



Legal Standard for Liability in Non-IDEA Discrimination Claims

The Supreme Court's recent 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. (*A.J.T. v. Osseo Area Schools, Independent School District No. 279* (U.S., June 12, 2025, No. 24-249.)) 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 already adhered to the "deliberate indifference" standard; and, so, states in the Ninth Circuit (like California and Washington) will not be impacted by this decision. This is relevant to claims including claims under Section 504 of the Rehabilitation Act of 1973 (Section 504) and under the Americans with Disabilities Act (ADA).

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

What Changed with the Supreme Court's Ruling?

Universal standard of proof for education-related discrimination claims across all Circuit Courts:

- Under the new burden of proof standard, a "public entity can be liable for damages under Section 504 if it **intentionally or with deliberate indifference** fails to provide meaningful access or reasonable accommodation to disabled persons." *Mark H. v. Lemahieu*, (9th Cir. 2008) 513 F.3d 922, 938.
- **Deliberate indifference requires both (1) knowledge that a harm to a federally protected right is substantially likely, and (2) a failure to act upon that likelihood.** See *Duvall v. Cty. of Kitsap*, 260 F.3d at 1139 (citing *City of Canton v. Harris*, (1988) 489 U.S. 378, 379).
- "The first element is satisfied when the public entity has notice that an accommodation is required. The second element is satisfied if the entity's failure to act [is] a result of conduct that is more than negligent and involves an element of deliberateness." *Lovell v. Chandler*, 303 F.3d at 1056.
 - Under the second element of the deliberate indifference standard, "a public entity does not act by proffering just any accommodation: it must consider the particular individual's need when conducting its investigation into what accommodations are reasonable." *Id.*

District and Administration Considerations

- Legal standards under the Individuals with Disabilities Education Act (IDEA) is not affected by this ruling, and it will remain an avenue for families to pursue service-related disputes.
- However, the ability to recover damages for discrimination or emotional distress under Section 504 and the ADA has expanded in the 8th Circuit.
- In light of the recent decision, it may be wise to revisit offers and implementation of accommodations to clean up any compliance issues. An audit or systemic review may assist public agencies in identifying potential issues with accommodations compliance.
- As always, IEP and Section 504 teams must consider a particular individual's needs when offering and providing accommodations to students with disabilities under an IEP or Section 504 Plan.
- If a school site or district is on notice about a required accommodation, administrators should ensure that necessary reasonable accommodations are provided. Note that Section 504 and the ADA are civil rights laws that prohibit discrimination based on disability, and that this standard applies to disabled persons regardless of whether they qualify for an IEP or Section 504 Plan.
- This Supreme Court ruling may increase the liability that school districts carry in discrimination cases under Section 504 and ADA.
 - The decision by the Supreme Court will make it easier for plaintiffs to challenge school districts in court, lowering the previous standard and exposing schools to potential increased litigation costs and more financial liability.

F3 will continue to monitor this ongoing situation. If you would like assistance with or advice regarding specific situations, please reach out to legal counsel.