a history of drinking alcohol.

Regional Center Service Coordinator and the ILS provider tried to assist J.M. with his SSI appeal. Neither agency could find an attorney that would directly represent J.M. at his SSI hearing.

Regional Center contacted the OCRA office requesting direct representation at J.M.'s SSI hearing. OCRA agreed to represent J.M. at his SSI hearing. The hearing officer stated at the end of the hearing there was sufficient evidence to support J.M.'s eligibility for SSI benefits. Maria Bryant, CRA, Rita Snykers, Assistant CRA, San Gabriel/Pomona Regional.

Overpayment Significantly Reduced with OCRA Support and Reassessment.

H.C. is receiving SSI benefits. He came to OCRA after getting a notice that said that H.C. had an overpayment of \$1,581.89. OCRA reviewed the social security file for H.C. OCRA intervened and a reassessment was done by the social security office. The overpayment was reduced to \$134.52. Lorie Atamian, Assistant CRA, Far Northern Regional Center.

CONSUMERS' RIGHTS

Changing Clothes When You Choose!

L.W. is an unconserved adult client of the regional center who resides in a home with supported living services. She likes to change her clothes many times a day. She has flushed clothing down the toilet previously but does not do this often. The service provider began locking up L.W.'s clothing. A behavioral plan was not in place nor did the provider consult with a behaviorist prior to taking this highly restrictive step. The provider also failed to file the legally mandated denial of rights report. No plan was in place to reinstate L.W.'s right to have access to her own clothes. It had also not been considered if a less restrictive method of resolving the situation was available.

L.W.'s regional center service coordinator brought this case to the attention of the CRA. The CRA then drafted a memo discussing the rights of consumers and the reporting requirements for a denial of rights. The service coordinator presented the provider with this memo and a new plan is being pursued with appropriate service providers. Katie Casada, CRA, North Los Angeles County Regional Center.

Lanterman DC Cannot Use Five-Point Restraints on Regional Center Consumer.

C.K. is a 42-year-old male with severe mental retardation and mood disorders. He is under conservatorship with the Department of Developmental Services (DDS) and resides at Lanterman Developmental Center (LDC).

In October, 2001, LDC staff submitted requests to the South Central Los Angeles Regional Center's Human Rights Committee (HRC) to consider and approve increased medications and interventions that LDC determined would assist C.K. to learn skills that would help reduce or ameliorate his agitation and aggressive behavior(s). His behaviors of concern were physical aggression toward staff, including hitting, kicking, and biting. LDC staff asked to administer psychotropic medications and to use five-point soft tie restraints to a padded chair for intervention..

OCRA South Central staff are members of the HRC. LDC's request was reviewed during the normal course of the quarterly HRC meeting. The HRC has the right to refuse or give consent to such requests. In December, 2001, the HRC met and denied the consent request for five-point soft tie restraints as a behavior management procedure for C.K. but recommended consent for approval of the requested psychotropic medications.

In early May, 2002, LDC staff submitted an addendum to the original request asking for reconsideration of the denied consent to use five-point restraints. LDC staff argued that non-contingent use of five-point soft tie restraints with C.K. would be the best option for preventing harm if Mr. K. became physically aggressive. Use of a "quiet room" for an exclusionary time out procedure, proposed by the HRC in December as a better, less aversive alternative procedure, was said by LDC staff to be "physically impossible" because Mr. K. would immediately attack staff when staff left the quiet room. Mr. K. would have to be physically escorted by staff to the quiet room while manually restraining his legs and arms to prevent injury. LDC staff further argued that its policy holds that a quiet room time out procedure is more restrictive than the five-point restraints which were proposed.

The HRC met in June, 2002, to consider a response to LDC's addendum and addressed each of LDC staff's arguments separately. In the past, Mr. K. has shown that he finds the restraint procedure highly aversive. In the quiet room, his limbs would not be constrained when in time-out and he would be free to walk about within that confined space. Although he may be agitated when in the room, it did not appear that C.K. would hurt himself. In addition, staff are required to continually watch any client in a latched door (quiet room) time out, so C.K. would be monitored for injury.

The HRC again disagreed that use of five-point soft tie restraints is less restrictive than quiet room time out and denied consent for this procedure. To further monitor this situation, the HRC asked LDC staff to update and submit frequency and severity data regarding C.K.'s behavior. Christine Armand, Assistant CRA, South Central Regional Center.

EMPLOYMENT DISCRIMINATION

Employee Returns to Work with Full Back Pay as a Result of OCRA Advocacy.

M.R. is a 29-year-old man with autism who has been working a full time janitorial job at a private athletic club for more than two years. M.R. loves his job, and has never been late or absent. Within the last eight months, there has been a complete turnover in club management, and M.R. found himself working for new staff.

One of M.R.'s new managers gave him a written "Preliminary Warning" because of what the manager felt were "inappropriate comments" made to a club member. M.R. then received a second notice, marked "Final Warning," from another new manager. This time it was for "inappropriate comments" made to a relatively new female employee, who reported that things M.R. had said to her made her, "feel uncomfortable." M.R. was suspended from work for three days, without pay. When M.R. attempted to return to work on the fourth day, he received notice that his unpaid suspension had been extended, and a meeting was set with club managers to discuss the results of their "investigation." M.R. expected to be fired.

M.R.'s parents and his case manager tried to speak to club managers about M.R.'s autism and how it can cause communication difficulties. They wanted management to know that M.R.'s behavior could be easily modified. Club management said that the club's "corporate office" had told them not to discuss the situation, and indicated that they would not be invited to the meeting set after M.R.'s extended suspension.

