The Year's Top Education Cases

ConnCASE Legal Issues Conference
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Agenda

- IDEA
  - Child Find, Evaluations, & Eligibility
  - IEP Development & Implementation
  - Least Restrictive Environment (LRE)
  - Behavior and FBAs/BIPs
  - Procedural Safeguards & Parental Participation
  - Private School/Residential Placement
- Section 504, ADA, & Other Related Laws

Disclaimer: The information in this handout and presentation is for the purpose of providing general information and is not intended to provide legal advice or substitute for the legal advice of counsel.

Child Find, Evaluations, & Eligibility

Case Law: Eligibility: Facts

***G.M. v. Barnes,* 114 F.4th 323 (4th Cir. Sept. 4, 2024).**

- Parents challenged the district's decision that a 2nd grade child with dyslexia and ADHD diagnoses did not qualify for special education services.
  - Specifically, the parents disagreed that (1) G.M. did not qualify for an SLD in reading and written expression and (2) did not require special education services for an OHI (due to ADHD).
- G.M. had mixed scores, ranging from average to low average, in reading and written expression between the school psych's evaluation, a private evaluation, benchmark scores, and classroom performance. The parent's argued that the scores showed a pattern of strengths and weaknesses relative to age or state-approved grade-level standards.
- G.M.'s ADHD adversely impacted his educational performance based on classroom observations and elevated ratings of impulsively and inattention.
- G.M. met grade level standards in most areas, struggling some with writing.

Case Law: Eligibility: Ruling Rationale

***G.M. v. Barnes,* 114 F.4th 323 (4th Cir. Sept. 4, 2024).**

- The Court upheld the ALJ and district court's decisions that the parents failed to prove their case.
- As to SLD, the Court held that G.M. did not have a weakness in reading, and had "failed to distinguish between struggling in writing, which he undoubtedly did, and having a 'weakness' in written expression" for an SLD.
- As to the need for special education services for an OHI, the Court held that G.M. did not "need" special education services given his average achievement (able to do 2nd grade work & received passing marks).
  - The 4th Circuit Court of Appeals has held that "a student doe not 'need' such services if the student is already getting what would qualify as a [FAPE] *without* them."

Case Law: Evaluations: Facts

***Alex W. v. Poudre Sch. Dist. R-1*, 124 LRP 7692 (10th Cir. 03/07/24)**

- A.W. is a child with multiple disabilities, including down syndrome, autism spectrum disorder, and substantial hearing and vision impairments.
- In August 2017, the School District conducted a triennial reevaluation.
  - The Reevaluation reassessed Alex's vision and hearing, general intelligence, cognitive and adaptive functioning, academic performance, and social and emotional abilities.
- Parents challenged the results of the 2017 Reevaluation and in February 2018, requested an IEE at public expense.
  - The School District funded the IEE.
- However, the Parents continued to challenge the results of the 2017 Reevaluation and requested Alex undergo another publicly-funded IEE--this one in the area of neuropsychology.
- The School District refused, maintaining the Parents were not entitled to a second IEE at public expense to challenge the same school district evaluation, so the parents paid out of pocket and sued for reimbursement.
- The ALJ and district court determined the School District was required to reimburse the Parents for the cost of the IEE neuropsych eval because the school should have either (1) conducted its own neuropsych eval/or pay for the IEE or (2) file for due process.

Case Law: Evaluations: Ruling Rationale

***Alex W. v. Poudre Sch. Dist. R-1*, 124 LRP 7692 (10th Cir. 03/07/24)**

- The 10th Circuit reversed the District Court's holding that the district's failure to request a due process hearing required it to reimburse the parents $5,500 for the neuropsych IEE.
- The Court held that the parents were entitled to only one publicly funded IEE for each evaluation conducted by their child's district with which they disagree.
- The 10th Circuit held that the district's funding of the initial IEE request satisfied its obligations under the IDEA.

Case Law: Evaluations: Facts

***Ruari C. v. Pennsbury Sch. Dist.*, 124 LRP 29203 (3d Cir. Aug. 2, 2024).**

- The parents claim that the district's reevaluation was inappropriate resulting in an incorrect classification as autism which denied him FAPE by providing an inappropriate IEP.
  - Due to COVID-19 restrictions, the school psychologist could not administer an autism evaluation (ADOS-2) under standardized procedures (wore a mask), so the psychologist relied on anecdotal observations during the assessment and other evaluation components, but did not produce a standardized score.
  - Based on the reevaluation, which included the ADOS-2, multiple other assessment instruments, and his previous identification of Autism, the school determined that Ruari continued to meet eligibility under Autism.
  - The school proposed an IEP with 90 minutes in an autistic support classroom.

- The parents paid a private evaluator to conduct another evaluation, and the evaluator made similar modifications to the ADOS-2 (wearing a mask) but scored the ADOS. Ultimately, she concluded that, while Ruari had rigidity, preservative behaviors, repetitive behaviors, and exhibited social awkwardness, he had "minimal to no symptoms of autism," and ended up testifying that the autism support classroom was not appropriate since he did not have autism.

Case Law: Evaluations: Ruling Rationale

***Ruari C. v. Pennsbury Sch. Dist.*, 124 LRP 29203 (3d Cir. Aug. 2, 2024).**

- The Court held that the reevaluation was appropriate because it was based on multiple assessments that were technically sound that showed that Ruari had characteristics of autism.
- But even if the diagnosis of autism was not correct, Ruari's IEP still provided him with FAPE in the LRE.
  - Regardless of the label of the program, the autism support classroom provided the explicit instruction in social skills/functional needs that the IEP team determined Ruari required outside of the general education setting.

