

A Summary of the Most Important Decisions in this School Year

by

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So far in 2025 . . .

- Legislative session
- New administration
- Changes at the DOE
- New cases



HIERARCHY OF LEGAL AUTHORITY IN SPED CASES

1. U.S. Supreme Court

- Highest authority in the legal system
- Decisions are binding on all federal and state courts
- Interprets the U.S. Constitution, federal laws and regulations, including IDEA and 504

2. Federal Courts of Appeals

- Binding on all federal district courts in the same circuit
- Persuasive (not binding) on other circuits unless adopted by them
- e.g., A ruling by the 5th Circuit binds all Texas federal district courts

HIERARCHY (con't)

3. U.S. District Courts

- Trial-level federal courts
- Decisions are binding only on the parties to the case
- May serve as *persuasive* authority to other courts, particularly within the same district
- Texas has four districts divided geographically

HIERARCHY (con't)

4. Administrative Agency Determinations

- Includes decisions by:
 - OSEP
 - OCR
 - TEA
- Binding only on the parties involved and within the agency's regulatory authority
- They may be considered persuasive authority by courts, but do not override court decisions
- Generally, subject to de novo review by federal district courts if appealed

EXAMPLES IN SPECIAL EDUCATION

A Fifth Circuit ruling on IDEA is binding on all Texas district courts

A Texas district court decision on a Section 504 claim may guide other Texas judges, but it isn't binding

A state hearing officer's IDEA decision is reviewable and not binding in other cases

APPELLATE COURT REVIEWS

1. Determinations made on summary judgment or a motion to dismiss
2. De novo reviews



A.J.T. v. OSSEO AREA SCHOOLS (SCOTUS) Dkt #24-249; Oral Argument April (2025)

Background Facts:

Ava Tharpe, a student with severe epilepsy, often experiences morning seizures that prevent her from attending school in the morning. Her parents requested afternoon instruction from Osseo schools (Mn) to accommodate her disability. Her prior school in Kentucky had provided instruction from noon to 6 p.m. The district denied the parents' request, offering limited, home instruction.

The parents filed a complaint with the Minnesota DOE claiming a denial of FAPE. Both the hearing officer and district court agreed and ordered the district to provide additional educational services. In the district court proceeding, the parents further sued the district under 504 and the ADA seeking an injunction that would permanently secure her right to a full school day and monetary damages.

A.J.T. v. OSSEO AREA SCHOOLS (SCOTUS) Dkt #24-249; Oral Argument April (2025)

Lower Court Decisions:

The district court ruled for the district stating that the district's actions did not meet the "bad faith and gross misjudgment standard" of the 8th Circuit. The 8th Circuit agreed that the district's actions did not rise to the level of bad faith or gross misjudgment.

Thus, although she prevailed on the IDEA claims, she was not entitled to the injunction or monetary damages under 504 or the ADA.

A.J.T. v. OSSEO AREA SCHOOLS (SCOTUS) Dkt #24-249; Oral Argument April (2025)

Legal Issue:

Whether courts should apply the "bad faith or gross misjudgment" standard to Section 504 and ADA claims in public education—or instead adopt the "deliberate indifference" standard? The S.Ct. could also adopt a different standard altogether. The circuits are split on the issue.

Impact:

A ruling in favor of the student could lower the burden of proof for disability discrimination in schools. A ruling in favor of the school would preserve a tougher standard for students to succeed in cases against schools. Regardless, the case will provide a national standard.

STANDARDS OF PROOF IN SPED DISABILITY DISCRIMINATION CASES

The “gross misjudgment or bad faith” standard is significantly more difficult to meet than ‘deliberate indifference’. It requires evidence of intentional or egregious misconduct, whereas deliberate indifference only requires knowledge of a problem and a failure to act appropriately.

Neither standard includes simple negligence.

EXAMPLES OF GROSS MISJUDGMENT OR BAD FAITH (Higher Standard)

Bad faith: Intentional or malicious failure to comply with legal obligations.

Gross Misjudgment: A decision so far outside professional norms that it reflects reckless disregard.

Examples:

1. A school ignores medical documentation and falsely claims a student doesn't need services.
2. An ARD committee refuses to evaluate a child with clear signs of autism for years to avoid offering services.
3. School staff destroy records to prevent a parent from using them in a hearing.

EXAMPLES OF DELIBERATE INDIFFERENCE (Lower Standard)

Deliberate Indifference: A situation where school officials knew of a substantial risk of harm or rights violation and failed to act.