After being rebuffed by club managers, M.R.'s family and case manager contacted OCRA for assistance. OCRA let club management know that as a reasonable accommodation under Title I of the ADA, M.R. had a right to bring support people to a meeting with management. OCRA, case manager, parents, and a Department of Rehabilitation representative attended the meeting. So did the club's personnel manager from the club's corporate offices in L.A. OCRA pointed out that M.R.'s "Performance Reviews" proved he was able to perform the essential functions of the job, and a reasonable accommodation could be made to address concerns about his behavior. The personnel manager agreed. Instead of getting fired, M.R. returned to work with the support of a job coach from the Department of

Rehabilitation, and he received full back pay. Celeste Palmer-Ghose, Assistant CRA, Regional Center of the East Bay.

Worker Reinstated With Apology and Back Pay.

L.C. works at a Department of Rehabilitation subsidized janitorial program. Ten dollars was missing from a job site. The crew's supervisor made the crew empty their pockets and questioned the crew, using intimidation to prompt a confession from a crew member. L.C. stated that he would accept responsibility so no one else on the crew would get in trouble. Although he persisted in stating that he had not actually stolen the money, L.C. was fired when the supervisor found a ten dollar bill in his wallet.

L.C.'s sister asked the CRA to help L.C. get his job back because the sister had given L.C. the bill that had been found in his wallet. The CRA pointed out to the employer that the way they had obtained the information used to fire L.C. guaranteed that it was unreliable, there was a completely legitimate reason for him to have the money, and the employer had violated all of its own policies in the manner in which it had terminated L.C. The employer agreed to reinstate L.C. with a public apology and back pay as well as agreeing to revise its policies and train its staff better. Frank Broadhead, CRA, Redwood Coast Regional Center.

FAMILY

Removal of Children by CPS Reversed and Juvenile Dependency Case Dismissed.

M.B is a 35-year-old consumer with two young children, one of whom is a regional center consumer. M.B. and her family moved from their rental because the landlord was exposing the children to sexually inappropriate material and neighboring tenants and their children were harassing the family. The family moved into a trailer on the property occupied by her mother and step-father's home. A CPS referral was filed as the step-grandfather is a registered sex offender although he had completed probation, therapy, and had resolved any legal restrictions on contact with the children.

M.B. contacted OCRA when CPS began its investigation. Initially, after doing a home visit, CPS informed M.B that her accommodations were adequate as long as the children did not sleep in the house with the grand parents. CPS then became insistent on a meeting at CPS to discuss the living arrangements. M.B. sought OCRA's help and presence at the meeting.

This meeting resulted in CPS and M.B. agreeing to a voluntary family maintenance services plan including the requirement that the children never be left alone with the step-grandfather as the only adult supervision, but allowing the family to remain in the current residence. Counseling and other services were also mutually agreed upon. A written service plan was executed and signed by M.B. and the CPS worker. Five days later, without warning nor any intervening issues arising, CPS removed the children by taking them from school and placing them in foster care.

OCRA attended the juvenile dependency hearing, alerted the public defender to the history of the case, and attended two subsequent meetings with the CPS court worker. A new voluntary family maintenance services plan was entered into including the commitment to relocate to another residence not connected to the grandparents' home. CPS recommended dismissal at the jurisdictional hearing. The children were returned home following that hearing. Doug Harris, Associate CRA, Redwood Coast Regional Center.

Wage Assignment Set Aside.

C.T. is a 34-year-old regional center consumer currently living in a group home. He works in a sheltered workshop where he earns \$1.98 per hour for a 3-to-4-hour work day. His take home money averages \$163.00 twice per month. Since he lives in a group home, C.T. does not receive SSI money.

C.T. was ordered to pay \$74.00 per month in child support and was in arrears for \$1,500.00. Pursuant to a court-ordered wage assignment, \$74.00 was being taken from his check every pay period. This did not leave very much for the incidentals that C.T. needed.

OCRA called the Family Support Division of Kern County and put the case on calendar so C.T. could have the amount reduced because of his

circumstances. The attorney representing the Family Support Division agreed to a stipulation and order that C.T. would no longer have to pay any sum to the support division. It was agreed that because C.T. made less than \$250.00 per month, is disabled, works part-time at below minimum wage and works 3 to 4 hours per day and will never work a full-time job, he would no longer have any sum due and owing. Family Support closed the file. Donnalee Huffman, CRA, Kern Regional Center.

PERSONAL AUTONOMY

OCRA Support Helps J.B. Retain Guardianship of a Beloved Niece.

J.B., a person with a developmental disability, took in her niece at age four, after the parents' problems made it impossible for them to care for their child. Not long afterward, the Juvenile Court appointed J.B. as the child's guardian. Under J.B.'s care, the niece had counseling, got over her nightmares, and grew from a silent child into an outgoing 13-year-old who loves sports. In late 2001, however, the child's mother petitioned to terminate the guardianship and regain custody. The mother's termination petition stated that she had overcome her substance abuse problem, had a home and a job, and that she loved her daughter, with whom J.B. had permitted some contact over the years. The mother claimed also that J.B.'s disability made her unable to care for the child or manage a household.