Case Law: Eligibility: Facts

***F.C. v. Irvine Unified Sch. Dist.*, 125 LRP 2497 (C.D.Cal. Janl. 27, 2025).**

- The parent of F.C., a 17-year-old with a rare neurological disorder called Kleine-Levin Syndrome (KLS), challenged the district's determination that he did not meet eligibility criteria for special education services and could be adequately served under Section 504.
  - KLS is characterized by episodes (lasting weeks) which cause excessive sleep (over 20 hours per day) separated by transitional phases that can involve moderate impairment (behavior or cognitive functioning impairments).

- After being diagnosed with KLS (after a 3-month episode), the district completed an evaluation for OHI at the parent's request, but determined that F.C. was not eligible because (1) he did not have limited alertness or hypervigilance in the classroom and (2) he did not need special education services because he could not receive benefit from special education services during an episode and required nothing more than accommodations to allow him to catch up on missed work when he returned to school.

Case Law: Eligibility: Ruling Rationale

***F.C. v. Irvine Unified Sch. Dist.*, 125 LRP 2497 (C.D.Cal. Janl. 27, 2025).**

- The Court held that F.C. did not require special education and related services to access his education and, instead, accommodations and supports within the general education setting enabled him to access his education in his LRE.
  - Once he returned to school, he understood the curriculum, performed at grade level, and made progress in his studies with only accommodations.
  - At the time of the eligibility determination, he had only had one long episode since being diagnosed. Then the parent unilaterally withdrew him.
  - "The IEP team, and not Student's doctors, makes the determination as to whether a student meets eligibility criteria for special education."

IEP Development & Implementation

Case Law: IEP: Facts

***Osseo Area Schs., Indep. Sch. Dist.* No. 279 v. A.J.T., 124 LRP 9021 (8th Cir. 03/21/24).**

- A.J.T., a 15 year old girl, has a rare form of epilepsy with seizures occurring so frequently in the morning that she can't attend school before noon.
  - She also has significant cognitive delays (functioning around 18 months old), is nonverbal, and requires assistance for walking, balancing, and toileting.
- Before moving to Minnesota, A.J.T.'s Kentucky school district provided an IEP that included evening instruction at home.
- For the remainder of elementary school, the Minnesota district provided intensive 1:1 for 4.25 hours per day, but denied parents' requests for evening instruction.
  - She showed minimal progress towards IEP goals and regressed in toileting.
- The middle school's standard day ended at 2:40 p.m., so the District proposed cutting back her day to about 3 hours.
- A.J.T.'s parents filed a due process complaint. The ALJ and district court held that the district had denied the student FAPE by improperly maintaining her services within the regular school hours. The district appealed.

Case Law: IEP: Ruling Rationale

***Osseo Area Schs., Indep. Sch. Dist.* No. 279 v. A.J.T., 124 LRP 9021 (8th Cir. 03/21/24).**

- The 8th Circuit upheld the District Court's ruling that the district's repeated denial of the parents' requests for late afternoon instruction denied the student FAPE.
- The argued that there is nothing in the IDEA that limits IEP services to a regular school day.
  - Because the student made minimal progress, regressed in toileting, and could have benefited from evening instruction, the district violated FAPE.
- The 8th Circuit upheld the District Court's order for the district to provide provide 495 hours of compensatory education, including in-home instruction until 6 p.m.

Case Law: IEP Implementation: Facts

***Board of Educ. of the Township of Sparta, Sussex County v. A.D.*, 124 LRP 29999 (N.J.S.C. Aug. 7, 2024).**

- The parents challenged a school district's determination that their child no longer qualified for an IEP because he had earned a state-issued diploma based on passing the GED.
- A.D. had a rocky high school enrollment (home instruction, withdrawing from school and passing GED, re-enrolling and receiving home instruction, attending school in person, schools going remote because of COVID-19, withdrawing from school again, enlisting in the army but being medically discharged soon thereafter) and only obtaining a handful of credits.
  - The school refused to enroll him once he turned 18 years old (in May 2021) and had been discharged from the army, claiming he had already received a state-issued diploma when he passed the GED in April of 2019.
- IDEA states that a district's obligation to provide FAPE does not apply to children with disabilities "who have graduated from high school with a regular high school diploma."
- NJ has two types of HS diplomas: (1) State-endorsed (awarded to students upon successful completion of high school graduation requirements) and (2) State-issued (awarded to students no longer in enrolled in a school district who show the attainment of academic skills and knowledge equivalent to a high school education, which can be showed through the passage of the GED).
- The ALJ held that he was not longer entitled to FAPE because he received a state-issued diploma based on passing the GED. Parents appealed.

Case Law: IEP Implementation: Ruling Rationale

***Board of Educ. of the Township of Sparta, Sussex County v. A.D.*, 124 LRP 29999 (N.J.S.C. Aug. 7, 2024).**

- The Court held that A.D. had not received a regular education diploma under the IDEA and remained eligible for FAPE.
  - The IDEA regs stated that a "regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential."
  - Thus, when a state-issued diploma is awarded based on the GED (and according to the State's own website, is not included in the state's graduate rates), "it is precisely the type of 'general equivalency diploma' that does not qualify as a 'regular high school diploma'" under the IDEA.
  - In NJ, the state-endorsed diploma, which is provided to the preponderance of students in the state and is fully aligned with State standards, is a regular diploma pursuant to the IDEA regulations.