Examples:

1. A school fails to respond after being notified that a disabled student is denied access to the lunchroom.
2. A school ignores reports that a disabled student is being bullied repeatedly.
3. A school nurse refuses to administer necessary medication despite medical documentation.

STRIFE v. ALDINE ISD, No. 24-20269 (5th Cir. May 16, 2025)

This case involves the use of a service dog under the ADA in the employment context, but is relevant with respect to accommodations. The matter was determined on summary judgment at the district court.



Factual Background: The employee was an ex-military veteran who suffered from PTSD and other combat related injuries. While working in HR, she requested the use of a VA approved service dog to help her manage her job duties.



Over the course of six months, the school requested multiple forms of medical documentation, in addition to an independent medical exam. She provided letters from her providers, including her treating psychiatrist, supporting the need for the dog. The district did not approve the request until six months later, after she had filed a lawsuit and filed a discrimination charge with the EEOC. Additionally, the district asked whether alternative accommodations would be sufficient.

ALDINE ISD-5TH CIRCUIT DECISION

- The Court determined that the school was allowed to inquire about possible alternative accommodations, but it remanded the case back to the district court to determine whether a six-month delay in addressing the accommodations was unreasonable.
- The DOJ's position is that the individual is entitled to choose the accommodation with respect to service animals.
- Is this ruling limited to employment situations?

TAKEAWAYS FROM THE ALDINE CASE

Use caution when requesting alternative accommodations with service animals.

Lengthy delays in addressing a student's needs, without adequate justification, can lead to a denial of FAPE and legal liability.

Don't allow an interactive process to get bogged down in procedure and forms. Make sure your processes are collaborative and efficient.

It was interesting in this case that the accommodation issue was not resolved until after litigation was initiated. The Court referenced this issue. It may be used as evidence of ill intent by the school district.

AYON v. AUSTIN ISD, No. 24-50267 (5th Cir. Feb. 20, 2025)

Factual Background: This is a special ed transportation matter. A five-year old student with a disability rode a special education school bus daily. The student told her mother that the bus driver had repeatedly molested her during the drive to school. The parent informed a school administrator, who promptly reported the incident to AISD police. The driver was placed on leave during the investigation.

Camera footage confirmed that the driver had assaulted the student on several occasions. The student sued the district and several of its employees alleging deliberate indifference by the school and that the student was at risk of sexual misconduct. The parents sued under section 1983 and Title IX. The district court granted summary judgment in favor of the school and the individual defendants.

AYON v. AUSTIN ISD, No. 24-50267 (5th Cir. Feb. 20, 2025)

Fifth Circuit Decision: The 5th Circuit affirmed the trial court's decision. The Court found that the district's use of background checks, installation of cameras on buses, and other preventative measures indicated that the district was not deliberately indifferent to sexual misconduct. Further, there was no history or pattern of similar incidents to establish that the district should have known about the risk.

With respect to Title IX, the Court found that the district took prompt corrective action after the allegations were reported, including suspending, investigating and terminating the driver.

**R.W. v. CLEAR CREEK ISD, No. 24-40141
(5TH Cir. March 13, 2025)**

Factual Background:

- ✓ The student experienced a traumatic brain injury at birth that resulted in cortical visual impairment [CVI].
- ✓ CVI is a brain-based form of visual impairment, as opposed to an eye-based form.
- ✓ During the 21-22 school year, the student's IEP focused on the use of braille, instead of vision goals.
- ✓ An expert in CVI made recommendations about how Clear Creek could better facilitate R.W.'s functional vision.
- ✓ The district made some changes to the IEP, but his parents were dissatisfied and requested a due process hearing.

**R.W. v. CLEAR CREEK ISD, No. 24-40141
(5TH Cir. March 13, 2025)**

Hearing Officer Decision:

The HO determined that the district denied FAPE and that his vision services were not reasonably calculated to confer an educational benefit. The HO made the following orders:

1. The school must retain a consultant with expertise in CVI to supervise the development and implementation of R.W.'s IEP;
2. Have the consultant meet with the student's teachers at various times;
3. Arrange for the consultant to test R.W. and discuss the results at the next annual meeting;
4. Have the consultant train staff on CVI; and
5. Schedule a meeting to revise the IEP consistent with the consultant's recommendations.

**R.W. v. CLEAR CREEK ISD, No. 24-40141
(5TH Cir. March 13, 2025)**

School District's Actions:

The district contracted with a CVI consultant and provided some training to its employees, but it did not follow all the consultant's recommendations and chose not to pay for additional training or services beyond the 2022-2023 school year.