J.B. came to OCRA for assistance. With OCRA's help she prepared her written response to the termination petition. She explained how her niece had flourished under her care, and how her disability does not stop her from managing a household and raising a child. Although J.B. mentioned concerns about the mother, she made clear that her primary concern was for the child's safety and happiness. She loved her niece and wanted to continue as her guardian, but she wanted even more that the child not worry or feel too much pressure to choose between mother and aunt. After assisting J.B. with her response and helping her file the papers in court, OCRA alerted county counsel and the district attorney about the petition to terminate the guardianship. J.B.'s response set the tone for the court case, which proceeded slowly through several hearings. The mother could not sustain a relationship with the child and did not appear at trial. J.B. retains

guardianship of her niece and because of the experience of advocating for herself, J.B. has greater confidence in her own abilities. Marsha Siegel, CRA, Regional Center of the East Bay.

Consumer on Her Way to the Alter!

O.R. has been dating her boyfriend, J.V., a Lanterman Regional Center consumer, for over 2 years. O.R. and J.V. decided to get married a few months ago and preparations for their wedding began. Unfortunately, they ran into an obstacle. O.R.'s mother refused to give O.R. a copy of her birth certificate. O.R. needed her birth certificate in order to obtain a marriage license. O.R. was put in contact with the CRA through her residential care provider for assistance in obtaining her birth certificate.

After speaking with O.R. the CRA agreed to help her obtain her birth certificate or identify alternative documentation that would allow her and J.V. to obtain a marriage license. The CRA contacted O.R.'s mother in an attempt to obtain O.R.'s birth certificate through non-adversarial means. Although O.R.'s mother was receptive to the CRA's call and had agreed to send a copy of the birth certificate, nothing happened. Therefore, a demand letter was sent. In the meantime, the CRA began to explore what alternatives existed to obtaining a birth certificate. However, O.R.'s mother responded to the demand letter and forwarded a copy of O.R.'s birth certificate. O.R. and J.V. are now in the final stages of planning their wedding. Patricia N. Carlos, CRA, South Central Los Angeles Regional Center.

Consumer Obtains a Temporary Restraining Order.

T.L. was sexually assaulted by a friend, also a regional center consumer, and another man at a group home barbeque. T.L. was unable to obtain help from staff at either the group home where the barbeque was held or at her own group home. The CRA asked T.L. what she needed in order to feel better about herself and what had happened. T.L. wanted to move to a new residential placement and she wanted a restraining order against her friend who had sexually assaulted her so that she could feel safe. The CRA facilitated a change in T.L.'s residential placement by working with T.L.'s service coordinator. OCRA assisted T.L. in filing for a Temporary Restraining Order and the court granted her request. Kimberlee Rode, Interim CRA, Alta California Regional Center.

Two Consumers Get Their Wish to Be Married.

B.C. and C.P. met at their day program and they fell in love. They dated for over four years while they lived in separate residences. C.P. and B.C. wanted to get married. B.C. contacted OCRA because he felt that his care home provider was standing in the way of the couple's happiness. OCRA contacted B.C.'s service Coordinator and a residential situation was located so that B.C. and C.P. could live together. B.C. and C.P. got married and they now have a beautiful baby girl. Kimberlee Rode, Interim CRA, Alta California Regional Center.

OCRA Supports Consumer Choice to Have Conservatorship Terminated.

B.C. is a 34-year-old woman with cerebral palsy. She has a college degree, is married, has served on the board of directors of the regional center, and is president of the local People First chapter. Her community involvement has been extensive. B.C. also holds several jobs and does volunteer work. She came to OCRA requesting that the conservatorship established by her mother be terminated.

B.C. said her mother was very controlling and frequently threatened to refuse to let her associate with certain friends or to allow her to have a much needed knee surgery, if B.C. did not do exactly what her mother wanted. Although B.C. is independent with the assistance of IHSS and her husband, B.C. felt as if her mother treated her as a child.

OCRA worked with B.C. to get a court appointed attorney. The conservatorship that had become effective when B.C. turned 18 years old was terminated. Lorie Atamian, Assistant CRA, Far Northern Regional Center.

REGIONAL CENTER

Regional Center Agrees to Continue to Provide Speech Therapy.

K.C. is a 3 ½ -year old child diagnosed with autism. He started pre-school in August and his school was providing two 30-minute sessions per week of speech therapy services. K.C. was also receiving two 30-minute sessions per week of private speech therapy services funded by the regional center. The regional center sent a notice of action stating it would be discontinuing private speech therapy services as the regional center cannot supplant the budget of another agency. KC's parents disagreed with the termination of the private speech therapy because K.C. was making tremendous strides in his language development. The parents filed for a fair hearing. The CRA represented K.C.'s parents at the informal meeting with the regional center. A report from a speech therapist was submitted that stated that K.C. required 5 sessions of speech therapy per week. Progress reports from his speech therapist were submitted. OCRA established the unmet need for speech therapy apart from the generic resource. The family and CRA negotiated with the regional center and it was agreed that the regional center would continue funding his current level of services. Amy Westling, CRA, Central Valley Regional Center.

Regional Center Eligibility Granted.

T.P., a 17-year-old who had been limited to the mental health system for over a decade with diagnoses of SED, Tourette's, and ADHD, continued to exhibit troubling behaviors and lack of adaptive functioning. T.P.'s mother contacted OCRA and asked to receive assistance in gaining regional center eligibility for her son. After a review of T.P.'s educational and mental health records, it was clear there was etiology in addition to the mental health issues. However, there was not enough in the record to support eligibility.

OCRA recommended mother get an independent evaluation, and advised her as to what to request of the psychologist. With the psychologist's resulting excellent report in hand, mother reapplied for eligibility and was again denied. OCRA filed immediately for hearing. Believing that T.P. had a strong case, OCRA advised the mother to go to mediation. At mediation, the regional center was convinced to grant T.P. regional center eligibility.