Case Law: IEP Implementation: Facts

***D.R., H.D., J.C., A.F., B.R.C., & The Arc of the United States v. District of Columbia,* 125 LRP 2285 (D.D.C. Jan. 16, 2025).**

- D.C. filed a motion to dismiss a class action lawsuit claiming that D.C. fails to provide safe and adequate transportation to and from school, which denies FAPE to students with disabilities in violation of the IDEA and discriminates in violation of Section 504 and the ADA.
  - Plaintiffs claim that the bus routing system is outdated and often causes delays resulting in students arriving hours late to school or never arriving at all.
  - Individual Plaintiffs were all granted some form of individual relief at the due process level (including comp ed and or reimbursement of personal travel expenses), but were denied systemic relief in the form of an order requiring D.C. to develop procedures to allow consistent, reliable, and safe transportation to school.
- The Court addressed the viability of the following claims in federal court: (1) Systemic IDEA claims; (2) IDEA claims for failure to provide reimbursement for self-transportation; (3) Additional claims for compensatory education due to ongoing violations; (4) Claims by the class members who did not exhaust; (5) Discrimination claims due to failure to plead bad faith or gross misjudgment.

Case Law: IEP Implementation: Ruling Rationale

***D.R., H.D., J.C., A.F., B.R.C., & The Arc of the United States v. District of Columbia,* 125 LRP 2285 (D.D.C. Jan. 16, 2025).**

- The Court granted in part and denied in part D.C.'s Motion to Dismiss:
  - (1) Systemic IDEA claims- Not dismissed because it is consistent with the purpose of the IDEA to provide system relief for systemic deficits that will affect similarly situated students (and is outside the jurisdiction of the hearing officer).
  - (2) IDEA claims for failure to provide reimbursement for self-transportation- Dismissed because IDEA's requirement to provide transportation and related services does not extend to auxiliary benefits (reimbursement for transportation) just because they have some connection to transportation.
  - (3) Additional claims for compensatory education for ongoing violations- Dismissed because they were able to adequately receive individual relief at the administrative level and could not do so again in the future.
  - (4) Claims by the class members who did not exhaust- Not dismissed because exhaustion by one class member was sufficient for others who the same claims and alleged injury.
  - (5) Discrimination claims due to failure to plead bad faith or gross misjudgment- Not dismissed because court did not believe bad faith or gross misjudgment was required.

Case Law: IEP: Facts

***Pierre-Noel v. Bridges Public Charter Sch. And District of Columbia,* 124 LRP 32461 (D.C.C. Sept. 3, 2024).**

- The parent of K.N., a 1st grader with spastic quadriplegic cerebral palsy, challenged a district's refusal to provide door-to-door transportation, which would require staff to carry the student up and down stairs within his apartment building.
- The district proposed an IEP with transportation on a bus with dedicated nurse to monitor his medical equipment.
- When the parent requested that K.N. be transported from his non-wheelchair accessible apartment, the district stated that would only transport him from the outermost door of the apartment building, due to safety concerns and district procedures which prohibited employees from carrying a student or entering any apartment buildings, lobbies, entryways or alleys.
  - The IEP team amended the IEP to specify that he needed the door-to-door accommodation, but the district continued to refuse to provide it.
- The district argues that moving K.N. between the door of his apartment and the bus is not "transportation" under the IDEA, and, thus, not required.

Case Law: IEP: Ruling Rationale

***Pierre-Noel v. Bridges Public Charter Sch. And District of Columbia,* 124 LRP 32461 (D.C.C. Sept. 3, 2024).**

- The Court reversed the judgment in the district's favor (remanding the case), holding that IDEA's transportation related service required the district to move K.N. between his apartment door and the vehicle that would take him to and from school.
  - The district conceded that K.N. would require assistance to be able to attend school in person and benefit from his special education.
  - Thus, the only issue before the Court was whether the definition of "transportation" under the IDEA required such service.
- The IDEA does not define "transportation" but the ordinary meaning suggests a broader definition than transport by vehicle only.
  - Unlike the ADA, which defined "public school transportation" more narrowly as "transportation by school bus vehicles."
- The IDEA also supports educating students in the LRE; therefore, limiting the definition of transportation would not comport with the purpose of the IDEA.

Case Law: IEP: Facts

***C.B. v. Nazareth Area Sch. Dist.*, 125 LRP 1213 (E.D.Penn. Jan. 6, 2025).**

- The parents of C.B., a child with autism and speech/language impairments, alleged that the district failed to provide C.B. a FAPE during his KG and 1st grade school years.
  - The parents claim that C.B.'s behavioral challenges and academic struggles increased because the district failed to include consistent modeling of C.B.'s AAC device, which resulted in C.B. not having access to consistent communication.
  - The district's SLP provided some training for staff on how to model and use the AAC device, which the district argues was consistent with the IEP, which only required "services and strategies" to support C.B.'s use of the AAC device.
  - However, the evidence showed that the AAC device was not consistently utilized or modeled throughout the day.
  - The evidence also showed that C.B.'s inappropriate behaviors increased and his academic progress declined.

Case Law: IEP: Ruling Rationale

***C.B. v. Nazareth Area Sch. Dist.*, 125 LRP 1213 (E.D.Penn. Jan. 6, 2025).**

- The Court held that the IEP was not reasonably calculated to enable C.B. to make progress appropriate in light of his circumstances, partly because modeling of the AAC should have been included in C.B.'s IEP, but was not, which led to his increased behavioral challenges and decreased academic progress.
  - "For the AAC device to be effective, its use and modeling needed to be consistent across all aspects of his communication, be that home, school, or social."
- As such, the parent was entitled to compensatory education.

