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## U.S. Supreme Court: Adequacy of IEP Depends on “Unique Circumstances of the Child”

In a unanimous decision, the U.S. Supreme Court ruled that in order to meet their substantive obligations to provide a free appropriate public education (“FAPE”) under the Individuals with Disabilities Education Act (“IDEA”), school districts must offer an individualized education program (“IEP”) “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” (*Andrew F. v. Douglas County School Dist. RE-1* (No. 15-827, March 22, 2017).)

The Court agreed with the approach established in its 1983 decision in *Rowley v. Board of Education of the Hendrick Hudson Central School District* that “any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal.” It added that “*Rowley* sheds light on what appropriate progress will look like in many cases: For a child fully integrated in the regular classroom, an IEP typically should be ‘reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.’”

Noting that *Rowley* did not provide concrete guidance with respect to a child who is not fully integrated in the general classroom and not able to achieve on grade level, the Court explicitly rejected the “merely more than *de minimis*” test for educational progress applied by the 10th Circuit. It stated that “it cannot be right that the IDEA generally contemplates grade-level advancement for children with disabilities who are fully integrated in the regular classroom, but is satisfied with barely more than *de minimis* progress for children who are not.”

Declining to establish any “bright-line” rule, the Court stated that “the adequacy of a given IEP turns on the unique circumstances of the child for whom it was created.” It added that the absence of such a bright-line rule should not be mistaken for “an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review. At the same time, deference is based on the application of expertise and the exercise of judgment by school authorities.”

The Court declined to embrace the argument by the parents that the IDEA requires districts to provide students with educational opportunities that are substantially equal to the opportunities afforded children without disabilities: “Mindful that Congress has not materially changed the statutory definition of a

### What Does This Decision Mean for School Districts?

For California school districts, the *Andrew F.* decision underscores the importance of thorough assessments—and reassessments—to ensure an understanding of the student’s “circumstances” when developing or revising his or her IEP.

Districts should also take steps to improve their record-keeping and reporting on the child’s progress toward his or her IEP goals throughout the year and should reconvene the IEP team as necessary to review the goals and progress “in light of the child’s circumstances.”

FAPE since *Rowley* was decided, this Court declines to interpret the FAPE provision in a manner so plainly at odds with the Court's analysis in that case."

The Court vacated the underlying decision of the 10th Circuit and returned the case for further proceedings consistent with its opinion.

If you have any questions regarding this matter, please call one of our six offices.

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