Nasha Martinez, Assistant CRA, Tom DiVerde, CRA, San Diego Regional Center.

Respite Continued.

Mother, a single mom with triplets receiving Early Start services, was receiving sibling rate respite pursuant to a settlement agreement with the regional center. SDRC moved to terminate the respite in spite of not evaluating the mother's need for assistance with the triplets as the settlement agreement mandated. Mother turned to OCRA for assistance, and OCRA filed for hearing. SDRC settled the case at mediation. The respite will continue until termination of Early Start. Nasha Martinez, Assistant CRA, Tom DiVerde, CRA, San Diego Regional Center.

Regional Center Agrees to Fund Needed Services.

R.C. is 23-years-old and has autism. OCRA represented R.C. at an IPP meeting to help him and his mother request additional services. Before the meeting, the regional center agreed to enroll R.C. in a day program which offers a behavioral program. After the meeting, the regional center also agreed to fund respite services, summer camp, and notified OCRA, R.C., and his mother that the day program would also provide him with ILS services and supported employment services. Patricia Pratts, Assistant CRA, Harbor Regional Center.

Regional Center Agrees to Fund After-school Program for Socialization Services and Social Skills Training.

A.M. is 4-years old and has autism. He is non-verbal and does not interact with other children or with individuals other than his parents and has behavioral problems in places outside of the home. The parents requested funding for A.M. to attend a program after school for socialization. The regional center denied the request, and the parents filed an appeal. OCRA represented A.M. at an informal meeting with the regional center. After this meeting, the regional center agreed to fund both the after-school program for socialization services and the more intensive 1:1 social skills training. Carrie L. Sirles, CRA, Harbor Regional Center, and Patricia Pratts, Assistant CRA, Harbor Regional Center.

OCRA Assists Consumer in Becoming Active in Her Community.

A.R. is a friendly 28-year-old-woman who was living with her two sisters and working at a grocery store in the community. She wanted to become more active in the community and make friends but lacked the ability to travel independently or safely remain alone in her home. Her two sisters provided 24-hour care for her. One of her sisters received compensation from the regional center for providing four hours per day of adult day care.

A.R. requested supported living but was told that her sisters functioned, “like a parent,” and therefore was not eligible for supported living in that household.

A.R.’s sister was applying for a new job that would not allow her to provide as much support for A.R. Believing A.R. was ineligible for supported living, A.R. requested 3 additional hours of day care per day. In response to the request, the regional center reduced her hours from 114 to 50. Her sister was unable to take the new job without A.R. receiving the additional hours.

Additionally, A.R. wants to learn to read, write, and cook. She asked regional center to fund counseling services, karate lessons, and a membership to the YMCA. A.R.’s sister discovered that the service coordinator had conducted an IPP in A.R.’s absence and had refused A.R. access to her file.

The Assistant CRA intervened and in preparing for the fair hearing, informed the regional center that the supported living regulations only prohibit supported living for consumers who reside with their parents, not their siblings. OCRA negotiated a supported living assessment, 24 hours of Independent Living Skills (until supported living is in place), Karate, Folkloric Dancing, summer camp, YMCA membership, counseling, and 24 hours of supervision funded by the regional center.

A.R. is doing well and learning the skills necessary to become more independent. Jennifer Bainbridge, Assistant CRA, East Los Angeles Regional Center.

Regional Center Finds Consumer Eligible for Regional Center Services Under the 5th Category.

J.D. is an 18-year-old man who has a long history of mental illness and post traumatic stress disorder. He was in special education throughout his childhood. J.D. was removed from his home at an early age because of severe sexual and physical abuse and neglect. He was placed in long-term foster care and resided in mental health treatment facilities his entire life.

A social worker from Tuolumne County Behavioral Health & Recovery Services contacted OCRA on J.D.'s behalf because he had been denied eligibility by the regional center in 2000 and 2002 because his disability was allegedly "solely psychiatric".

OCRA investigated J.D.'s case by reviewing files from J.D.'s mental health educational program dating back to 1990. OCRA requested copies of over 300 documents that were not provided to the regional center upon application for eligibility. Most reports and service provider notes indicated that J.D. has personal care needs, lacks social skills, has low intellectual functioning, and significant overall adaptive skill deficits.

OCRA advised the social worker that the Tuolumne County psychologist doing the assessment for J.D. should review OCRA eligibility materials to assist her in understanding what kind of information is necessary for a person to qualify for regional center services. OCRA provided eligibility resource material and 5th category eligibility information to the social worker to provide to the county psychologist. The regional center reviewed the new psychological assessment and found that J.D. was a person with a condition similar to mental retardation who also required treatment similar to that required by a person with mental retardation. Leinani Neves, CRA, Valley Mountain Regional Center.

ALJ Determines That Protective Supervision and IHSS Do Not Preclude the Need for Additional Respite Funded by Regional Center.

C.C. is 26-years old and is severely disabled. She has cerebral palsy, profound mental retardation, seizures, and other medical issues. C.C. requires total care and assistance in everything that she does. She has fallen out of her wheelchair and off of her bed when she was left attended. She has a risk of choking when she is eating. For several years, C.C. has been

receiving 3.2 hours of respite per week to give her parents a break from her constant care.