Case Law: IEP: Facts

***S.M. v. Monifa McKnight,* 124 LRP 35321 (D.Md. Sept. 30, 2024).**

- The parent of S.M., a twice exceptional student with a language disorder, ADHD, anxiety, motor function disorder, and impaired reading, written expression, and math skills who exceled in verbal comprehension, claimed that the district's 5th grade IEP failed to provide S.M. with FAPE.
  - The parent had enrolled S.M. in the Lab School (a private school for children with disabilities) since 1st grade.
- The district began collecting information from the Lab and trying to schedule meetings with the parent to develop a 5th grade IEP in the spring; however, the district did not get an IEP proposed until 2-weeks into the school year.
- The district discussed how it would assist S.M. in transitioning to the new program, but the parents claimed the late IEP and lack of formal transition plan denied him FAPE because it did not address his anxiety.

Case Law: IEP: Ruling Rationale

***S.M. v. Monifa McKnight,* 124 LRP 35321 (D.Md. Sept. 30, 2024).**

- The Court held that the district's IEP, although offered 2-weeks into school, offered S.M. a FAPE.
  - "Even if transferring a few weeks into the school year was not ideal, [the school staff] were prepared to support S.M. and help him manage his anxiety during the transition."
- Note: The finding in this case was probably swayed by the history of the case, and the fact that the district had been paying for the Lab until the IEP was proposed, pursuant to a Court order.

Least Restrictive Environment (LRE)

Case Law: Placement: Facts

***A.M-G. & K.B. v. Salem Keizer Public Schs & Willamette Educational Service Dist.*, 124 LRP 40061 (D.Or. Nov. 22, 2024).**

- Students A.M-G. and K.B. are deaf students who attended the regional Deaf/Hard of Hearing (D/HH) Center ran by the Willamette Educational Service District until it shut down.
- Plaintiffs received letters that the school system would be returning D/HH services to the neighborhood schools after that school year, but the services listed within an IEP would remain in place, regardless of the school attended.
- The student's proposed IEPs for the next school year in their neighborhood school maintained the same percentage of time in the general education vs. special education setting, with some minor changes in how services would be provided.
- Plaintiffs filed motions for a preliminary injunction to require that the D/HH Center remain open so students can remain in their "stay-put placement," arguing that its closing would result in a change of placement for the students.

Case Law: Placement: Ruling Rationale

***A.M-G. & K.B. v. Salem Keizer Public Schs & Willamette Educational Service Dist.*, 124 LRP 40061 (D.Or. Nov. 22, 2024).**

- The Court held that the school change did not result in a change in "current educational placement," so there was no need for a stay-put injunction.

- The Court considered the following 4 factors:
  - Whether the educational program set out in the child's IEP has been revised- Here, Plaintiffs' IEPs remained substantially the same.
  - Whether the child will be able to be educated with nondisabled children to the same extent- Here, there was no change.
  - Whether the child will have the same opportunities to participate in nonacademic and extracurriculars services- Here, there was no indication that this would change.
  - Whether the new placement option is the same option on the continuum of alternative placements- Here, the students would have the same opportunity to participate in the general education classroom 80% of the time.

Behavior & FBAs/BIPs

Case Law: FBA: Facts

***Upper Darby Sch. Dist. v. K.W.*, 124 LRP 30821 (3d Cir. Aug. 14, 2024).**

- K.W., a student placed in a specialized private schools, had multiple behavioral needs, including yelling, running around the classroom, and consistently requiring de-escalation.
- Two independent evaluations recommended that K.W. received positive behavioral supports (PBS) based on an FBA, but the district did not adopt these recommendations.
- His behavior began deteriorating, and a behavior analyst who observed him recommended PBS based on an FBA, but before any changes could be made, the private school disenrolled K.W., citing conflicts with his mother.
- The parties could not agree on another placement that would accept K.W. as a student, so the parent filed for due process.
- The District Court found that the school had denied K.W. a FAPE for two school years by failing to address his behavioral needs, awarding $128,635 in comp ed. The school district appealed.

Case Law: FBA: Ruling Rationale

***Upper Darby Sch. Dist. v. K.W.*, 124 LRP 30821 (3d Cir. Aug. 14, 2024).**

- The 3rd Circuit agreed that K.W. was denied FAPE those two years because it was clear from the beginning of the first year that K.W. suffered from significant behavioral problems that inhibited his ability to learn.
  - The Court discredited the school's argument that K.W.'s teacher testified that his behavior was improving under a schoolwide behavior plan because the same teacher also testified that he continued to have significant behavioral deficits.
  - The Court further discredited any changes K.W.'s teacher made in the classroom that were not documented in his IEP or discussed with his mother, and ultimately failed to address his challenging behavior.
- Thus, the 3rd Circuit upheld the District Court's order of comp ed.

Case Law: Behavior: Facts

***I.S. v. Fulton County Sch. Dist.*, 124 LRP 37988 (11th Cir. Oct. 31, 2024).**

- I.S. was a high schooler schooler with autism and a history of severe anxiety, social phobia, depression, suicidal thoughts, and self-harm.
  - I.S. had school refusal issues beginning in middle school, which led to his parents withdrawing him and enrolling him in a private day school for several years.
- The district entered into a settlement agreement to pay for the private day school (Eaton), but two weeks into the school year, I.S. refused to attend.
- The district held several IEP meetings with the parents to develop a transition plan for I.S. to get back into school at Eaton, which included I.S. taking online classes, meeting with a behavior analyst at various locations 2 hours per week, and in-home instruction a certified teacher for 4 hours per week.
- A couple of months later, the parents gave notice of their intent to enroll I.S. in a residential facility and seek district reimbursement through due process.
  - The district claimed the parents had not given it enough time to try to reintegrate I.S. back into a school setting and I.S. had progressed (from initially resisting leaving his room and refusing to do any work, to willingly meeting the behavior analyst at coffee shops and libraries to work on assignments).

