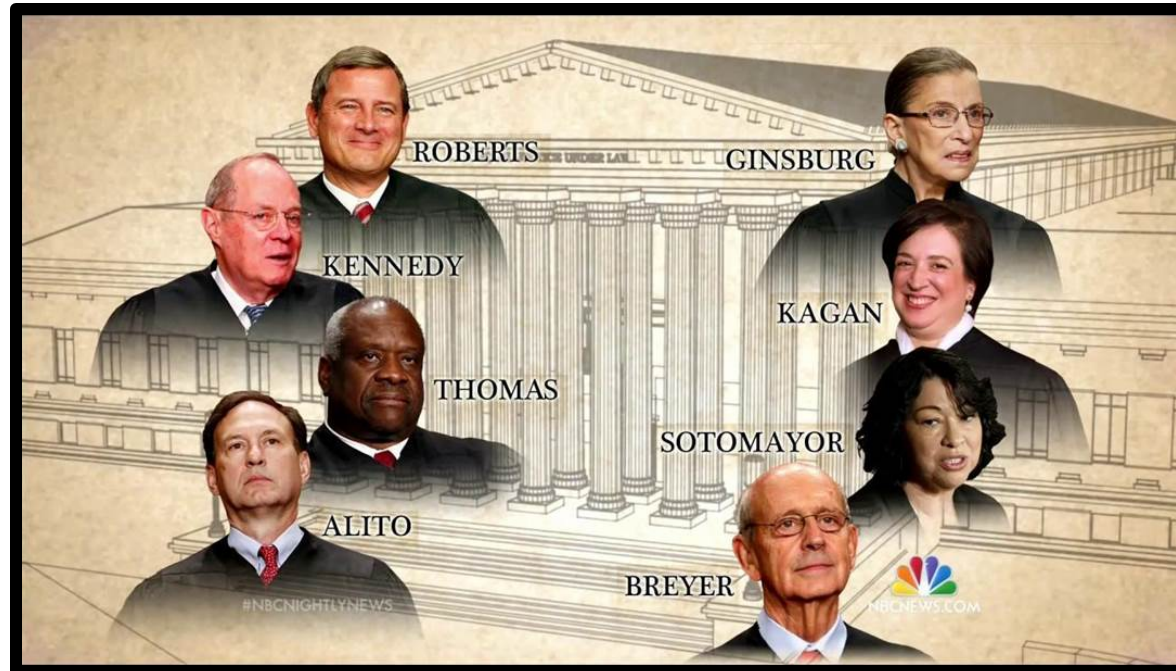


EXPLORING THE IMPACT OF *ENDREW F.* ON DISPUTE RESOLUTION SYSTEMS



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Evolution of the Current Legal Standard for the Provision of FAPE

The Rowley FAPE Standard:

FAPE does not require maximization of potential.

Rather, it requires a program that is reasonably calculated to provide “some educational benefit” to a child with a disability.



Evolution of the Current Legal Standard for the Provision of FAPE

Subsequent Circuit Court Decisions:

- “Some educational benefit”
- “Meaningful educational benefit”
- “More than trivial educational benefit”
- “Merely more than de minimis educational benefit”



The Current Legal Standard for the Provision of FAPE

Andrew F.'s Unanimous Clarification of the Rowley “Some Educational Benefit” Standard:

**“To meet its substantive obligation under the IDEA,
a school must offer an IEP reasonably calculated
to enable a child to make progress in light of the child’s
circumstances.”**



FAPE Exhibit “A”: the IEP

- The “centerpiece” of the IDEA’s education delivery system
- The “vehicle” for delivering FAPE
- The “modus operandi” for getting the FAPE job done



The Current Legal Standard for Examining the Appropriateness of an IEP

The Rowley/Endrew “Process/Content” Standard:

1. First, in the development of an IEP, has the school agency complied with the procedures set forth in the IDEA? (the “process piece”);
2. Second, if so, is the IEP developed through the IDEA’s procedures reasonably calculated to enable the child to make progress in light of the child’s circumstances? (the “content piece”).



The Immediate Post-Endrew Question

Is *Endrew's* new substantive obligation a “game changer” or “business as usual?”



The Immediate Post-Endrew Answer

It depends!



Questions for Discussion Today

***Endrew* is an historic decision for defining the parameters of the FAPE standard. What effects, if any, has it had in your state?**

What effect has this clarified FAPE standard had on your state's dispute resolution programs?

How might the culture of each state affect the type of impact the state will experience?



Questions for Discussion Today

As a state, what discussions, if any, have you had regarding proactive strategies to address any concerns regarding the impact of the *Andrew* decision on dispute resolution programs?



Questions for Discussion Today

What effect will the *Andrew* FAPE standard have on dispute resolution capacity at the local level?

What proactive strategies might be put into place to support parents and districts as they grapple with new boundaries?

What stakeholder discussions would be helpful in your state?



Tips for Demonstrating FAPE after Endrew F.

- 1. Continue to train IEP teams to avoid procedural violations, especially those that could constitute, in and of themselves, a denial of FAPE.**

Tips for Demonstrating FAPE after Endrew F.

- 2. When developing the content of a student's IEP, be sure that service providers understand that the present levels of performance and annual goals must be based upon evaluations and other relevant formal or informal data that are *current* and *comprehensive*.**

Tips for Demonstrating FAPE after Endrew F.

3. Ensure that service providers write annual IEP goals that are *appropriate* and *measurable*.

Tips for Demonstrating FAPE after Endrew F.

4. Make sure that all service providers are *continuously monitoring and measuring* student progress on annual goals (and objectives/benchmarks, if applicable) and that they are maintaining specific data to demonstrate that progress has been/is being made.

Tips for Demonstrating FAPE after Endrew F.

- 5. Train service providers to understand that when IEP progress monitoring data reflect that an annual goal will likely not be achieved, they should reconvene the IEP team to address this issue. Similarly, if an annual goal is met early in the year, the IEP team should convene right away to address the need for a revision to the goals so that progress may continue.**

Thanks for attending today and, most of all, thank you for all you do!