When she turned 18, C.C. started receiving 283 hours of In Home Support Services per month (IHSS). This includes 153 hours for personal care services, such as feeding, dressing, and hygiene. IHSS also provides 129 hours of Protective Supervision to prevent C.C. from being harmed as a result of her condition. IHSS services are provided so that a person who is disabled can remain safely in his or her home instead of being placed in an institution. C.C.'s mother quit her job to become C.C.'s IHSS worker and provide care for her daughter full time.

The regional center determined that respite should not be provided because C.C. is receiving IHSS and protective supervision and that this more than takes care of the need for respite. At hearing, the Administrative Law Judge (ALJ) found that C.C.'s need for constant care exceeds the 283 hours of IHSS that C.C. receives. The ALJ found that it was appropriate for C.C.'s mother to be paid as the IHSS worker since she could be gainfully employed if she was not taking care of her daughter. It was shown that both parents work full time and would have no time alone together without respite. Therefore, C.C. was able to keep all of her respite hours. Jackie Coleman, CRA, North Bay Regional Center.

Favorable OAH Decision Obtained for Young Man Incarcerated at Napa State Hospital.

A.R. was 21 years old when he applied for regional center eligibility. He was incarcerated at Napa State Hospital in the Secure Treatment Area (STA) at the time of the application. A.R.'s psychiatric social worker and psychiatrist believed that A.R. had both a mental health disability and a developmental disability. A.R. had not been able to establish any friendships while he was growing up, he had difficulty in all of his classes, he did not make progress on his IEP goals, he had never been employed, and he did not have a bank account or driver's license.

OAH determined that A.R. "manifested cognitive, intellectual, and adaptive deficits similar to individuals with mental retardation prior to the age of 18," and that A.R.'s problem with "abstract thinking, lack of insight, and learning from experience" was similar to a person with mental retardation. A.R. was found eligible for regional center services on the basis that he had a

condition similar to mental retardation and that he required treatment similar to that required for an individual with mental retardation. Gail Gresham, Supervising CRA, Sacramento, Gloria Torres, Assistant CRA, San Andreas Regional Center, Lisa Navarro, Assistant CRA, Sacramento.

SPECIAL EDUCATION

Compensatory Speech Therapy Obtained.

D.B.'s IEP called for him to receive speech therapy for a half hour every week. The school district's speech therapist left work on a disability leave in October of 2001, and did not return to work during the school year. During that period, D.B. did not receive any speech therapy. D.B.'s mother contracted the CRA for assistance in getting effective speech therapy for the coming school. With the CRA's assistance, the IEP team agreed that D.B. was entitled to additional speech therapy to make up for what was missed. D.B.'s new IEP calls for him to receive double the amount of speech therapy in the new school year. Frank Broadhead, CRA, Redwood Coast Regional Center.

H.R. Transfers to His Neighborhood School.

H.R. is a 17-year-old regional center consumer. H.R. was attending a special day class at Hueneme High School but he wanted to go to a different school. H.R.'s mother made several requests at IEP meetings to have H.R. transferred to his neighborhood school. H.R.'s mother informed the school that H.R. was bored in his current program and that H.R. was not making any progress. The school district refused to transfer H.R. OCRA agreed to represent H.R. and hired an educational specialist to evaluate H.R.'s current placement and proposed placement. The educational specialist agreed that H.R. was not making progress in his current school placement. She recommended that H.R. move to a post-secondary classroom at his neighborhood school. H.R. and his mother agreed. At the next IEP meeting, the educational specialist presented her findings. The district finally agreed to change H.R.'s school placement to the post secondary classroom. Katherine Mottarella, CRA, Tri-Counties Regional Center.

Educational Compliance Complaint.

R.S. has been at his current special day class since October, 2001. His mother contacted OCRA after attending a recent IEP meeting, stating that the team had not been able to conduct an IEP due to her son's teacher acting inappropriately at the meeting. The CRA met with the mother and his regional center service coordinator, who had also attended the IEP meeting and had also witnessed the teacher's behavior. After reviewing all facts and documents, the CRA agreed that the school had failed to provide an appropriate IEP meeting when it failed to control the teacher's inappropriate behavior.

With the information gathered from the mother and a declaration by the service coordinator, OCRA filed a compliance complaint with the California Department of Education alleging that, because the district did not require appropriate behavior of the teacher, it failed to meet the statutory requirement that the individualized education program team meetings be nonadversarial.

The state investigated the allegation and found the district out of compliance and is requiring the district to: 1) convene an IEP team meeting to memorialize and finalize the student's goals and objectives; 2) provide written assurance by the school site administration that the parent's participation in the IEP team meeting will be unfettered; and 3) by September 30, 2002, provide evidence that an in-service training has been provided to all appropriate Special Education District Staff, including staff at the elementary school cited in the compliance report. The focus of the training is to be the facilitation of the IEP team process with families of diverse cultures. Matt Pope, CRA, Eastern Los Angeles Regional Center.

Child Prevails at Due Process Hearing.

A.G. was 3 ½-years old when OCRA was contacted by his parents. The parents complained that the San Francisco Unified School District (SFUSD) was refusing to administer Diastat, an anti-seizure medication, to A.G. while he was attending his special education class. The Diastat was ordered by A.G.'s pediatric neurologist.

Despite multiple attempts at informal resolution of the issue and IEP meetings, SFUSD continued to refuse to administer the medication. A.G. has an intractable seizure disorder that has been unresponsive to medication other than the Diastat. The failure of SFUSD to administer the medication placed A.G. at risk for having prolonged untreated seizures that had historically resulted in 50-60 emergency room admissions.