Case Law: Behavior: Ruling Rationale

***I.S. v. Fulton County Sch. Dist.*, 124 LRP 37988 (11th Cir. Oct. 31, 2024).**

- The Court held that the parents failed to prove a denial of FAPE.
  - The district repeatedly requested more access to I.S. for behavioral and academic support than the parents were able to provide.
  - The parents turned down offers for additional in-home teaching assistance and expressed not interest in enrolling I.S. in additional online courses as recommended by the district.
  - The parents withdrew I.S. as he was beginning to make significant progress towards the reintegration plan but before the district could fully implement the plan.

Procedural/Parental Participation

Case Law: Procedural: Facts

- **J.L. by S.L. and M.L. v. Williamson County Tenn. Bd. of Educ., 124 LRP 29201 (6th Cir. Aug. 2, 2024).**
  - A 14-year-old student reenrolled in public school for 8th grade after having been unilaterally withdrawn to private placements following two due process disputes over placement.
  - The last agreed upon IEP placed the student in part gen ed and part sped setting due to significant behavioral issues.
  - The last implemented IDEA placement was a settlement agreement providing homebound placement.
  - Following those placements were a private school (pursuant to an IDEA settlement but with agreement that it was not stay-put), unilateral homeschooling, and unilateral private school.
  - The district offered the last implemented placement of homebound while new IEPs were proposed and disputes over placement continued, but made the legal argument that J.L. was likely not entitled to a stay-put placement because the parent had removed the student from his IDEA agreed upon placement.

Case Law: Procedural: Ruling Rationale

- **J.L. by S.L. and M.L. v. Williamson County Tenn. Bd. of Educ., 124 LRP 29201 (6th Cir. Aug. 2, 2024).**
  - The 6th Circuit held that J.L. no longer had a "then-current educational placement" in which he could remain due to the parent unilaterally withdrawing the student to several private/homeschool placements.
  - The purpose of IDEA's stay-put provision is to maintain the status quo during a FAPE dispute and appeal.
  - Specifically, it prevents the public school from unilaterally removing the child/changing the child's placement during a dispute.

Case Law: Procedural: Facts

- **S.L. v. Rutherford Cnty. Bd. of Educ., 124 LRP 30825, (M.D.Tenn. Aug. 14, 2024).**
  - A 16-year-old student withdrew from RCS, under a current IEP, to a unilateral acute residential treatment facility (Norris Academy) in July 2022.
  - After she was discharged from Norris in Dec. 2022, she returned to RCS in January of 2023 (with her last IEP still current).
  - In February of 2023, the IEP team proposed a placement at Rutherford Academy (a private day school), which the parents objected and filed due process (although it is disputed whether it was filed within 14 days of the proposed IEP).
  - The parents and district entered into a settlement agreement placing the student at Illuminate Academy (a private tutoring program), which would be her educational placement, and RCS would pay for it until her 22nd birthday.
  - While RCS agreed to pay for a 1:1 if needed, Illuminate was either unwilling or unable to hire a 1:1 and did not authorized RCS to hire one. Ultimately, Illuminate would not permit her to attend without the 1:1, so she never actually attended school at Illuminate.
  - RCS did not allow her to reenroll in her home school, maintained that her stay-put placement was Rutherford Academy. The parents argued they never agreed to RA, and they also declined interim homebound services.

Case Law: Procedural: Ruling Rationale

- **S.L. v. Rutherford Cnty. Bd. of Educ., 124 LRP 30825, (M.D.Tenn. Aug. 14, 2024).**
  - S.L. has failed to demonstrate that she has a "then-current educational placement."
  - The educational placement that would have been in effect when the stay-put suit was filed was Illuminate Academy, pursuant to a settlement agreement between the parties, but that has never been a functioning placement.
  - Rutherford Academy is not stay-put because the parties never agreed to the placement (parents filed due process objecting to it), and it was never a functioning placement.
  - The public high school is not stay-put because she has had multiple placements prior, and the parents did not seek stay-put there when they filed the first due process. This would not maintain the status quo.

Case Law: Parent Participation: Facts

***Etiwanda Sch. Dist. v. D.P.*, 124 LRP 1299 (C.D. Cal. 01/11/24).**

- Beginning April 2021, district sent notice to Parents and their counsel attempting to schedule D.P.'s IEP meeting
  - District sent meeting notices and PWNs numerous times with no response.
  - Then, parents agreed to attend, only to cancel last minute.
- Finally, on October 14, 2021, Parents' representative informed the district that Parents were available on October 21 or 22, 2021.
  - Due to IEP team members inability to meet on the days offered, the district provided alternative dates.
  - Hearing no response, the district sent a final PWN November 3, 2021 stating the district would hold the meeting December 8, 2021 with or without the parents.
- December 8, 2021, an IEP meeting was held without the Parents or their representative, and an IEP was proposed.
- The parent filed due process, and an ALJ concluded that the District prevented Parent from meaningfully participating in the development of D.P.'s IEP by holding the December 8, 2021 IEP team meeting without Parent present.