Interestingly, the TEA concluded that the school fully implemented the hearing officer's orders.

The parents sued under IDEA, section 1983, and section 504. The district court dismissed the claims, and the 5th Circuit affirmed the district court's decision.

**R.W. v. CLEAR CREEK ISD, No. 24-40141
(5TH Cir. March 13, 2025)**

5th Circuit Decision: The Court found:

The student lacked standing under the IDEA because he was not an "aggrieved" party since he won at the due process hearing.

The claims under section 1983 and section 504 were properly dismissed since the school's actions did not rise to the level of intentional discrimination.

In the 5th Circuit, intentional discrimination is *higher than* deliberate indifference.

Intentional discrimination would mean *refusal* to implement accommodations. In this instance, the parties simply had *disagreements*.

**E.J. v. EAGLE-MOUNTAIN-SAGINAW ISD,
No. 4:23-cv-01032-0
(U.S.D.C. Northern District of Texas, January 30, 2025)**

Factual Background:

- D.J. qualified for sped services as ID, SI, and OHI (based on ADHD).
- The student had a history of physicality with other students, and this escalated when he entered high school. However, his behavior eventually improved.
- The parent had always agreed with the student's evaluations and to his IEPs.
- At his annual ARD in the spring of 2022, the parent agreed with the results of a re-evaluation and the IEP, including the BIP, for the forthcoming year. On that same day, the parent withdrew the student and enrolled him in a neighboring district.
- Throughout his 12 years at EMS, the student had received special transportation.

**E.J. v. EAGLE-MOUNTAIN-SAGINAW ISD,
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Factual Background:

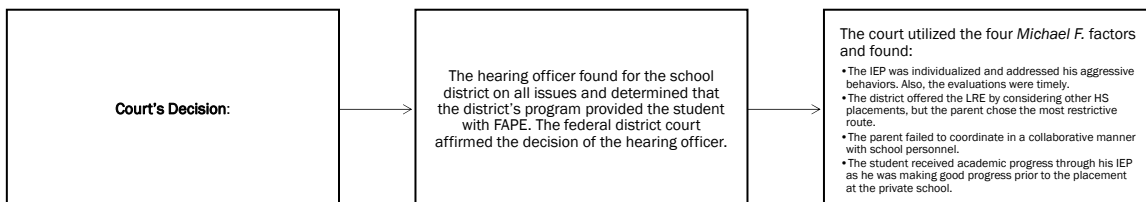
- The student was not enrolled in EMS at the start of the 2022-23 school year. Regardless, the father brought him to Saginaw HS on the first day of school. Since he was not enrolled, special transportation had not been arranged.
- The diagnostician immediately informed transportation, and told the father that it would take several days to set up the route. The diag further informed the father not to use the general ed bus stop.
- Despite knowing this, the father left the student at the general ed bus stop. That morning, while waiting for the bus, the student crossed the street and used a racial slur against a female student. When approached, the student repeated the slur, slapped the girl's male friend, and engaged in a physical altercation.

**E.J. v. EAGLE-MOUNTAIN-SAGINAW ISD,
No. 4:23-cv-01032-0
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Factual Background:

- After 10 days, the student returned, but the parent transferred the student to a private school.
- The private school had 12 students, from elementary age to 26 years old. Of the 12 students, 11 had Down Syndrome, and the other was ID.
- The school held an ARD and offered a revised BIP, counseling, and psychological and counseling evaluations. The parent only sought reimbursement for the private placement, but did accept the evals. He further indicated that he would never return the student to the district.
- School personnel were not allowed to visit the private placement.
- The evaluation showed that the student did not qualify as ED. Regardless, the ARD offered 20 minutes of counseling a week to deal with anxiety. The father refused the counseling and an offer to attend other high schools in the district.

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**E.J. v. EAGLE-MOUNTAIN-SAGINAW ISD,
No. 4:23-cv-01032-O
(U.S.D.C. Northern District of Texas, January 30, 2025)**

Court's Decision:

The student failed to demonstrate that the private school was 1) essential in order for the disabled child to receive a meaningful educational benefit, and 2) primarily oriented toward enabling the child to obtain an education.

- The school personnel were not allowed to visit;
- The student was placed in a classroom without non-disabled peers;
- The student was 17 and the other students were elementary and middle schoolers;
- The private school had no IEP or BIP; and
- The private school did not provide any speech, OT or counseling.