After six days of hearing, the hearing officer determined that the administration of Diastat by qualified school district personnel was necessary to make public education meaningfully accessible to A.G. and necessary in order for A.G. to benefit from his education. The administration of the Diastat was characterized as a service related to A.G.'s disability. The hearing officer ordered that the medication be administered as required by A.G.'s physician and that SFUSD provide personnel for this purpose. A.G. now safely attends his special day class and receives the services that SFUSD is required by law to provide. Gail Gresham, Supervising CRA, Sacramento, Kathleen Welker, Assistant CRA, Golden Gate Regional Center, Lisa Navarro, Assistant CRA, Sacramento.

Special Education Student Receives 1:1 Aide and Computer Software after OCRA Intervention.

D.Y. is ten years of age. He is non-verbal and diagnosed with autism. D.Y. transferred to the Paradise School District three years ago and during that time he made no progress in school. His IEP's were not implemented and he was completely unable to communicate his wants or needs.

D.Y.'s IEP stated the school would be employing the PECs and TEACCH programs as a means for D.Y. to communicate. These programs were never implemented. D.Y.'s daily schedule provided for little more than day care. Whenever Mom would visit the class, she often found D.Y. all by himself, doing nothing more than moving rhythmically back and forth. Additionally, there were several incidents on the playground where D.Y. was left unsupervised and had eaten stones.

OCRA attended an IEP meeting on D.Y.'s behalf and an IEP was drawn up that was extremely favorable. The program was to start immediately and was to include the PECs and TEACCH programs. D.Y. was given a one-to-one aide to supervise him throughout the day and all staff who worked with D.Y. were to be instructed in the use of PECs and TEACCH. D.Y.'s

schedule was modified to include actual learning and the district agreed to provide appropriate computer software for use in the classroom.

At a follow-up IEP attended by OCRA, it became clear that the deadlines for implementation had not been met. The problem stemmed from the teacher refusing to implement the IEP. As a result of the failure to implement the IEP, the teacher was dismissed from her position and D.Y. got a new teacher. D.Y.'s IEP has now been fully implemented and the new teacher is doing a wonderful job. D.Y. is been making great progress. Lorie Atamian, Assistant CRA, Far Northern Regional Center.

Insulin Shot Required to Be Provided as a Related Service.

T.B. is a happy and delightful young man of 13 years who has a diagnosis of mental retardation. T.B. was diagnosed with diabetes approximately one year ago. The local school district acknowledged the need for a licensed vocational nurse to help T.B. monitor his blood sugar level and give him his daily insulin shot, but refused his parent's request to develop an IEP to include the insulin shot as a "related service."

T.B. misses a lot of school because of his parent's fragile health and the fact that the school district relies on the parent to visit T.B. during his lunch period to administer the insulin. On days when the parent is unable to come to school, T.B. has to be kept home.

OCRA was asked to attend an IEP meeting in April, to represent T.B. in obtaining the shot as a related service. Initially, the school district was resistant in complying with the request. After an extensive IEP meeting, the school agreed to include the shot in T.B.'s IEP as a related service. Daily cafeteria lunches were also included in the IEP to help T.B. learn to manage his diabetes through proper nutrition. Kathleen Welker, Assistant CRA, Golden Gate Regional Center.

Student Keeps 1:1 Aide.

I.G. is a ten-year-old boy who has mental retardation and ADD. He is fully included in a regular classroom. I.G.'s mother contacted OCRA for assistance because I.G. had been suspended several times throughout the school year. I.G. had behavioral problems after his 1:1 aide was "phased

out”. The School District’s contention was that I.G. did not need an aide because I.G.’s behavioral problems had gotten worse due to I.G.’s own actions. He was not taking his medication regularly and he was drinking soda. I.G.’s parents wanted the school to provide the 1:1 aide to insure I.G.’s safety and the safety of other students during class and recess. I.G.’s mother requested an IEP meeting and asked OCRA to attend.

OCRA provided I.G.’s mother with information and advice regarding ways to ensure implementation of positive behavior intervention services. OCRA attended the IEP on I.G.’s behalf. A bilingual staff member also attended to assist I.G.’s mother, since she is monolingual. I.G.’s mother explained to the district how well I.G.’s behavior had improved with having a 1:1 aide, and how he would continue to benefit with having a 1:1 aide. The district agreed to continue to provide the 1:1 aide with a phase-out plan. The mother was very pleased with the outcome, and did a great job in assisting in advocating for her child. Lisa Navaro, ACRA, Angelic David, ACRA, North Bay Regional Center.

School District Grants Full Inclusion Placement with Supplementary Aids and Services.

A.S. is a young boy whose diagnoses include mental retardation and an orthopedic impairment. A.S. has attended a special day class (SDC) in Los Angeles Unified School District (LAUSD) for two years. His mother had sought to have A.S. placed in a regular education classroom through A.S.’s previous IEPs, to no avail.

On May 2, 2001, A.S.’s mother, service coordinator, and SDC teacher had a meeting to discuss A.S.’s progress and placement. A.S.’s SDC teacher believed that A.S. would not benefit from full inclusion. A.S.’s mother disagreed and requested an IEP meeting to consider full inclusion. When A.S.’s service coordinator contacted LAUSD’s program specialist to follow up with A.S.’s mother’s request, the program specialist simply arranged to have A.S. placed in a regular education classroom the following week, without first holding an IEP to determine what services would be necessary to facilitate and sustain the transfer. While an IEP meeting was held in June, 2001, the sole issue addressed was whether A.S. was eligible for assistive technology. The IEP team did not address A.S.’s need for transition and support services in his new placement. As a result of LAUSD’s poor

planning, A.S.'s placement was unsuccessful and short-lived, and he was placed back in the SDC.