Case Law: Parent Participation: Ruling Rationale

***Etiwanda Sch. Dist. v. D.P.*, 124 LRP 1299 (C.D. Cal. 01/11/24)**

- The District Court upheld the ALJ's decision that the district violated the IDEA by holding the annual IEP review without the parent.
- IDEA allows a district to hold an IEP meeting in a parent's absence if the district cannot convince the parent to attend, however,
  - "[T]he fact that it may have been frustrating to schedule meetings with or difficult to work with [parent] does not excuse" failing to include the parent in an IEP team meeting "when he expressed a willingness to participate." *Doug C. v. Hawaii Dept of Educ.*, 720 F.3d 1038 (9th Cir. 2013)
- NOTE: These are challenging cases that can cause violations regardless of the district's decision, so it should be navigated with legal counsel.

Case Law: Procedural: Facts

***N.H. v. Gateway College & Career Academy,* 124 LRP 36867 (C.D.Cal. Oct. 7, 2024).**

- The parent argues that she is entitled to attorney's fees from a DP hearing despite a DP settlement offer by the district.
  - The district made a statutory settlement offer more than 10 days before the DP hearing, but N.H. did not accept the offer.
  - Ultimately, the settlement offer was more favorable than the relief obtained through DP decision.

- Under the IDEA, the court may decline attorney's fees for services performed subsequent to the time of a written settlement offer if the settlement offer is more favorable than the DP decision, unless the parent was "substantially justified" in rejecting the offer.

- The parent claims that she was substantially justified in rejecting the offer because it included a broad waiver of claims (beyond what was raised in the DP request).

Case Law: Procedural: Ruling Rationale

***N.H. v. Gateway College & Career Academy*, 124 LRP 36867 (C.D.Cal. Oct. 7, 2024).**

- The Court held that N.H. was not entitled to any attorney's fees after the settlement offer because she was not justified in rejecting the offer.
  - The Court held that the scope of the waiver was limited claims that could have been raised in relation to the DP allegations.
  - Moreover, the parent could have counter offered by striking the undesirable language, but she did not do so.

Case Law: Equity: Facts

***J.B. v. Kyrene Elementary Sch. Dist.*, 124 LRP 30919 (9th Cir. Aug. 20, 2024).**

- The parent of J.B., a child with significant behavioral and learning challenges due to diagnoses of reactive attachment disorder, fetal alcohol syndrome, intellectual disability, Klinefelter's syndrome, ADHD, dyslexia, and dysgraphia, challenged the district's proposed IEP following multiple physical restraints, and unilaterally enrolled J.B. in a private school.
- The district and parent attempted to negotiate an agreement which would transition J.B. back to the public school following an evaluation; however, J.B.'s parent would not agree to the evaluation requested by the district.
- The district informed the parent via PWN that it would not hold any further IEP meetings as J.B. was not currently a student enrolled in the the district. J.B. did not request any further IEP meetings.
- The parent filed due process alleging that the district denied J.B. FAPE by refusing to meet with with her to develop a new IEP/offer of FAPE, and seeking reimbursement for J.B.'s private placement.

Case Law: Equity: Ruling Rationale

***J.B. v. Kyrene Elementary Sch. Dist.*, 124 LRP 30919 (9th Cir. Aug. 20, 2024).**

- The Court held that the district was not obligated to develop a new IEP/offer of FAPE after the parent's refusal of the evaluation because:
  - The parent refused consent to the evaluations requested by the district to obtain information to develop an IEP.
  - The parent made clear her intent that she would not re-enroll J.B. in the district.
  - The parent rejected the last offer of FAPE provided by the district.
  - The parent did not request another IEP meeting/offer of FAPE.

- While the district committed a procedural violation by stating in the PWN that it refused to meet with the parent because the child was not enrolled in the district (which was not a valid reason under the IDEA), the Court held that the error was harmless because the district had other lawful reasons for ending negotiations with the parent (i.e., the parent's refusal to consent to an evaluation and her clear intent to keep J.B. enrolled in a private school).

Case Law: Parent Participation: Facts

***Ferreira v. Aviles-Ramos,* 124 LRP 37950 (2d Cir. Oct. 30, 2024).**

- At issue, the parent filed due process (for the 3rd time) claiming that the IEP for a child with cerebral palsy, epilepsy, and a brain injury did not provide FAPE, and the parent was entitled to reimbursement of the child's unilateral private school.

- On appeal, the parties argued whether the parent should be denied reimbursement for the student's private school placement even if the proposed IEP denied the student FAPE when the parent:
  - Did not attend the first meeting where she demanded that a psychologist, social worker, school physician, and parent be present.
  - Said she would not provide the school the student's progress reports from the private school until the meeting was scheduled at "a mutually agreeable" time.
  - Did not provide the student's current educational program (developed by the private school).
  - Failed to attend the scheduled the IEP meeting because the evaluation reports had not been submitted to her (even though all available reports had been sent to her).

Case Law: Parent Participation: Ruling Rationale

***Ferreira v. Aviles-Ramos,* 124 LRP 37950 (2d Cir. Oct. 30, 2024).**

- The Court held that throughout the spring of 2019, the district attempted to gather information about the child's needs, but the parent repeatedly thwarted the process with her noncooperation.
- The court held that the parent's noncooperation led to the district not having all the information on the student's functioning (which led to any deficits in the IEP development).
- Therefore, equities did not favor reimbursement for the unilateral private placement.
  - Explaining the Doctrine of Unclean Hands, which closes the doors of a court to one tainted with inequitableness or bad faith relative to the matter in which he seeks relief.

