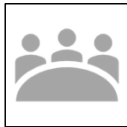




“The Year in Review”: The Most Interesting Cases from the Past Year

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So far in 2026:



New Legislation

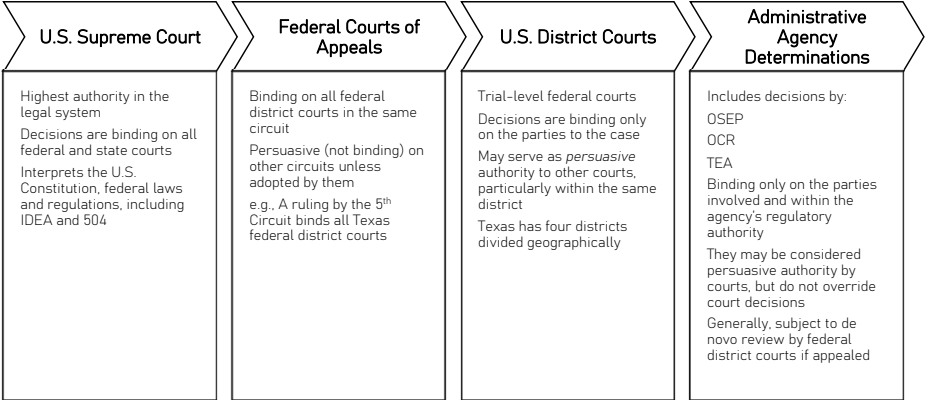


Changes at the
DOE

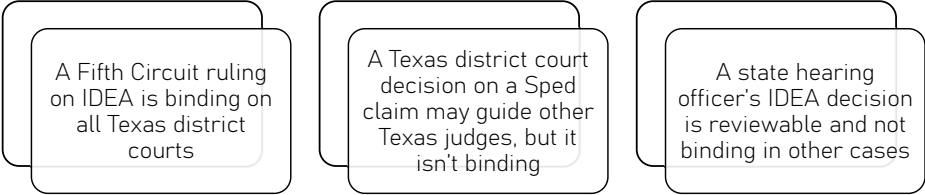


New cases

Hierarchy of Legal Authority In SPED Cases:



Examples in Special Education:



Appellate Court Reviews

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

Remember, the *ENDREW F.* Standard from the USSCT always lurks

- In that case, the US Supreme Court established the latest standards governing "FAPE".
- The Standard=An IEP must be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."
- Before *Endrew F.*, many courts applied a "more than de minimis" standard. The Supreme Court rejected that as too low.
- A student's progress must be "more than trivial" and "appropriately ambitious" given the student's needs.
- Focus is on the "unique needs of the child".

ENDREW F. STANDARDS (CON'T)

- The progress must be ambitious, but realistic. Generally, for students in gen ed, progress toward grade-level standards will suffice. For students with more behavioral based disabilities, the district must show progress in functional and behavioral areas.
- Courts show deference to schools, but not blind deference. Courts will defer to educators when the decisions are “reasoned” and “based on data and expertise.”



**NORTH EAST ISD v. I.M,
163 F.4th 193 (5th Cir.
2025)**

Background Facts:

- I.M. is an elementary student with a speech impediment, autism, and an intellectual disability. He struggles to communicate, exhibits disruptive behaviors, has persistent toileting issues, and frequently elopes from school, at times endangering himself.
- The district provided ESY services, but I.M. continued to have elopement issues and showed regression in that area. The district increased ESY services, but did not provide a full-summer program.
- During the first two weeks of his 4th grade year, the student eloped multiple times, including one instance where he crossed a busy road and was stopped by bystanders.
- The parent requested additional ESY services over the summer and other breaks, but the school did not grant the request.

Lower Court Decision:

The parent requested a due process hearing asking for extend ESY services for all breaks, a GPS tracking device, and an IEP goal for safe bus riding. The hearing officer ruled for the parent. The district court affirmed her findings, and the school appealed to the Fifth Circuit.

Court Determination:

- The school argued that the district court improperly focused on disability remediation rather than the appropriate ESY standard.
- The 5th Circuit found that the district knew that the student regressed over breaks, including toileting and elopement. The court found that the student's elopements were a "present, grave danger" that required more from the school than his IEP provided.
- With respect to the remediation argument, the 5th Circuit found the district court's review holistic, and not remediation-focused, and reiterated that academic progress is relevant, but not controlling.
- The Court stated that the district "made a laudable effort to ensure that I.M. progressed academically", but the student's behavioral issues were uniquely severe.

Impact:

- The 5th Circuit emphasized that academic success alone is not sufficient to constitute FAPE. A holistic analysis is appropriate. The court indicated that "progress in academics does not compensate for failure to address critical behavioral needs".
- The 5th Circuit reviewed the case on a "clear error" standard, which is very difficult to meet.

**WEATHERFORD ISD v. K.L., 2026 WL
710176 (U.S. District Court, N.D. TX.
March 13, 2026)**

Factual Background:

- K.L. is a 17-year-old student with autism, ODD, disruptive mood dysregulation disorder, and ADHD. He has a history of property destruction, verbal and physical aggression, self-harm, elopement, and noncompliance.
- The parent requested due process and an order placing the student at a residential facility at the district's expense.
- At the time of the hearing, the student's placement was the Texas State Hospital, which falls under Austin ISD's jurisdiction.
- The hearing officer ruled for the parents and ordered a residential placement at The Calo Programs in Missouri, or "other suitable program", for one year.

District Court

- The district appealed the decision to federal district court.
- From a procedural standpoint, both parties sought a TRO and preliminary injunction over the “stay put” issue.
- The district argued that the student should stay at the Austin State Hospital pending the proceedings. It stated that Calo would cost the district approximately \$500,000.
- The parent argued that the state, through the due process decision, had agreed with the parent that Calo was the stay-put placement.
- The district court denied both motions, which effectively keeps the stay-put placement at the Austin State Hospital.

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.

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.

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.

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.

<ul style="list-style-type: none">• 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 diagnostician 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.	
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<ul style="list-style-type: none">• 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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Court's Decision

- The hearing officer found for the school district on all issues and determined that the district's program provided the student with FAPE. The federal district court affirmed the decision of the hearing officer.
- The court utilized the four *Michael F.* factors and found:
 - The IEP was individualized and addressed his aggressive behaviors. Also, the evaluations were timely.
 - The district offered the LRE by considering other HS placements, but the parent chose the most restrictive route.
 - The parent failed to coordinate in a collaborative manner with school personnel.
 - The student received academic progress through his IEP as he was making good progress prior to the placement at the private school.

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.