At A.S.'s next IEP meeting in November, 2001, A.S.'s mother again requested a full inclusion placement. LAUSD denied this second request citing that A.S.'s mental retardation severely impacted his ability to meet educational standards. The school also pointed to A.S.'s failed attempt at full inclusion months earlier to justify its position that the SDC was the most appropriate placement for A.S. A.S.'s mother refused to sign the IEP and requested an informal conference to resolve the placement dispute during the IEP meeting. However, despite A.S.'s mother's repeated requests for months thereafter, LAUSD did not act upon her request until late March, 2002. A mediation date was finally scheduled in June, 2002, nearly seven months after the date of A.G.'s mother's initial request for dispute resolution. In the meantime, A.S. remained in the SDC.

A.S.'s service coordinator contacted OCRA for assistance with A.S.'s mediation. OCRA provided A.S.'s mother with an opinion letter and technical assistance in preparation for her mediation with LAUSD

A.S.'s mother used this opinion letter at mediation and succeeded in obtaining full inclusion, a 1:1 aide, 30 hours of tutoring, and ongoing consultation with a resource specialist for A.S. Brian Capra, CRC, Westside Regional Center, Meriah Harwood, Assistant CRA, Westside Regional Center.

Consumer to Remain Fully Included.

K.S. was diagnosed with autism and made eligible for special education services in March, 2002, by the LAUSD. At K.S.'s initial IEP, the team recommended and determined that K.S. should be in a Special Day Class. K.S. consented to the IEP. Subsequently, K.S.'s mom attended the annual Autism Conference and, based upon information she obtained there, decided her son should remain in the regular education class he was currently attending. Mom contacted the CRA to obtain additional information regarding her son's rights in special education.

The CRA and Assistant CRA represented K.S. along with his parents at an IEP in April, 2002, to request that K.S. remain in his current placement with the necessary services and supports. The IEP team agreed that K.S. could be

fully included with the proper services and supports, including the support of a temporary 1:1 aide. Patricia N. Carlos, CRA, Christine Armand, Assistant CRA, South Central Los Angeles Regional Center.

Transportation Funded for Educational Program.

V.L. is 15-years old and has autism. He attends a non-public school (NPS) for special education services. The NPS is located out of V.L.'s home school district. V.L.'s IEP states that he is to receive transportation between home and school, but a disagreement occurred over whether the NPS was to fund his transportation or if a school district was to fund his transportation. OCRA contacted a LAUSD compliance officer on V.L.'s behalf. After the phone conversation, LAUSD agreed to fund V.L.'s transportation. Patricia Pratts, Assistant CRA, Harbor Regional Center.

Referral to UCLA for a Full Diagnostic Assessment.

G.P. is 3-years old. He has been found eligible for regional center services under a diagnosis of mental retardation, but the school district has him listed as having a diagnosis of ADHD. G.P.'s true disability is currently unknown. He exhibits extreme behaviors when he is at home or when he does not have a high level of Ritalin in his system. OCRA represented G.P. at an IEP meeting and convinced the school district to develop a behavior intervention plan for the school bus ride home, as his behaviors begin on the bus ride. The district also agreed to provide a 1:1 aide to implement the behavior plan. G.P. was also referred to the UCLA Neuropsychiatric Institute for a full diagnostic evaluation, which will take place this summer. Carrie L. Sirles, CRA, Harbor Regional Center, and Patricia Pratts, Assistant CRA, Harbor Regional Center.

Students Granted Assessments for New Placement and Compensatory Related Services until the End of the School Year.

D.M. and M.M. are teenage sisters who live in Death Valley. Both sisters are eligible for special education and related services. Prior to OCRA's involvement, D.M. was placed in resource classes with 30 minutes of speech therapy per month and no other related services. In March, 2002, D.M. was sent home because of "behaviors" and the family was told that the district would be in touch with them when it was decided that the student could

come back to school. The girls' mother contacted OCRA and requested assistance in getting her child back into school and getting appropriate services for both girls. OCRA filed for Due Process on behalf of both students. There was no mediation, and both cases went to hearing within 21 days after filing. The district also filed a Due Process stating that D.M. should be placed into a residential placement due to "behaviors."

Testimony was taken and it was found that the district did not try, through the help of the Special Education Local Plan Area (SELPA), to provide D.M. with appropriate services through other school districts. During the Due Process Hearing, the district agreed that it failed to provide D.M. with an appropriate program for the entire time D.M. was in the district's program. The district argued that it could not provide the services because it was in an isolated area and believed that the student should be in a residential placement. The hearing officer informed the district that it had not followed the proper procedures in order to show that D.M. needed residential placement.

There was considerable testimony and an expert was ready to testify for D.M. regarding her behaviors when the district agreed to provide the necessary compensatory services for occupational therapy, physical therapy, adaptive physical education, and speech and language services for a period of 16 months or until the end of 2002/2003 school year. It was further agreed that the district would pay for the annual assessments that had not been done. These assessments will be provided by independent assessors that are agreed to by the parents. Finally, the district also agreed to provide M.M. with certain appropriate related services. The family is moving out of this school district and the compensatory services are to follow D.M. and M.M. to their new district. Donnalee Huffman, CRA, Kern Regional Center.

Request for ASL Denied Because Consumer Can Hear.