Case Law: Procedural: Facts

***C.M. v. Weston Bd. of Educ.*, 124 LRP 36397 (D.Conn. Oct. 9, 2024).**

- The parents of C.M., a student with autism spectrum disorder and OCD, sought injunctive relief to force the district to fund C.M.'s home-based program as his stay-put placement during the pendency of his due process proceeding.

- C.M. had been placed by the IEP team in a residential facility until he was harmed by another student at the facility, at which time the parents and school agreed for him to receive virtual services at home with the support of a private behaviorist, while the parties searched for a private day treatment facility (at parental request).
  - However, C.M. did not achieve meaningful attendance at the day treatment facility proposed by the IEP team. So, the IEP team wanted to propose a residential facility, but the parents objected. While the district agreed to look for a day treatment option, they could not find any other day treatment facilities that would accept him.

- They entered into two settlement agreements where the district agreed to pay for C.M.'s "unilateral" home-based program but that such program "shall not constitute 'stay-put.'" When the parent's objected to the next IEP which proposed placement in a therapeutic day school, the parties disagreed on whether C.M.'s stay-put was a therapeutic day facility or home-based program.

Case Law: Procedural: Ruling Rationale

***C.M. v. Weston Bd. of Educ.*, 124 LRP 36397 (D.Conn. Oct. 9, 2024).**

- The Court held that C.M.'s "then-current educational placement" pursuant to the IDEA's stay-put provision was a therapeutic day program because that was the last agreed upon educational placement by the parties.
  - While typically the "operative placement actually functioning at the time the dispute arises," such interpretation does not justify requiring a placement that was unilaterally chosen by the parent.

Private School/Residential Placement

Case Law: Placement: Facts

***A.B. v. Monifa B. McKnight,* 125 LRP 2203 (D.Md. Jan. 14, 2025).**

- A 6th grade student, who transferred to the district after being removed from his biological parents due to abuse and neglect, began to struggle socially and academically.

- In 7th grade, he was identified as disabled under Section 504 due to ADHD, and then was found eligible under the IDEA for a specific learning disability.

- The summer before his 8th grade school year, the district proposed an IEP that would place him in the gifted and talented learning disabled program (GTLD); however, the parents unilaterally enrolled him in The Lab School (a school for students with learning disabilities). A similar IEP was proposed for 9th grade, and the parents continued him at the Lab School. The case was litigated all the way to 4th Circuit, with the 4th Circuit finding that the district offered A.B. FAPE for 8th and 9th grades. Cont.

Case Law: Placement: Facts

***A.B. v. Monifa B. McKnight,* 125 LRP 2203 (D.Md. Jan. 14, 2025).**

- In 10th grade, the district sought a reevaluation prior to proposing an IEP, but the parents unilaterally enrolled A.B. in the Lab School before the district could complete the reevaluation and propose a new IEP.
  - The district had concerns with A.B.'s progress because both his IQ scores and his standardized achievement scores had decreased since the last evaluation, despite denial of any TBI or neurological conditions.

- The district proposed an IEP with services in co-taught general education classes for 3 hours and 45 minutes daily and services the GTLD & reading intervention classrooms for one and a half hours per day, as well as weekly counseling services and 28 supplementary aids, services, and program modifications.

- The parents rejected the IEP (objecting to the large class sizes, placement in the general education setting, and the lack of an adoption affinity group, as offered by the Lab), and continued A.B.'s unilateral enrollment in the Lab School. The parents filed DP seeking reimbursement for the Lab School.

Case Law: Placement: Ruling Rationale

***A.B. v. Monifa B. McKnight,* 125 LRP 2203 (D.Md. Jan. 14, 2025).**

- The Court found that the district offered A.B. a FAPE.
  - The parents could not prove that A.B. required a small class size due to his processing speed and academic delays, just that they preferred one. The district addressed the parents concerns by providing aids and services such as a word processor or computer in all courses, extended time, and check-in for reading comprehension.
  - Since the IDEA requires students be in the LRE to the maximum extent appropriate and the parents could not prove that A.B. would not receive a FAPE in the general education setting with the supports offered in his IEP, they failed to prove gen ed was inappropriate.
  - The parents could not prove that the affinity group was more beneficial than the counseling offered by the district, or that it was necessary for A.B. to make educational progress.

Section 504, ADA, & Other Related Laws

Case Law: Discrimination: Facts

Le Pape ex rel. Le Pape v. Lower Merion Sch. Dist., 124 LRP 17149 (3d Cir. 6/4/24).

- Over 17-months, the parents made at least 33 requests for the school district to allow Alex, a high school student with Autism, an intellectual disability, and a language impairment (non-verbal), to use a S2C letter board in school, provide a communication partner, and train its staff on the use of the S2C letter board.
  - Alex had been using a Bluetooth keyboard, iPad, visual scripts, pointing, and identifying pictures as means of communication at school.

- The district initially refused because the technique was not evidence-based, but later spoke to the inventor of S2C and agreed to observe Alex using S2C, which resulted in continued concerns about evidence-base of program and independence of Alex's responses.

Cont.

Case Law: Discrimination: Facts

Le Pape ex rel. Le Pape v. Lower Merion Sch. Dist., 124 LRP 17149 (3d Cir. 6/4/24), cont.

- The district then agreed to run a trial of S2C at school with Alex, after its staff participated in 3 days of training to learn S2C, which resulted in the district announcing its decision to not include it as method of communication because it was not evidence based, not recommended (by the district's personnel), and its dissatisfaction with the S2C training.

- When the parent refused to send Alex back to school, the district said it would allow him to use S2C if he brought his own letter board and communication partner to school, but it would not provide a communication partner.

