

Viewpoints

U.S. Supreme Court Upholds “Deliberate Indifference” in ADA and Section 504 Lawsuits



The Supreme Court’s unanimous ruling in *A.J.T. v. Osseo Area Schools* aligns, nationwide, the liability standard for disability discrimination in the education context with that applied in non-educational contexts. Prior to *A.J.T.*, the Circuit Courts were split on the correct standard for proving disability discrimination in schools, with the 8th Circuit (Midwest, including Iowa) requiring that a student prove that a school district acted in “bad faith or gross misjudgment” to prove school-based disability discrimination.

This opinion brings the 8th Circuit in line with discrimination caselaw from non-educational contexts, which allows a finding of intentional discrimination through proving “deliberate indifference”—defined as a disregard for the strong likelihood that the action would violate a federally protected right. The Ninth Circuit currently adheres to the “deliberate indifference” standard; and, so, states in the Ninth Circuit (like California and Washington) will not be impacted by this decision.

This ruling underscores the need for school systems to re-evaluate their policies and practices in evaluating disability-based accommodations.

To view the entire K-12 Dive article, please follow the link here.

Until now, students under the jurisdiction of the 8th Circuit and four additional appellate circuits that have the higher standard were required to show that schools acted in “bad faith or gross misjudgment” when students sought relief for discrimination relating to their education under the Americans with Disabilities Act and the Rehabilitation Act of 1973. The higher standard impacted 46,000 schools and 8 million children covered by the Individuals with Disabilities Education Act, with some 30,000 complaints currently pending, according to Osseo Area Schools’ lawyer, Lisa Blatt.

In contrast, students in schools located in other appellate jurisdictions and Americans outside education settings who claim disability discrimination, and also are covered by ADA and the Rehabilitation Act, only have to show that an entity such as a school or workplace acted with “deliberate indifference.”

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