A.B. is a 13-year-old with autism. He has virtually no spoken words. A.B. is learning sign language with the help of his mother who is also one of his 1:1 classroom aides. The mother knows only a few signs. She requested that A.B. receive instruction in ASL from her local school district. At the IEP, the mother was told that because A.B. is not hard of hearing, the district cannot provide ASL instructional services to him. Intuitively, the mother thought that was wrong, but did not know how to proceed.

She contacted OCRA and the CRA agreed to take the case. The CRA scheduled an IEP meeting to discuss the issue. The CRA also gathered evidence of A.B.'s need for instruction in ASL. This included a letter from his pediatrician, his autism specialist at UCLA, and an assessment from a signing speech pathologist.

At the IEP the district agreed to fund a private provider to come into the classroom to work with A.B., his mother, and the classroom teacher to teach them new signs every week. Katie Casada, CRA, North Los Angeles County Regional Center.

Expulsion from School.

N.T.'s school behavior plan included having her mother come to school to pick her up when she acted inappropriately. After the death of N.T.'s father, N.T. and her mother became even closer. Needless to say, she would rather be at home with her mother than at school. N.T. quickly learned that acting out got her out of school and home. N.T.'s school was also administering N.T.'s medication at different times of the day and sometimes forgetting it altogether. This was in part due to the school personnel not reading her "buddy book". When N.T.'s 1:1 aide was absent, a substitute was not called in. Rather, N.T. was left on her own, which often resulted in escalating behaviors and the mother being called to pick her up.

On May 2, 2002, the school called and asked that the mother pick up N.T. When the mother arrived at school, she was told not to bring N.T. back until an IEP had been held. Notice of an IEP never came. The school stopped returning the mother's calls. The district office was not responding either. The mother did not know what to do.

The CRA helped the mother to file a compliance complaint and had the mother leave a message at the school indicating that she was waiting for her "pre-expulsion IEP" and that they were running out of time. She then left another message after 10 days indicating that she was now ready for all services to be implemented again. The school scheduled an IEP and offered a new placement with no other changes to N.T.'s program. The mother rejected the offer and filed for Due Process.

The CRA worked with the mother on preparing for the mediation. At mediation, the mother received compensatory services, a private functional

behavioral assessment, and non-public school placement. Even the mediator commented on what a great job the mother did in advocating for her daughter. The mother is still waiting for the written response regarding the compliance complaint. Katie Casada, CRA, North Los Angeles County Regional Center.

Preschooler Keeps Non Public School Placement for Kindergarten.

M.C. is a 4-year-old preschooler who attended a Los Angeles Unified School District (District) Preschool Intensive Special Day Class (PSI) during the 2001-2002 school years. M.C. was born at 25 weeks with diagnoses of post pre-maturity status with neonatal complications, seizure disorder, cerebral palsy and reactive airway disease. Due to these conditions, M.C. is subject to excessive drooling, periodic choking episodes and respiratory distress.

When M.C. began the school year, M.C.'s abilities were in the below-average range and her school readiness skills were delayed in most areas. She also had deficits in the areas of expressive and receptive language skills. M.C. was able to walk independently, although her movement was slow and deliberate. She would fall down frequently and was not yet running but instead used a fast walk.

A District physician examined M.C. prior to the 2001-2002 school year and determined she required 1) an adapted campus with services of a full-time school nurse; 2) appropriately trained personnel (with First Aid Certification and Rescue Breathing training); and 3) direct supervision at all times due to her history of episodes choking on her own saliva. These recommendations were to be in effect until M.C.'s choking problem resolves. The District physician also referred her for adaptive physical education (APE) and school occupational therapy (OT) screenings.

M.C. was assigned a health care assistant who met the necessary first aid requirements. She would provide 1:1 assistance on the school bus and in the classroom due to M.C.'s medical needs. M.C. received APE and OT. Due to age-expected results in some areas, when assessed for speech and language. M.C. was not found eligible for those services. However, it was recommended that M.C.'s language skills be re-evaluated after she spent one academic year in a small class setting with a strong focus on language

development where she would be encouraged and stimulated to attempt to communicate with her teachers and peers.

In April, 2002, due to the absence of any choking episodes at school, the District sought to return M.C. to her home school, removing her from her current PSI placement, and discontinue her 1:1 health assistant. M.C.'s mother contacted OCRA for assistance with her placement concerns, appropriate related services and further development of M.C.'s IEP. OCRA agreed to represent the child.

At the April IEP, OCRA reminded the IEP team that M.C. was placed outside her home school district, in a PSI classroom, based on the recommendation of the District physician, because her home school was unable to meet the child's needs. Absent updated medical evidence contrary to that being presented from her pediatrician and/or the District physician's 2002 findings, M.C.'s current PSI placement could not be changed. M.C.'s mother provided an April, 2002, letter from M.C.'s pediatrician stating her oral motor dysfunction status remains such that she continues to require 1:1 supervision. At the District's request, M.C.'s mother consented to a new health assessment. The occupational therapist attended the meeting but was not prepared to present her report on M.C.'s current level of performance or to develop goals for the new school year. However, she indicated she would be prepared to do by June, 2002, when M.C.'s annual review was to be held.

At the June IEP, the team agreed to a Preschool Mixed (PSM) setting for the 2002-03 school years. M.C. remains eligible for a non-residential school placement with transportation; a 1:1 healthcare assistant on the bus and in the classroom; APE; and school based OT. She will also begin receiving speech and language services in the new school year. Christine Armand, Assistant CRA, South Central Los Angeles Regional Center.