- The parent's continued to educate him at home using S2C and filed due process, which was appealed to the district court. The district court affirmed the ALJ's finding of no violation of FAPE and found for the district on the parent's ADA effective communication claims.

Case Law: Discrimination: Ruling Rationale

Le Pape ex rel. Le Pape v. Lower Merion Sch. Dist., 124 LRP 17149 (3d Cir. 6/4/24).

- The 3rd Circuit Court of Appeals remanded the district court's order of summary judgement on Plaintiffs' Effective Communication claims under the ADA.

- The Court held that the Effective Communication claim was separate from the FAPE claim, that the parents were entitled to fact finding (by a jury) regarding the efficacy of the letter board compared to other forms of communication.
  - The Court explained that Alex's preferred method of communication is the primary consideration under the ADA.
  - However, the district can be exempt from providing the preferred method if it can provide an alternative, effective means of communication.

Case Law: 504 Eval: Facts

B.S.M. v. Upper Darby Sch. Dist., 124 LRP 17147 (3d Cir. June 4, 2024).

- Parent requested a full psychoeducational evaluation for a KG student, but the district determined it was unnecessary due to her satisfactory performance. However, District conducted an SL evaluation and found her eligible for language.
- In 2nd grade, conducted a reevaluation and found her ineligible for an IEP under language impairment.
- In 4th Grade, she was privately evaluated and diagnosed with DMDD, and the parent requested a Section 504 plan.
- The district conducted a comprehensive evaluation, determined she was not eligible for an IEP (no SLD or ED), but developed a 504 plan to address her social and emotional needs.
- The ALJ & District Court held that District's KG evaluation was sufficiently timely and thorough to satisfy the Child Find obligations (including Section 504). The parents appealed.

Case Law: 504 Eval: Ruling Rationale

B.S.M. v. Upper Darby Sch. Dist., 124 LRP 17147 (3d Cir. June 4, 2024).

- While the parents argued a child find violation under both IDEA and Section 504, the Court needed to conduct a separate analysis of whether the IDEA evaluation also met the requirements under Section 504 because "Section 504 covers more students than does the IDEA."
  - Shown by the fact that she qualified under IDEA from KG-2nd grade and under Section 504 from 4th grade after.
- The Third Circuit Court remanded the case back to the District Court to conduct a separate analysis.

Case Law: Discrimination: Facts

***A.J.T. v. Osseo Area Sch.*, 96 F.4th 1058 (8th Cir. Oct. 18, 2023).**

- In addition to the IDEA claims previously discussed, the parents also sued for disability discrimination under Section 504 and the ADD for the district's failure to respond to their requests to provide A.J.T. with evening instruction due to her morning seizures.
  - The parents repeatedly notified the district that failure to provide evening instruction violated Section 504 and the ADA.
  - They claim that by failing to investigate and respond to those complaints, they violated accepted professional standards by failing to follow the district's own policies and procedures.
- The district court had granted the school district's motion for summary judgment concluding that the district did not act with bad faith or gross misjudgment.

Case Law: Discrimination: Ruling Rationale

***A.J.T. v. Osseo Area Sch.*, 96 F.4th 1058 (8th Cir. Oct. 18, 2023).**

- The 8th Circuit held that the district's actions did not amount to wrongful intent.
- While the district's actions may not have been enough to provide meaningful access, they did not ignore the parent's requests. Instead, they updated A.J.T's IEP annually and provided intense 1:1 instruction, extended her school day by 15 minutes so that she could safely leave after the halls cleared, and offered 16 3-hour sessions at home each summer.

The 8th Circuit discusses whether it's bad faith or gross misjudgment standard is appropriate. This issue is now on appeal to the USSC!

Case Law: Discrimination: Facts

***A.L. v. Special Sch. Dist.*, 124 LRP 37562 (E.D.Mo. Oct. 24, 2024).**

- A.L. began participating in a reading intervention in 1st grade due to failing components of the district's reading assessment. He entered 2nd grade as a non-reader and continued in the same reading intervention program for 2nd grade and the start of 3rd grade.
- In the fall of 3rd grade, his mother requested a 504 plan, followed up on the request 2 months later, and was then told that her request was denied and she should ask his pediatrician to evaluate him for dyslexia.
- In January, she requested an IEP. The district then held a 504 meeting, and made A.L. eligible for a 504 plan, but denied the parent's request for an IDEA evaluation because its intervention data packet did not support suspicion of a disability.
  - The parents later discovered that the data packet did not include important information such as A.L.'s test scores, writing samples, and intervention data.
- When the parents filed for DP, the district evaluated A.L. and found him eligible for special education under the categories of language impairment, sound system disorder, and specific learning disabilities in basic reading, reading fluency, and written expression.
- At the DP hearing, the hearing officer found a child find violation that deprived A.L. of 14 days of services, and ordered the district to provide 1,386 minutes of comp ed.
- The parents now claim disability discrimination for failure to identify a suspected disability earlier.

Case Law: Discrimination: Ruling Rationale

***A.L. v. Special Sch. Dist.*, 124 LRP 37562 (E.D.Mo. Oct. 24, 2024).**

- The Court held that the parents plead bad faith or gross misjudgment for a valid claim under Section 504 and the ADA and could proceed with such claims.
  - The parents claim the district failed to identify A.L. as a student with a disability over a course of years.
  - The district's failure to include relevant documentation in A.L.'s data packet was without rational justification.
  - A.L.'s documented signs of dyslexia, failure to meet grade-level expectations, and his teacher's suspicion that he might have a learning disability were sufficient to show that the district acted in bad faith or gross misjudgment.

Thank you!

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