The Year's Top Special Education Cases

ConnCASE Legal Issues Conference
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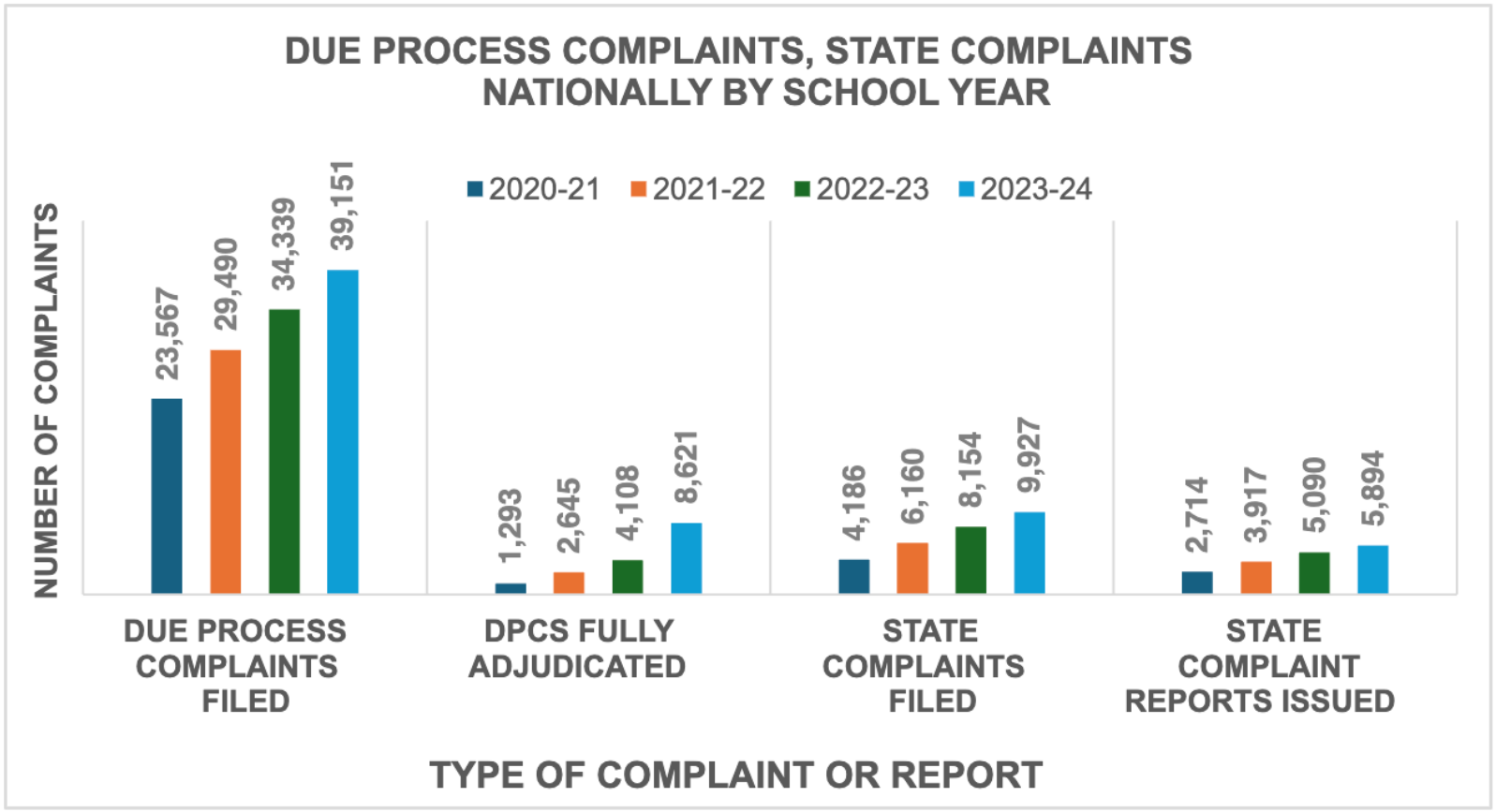
Agenda

- Trends w/ IDEA Dispute Resolution
- Child Find, Evaluations, & Eligibility
- IEP Development & Implementation
- Least Restrictive Environment
- Behavior & FBAs/BIPs
- Procedural/Parental Participation
- Discrimination
- Other Legal Issues

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.

Trends w/ IDEA Dispute Resolution

Nationally



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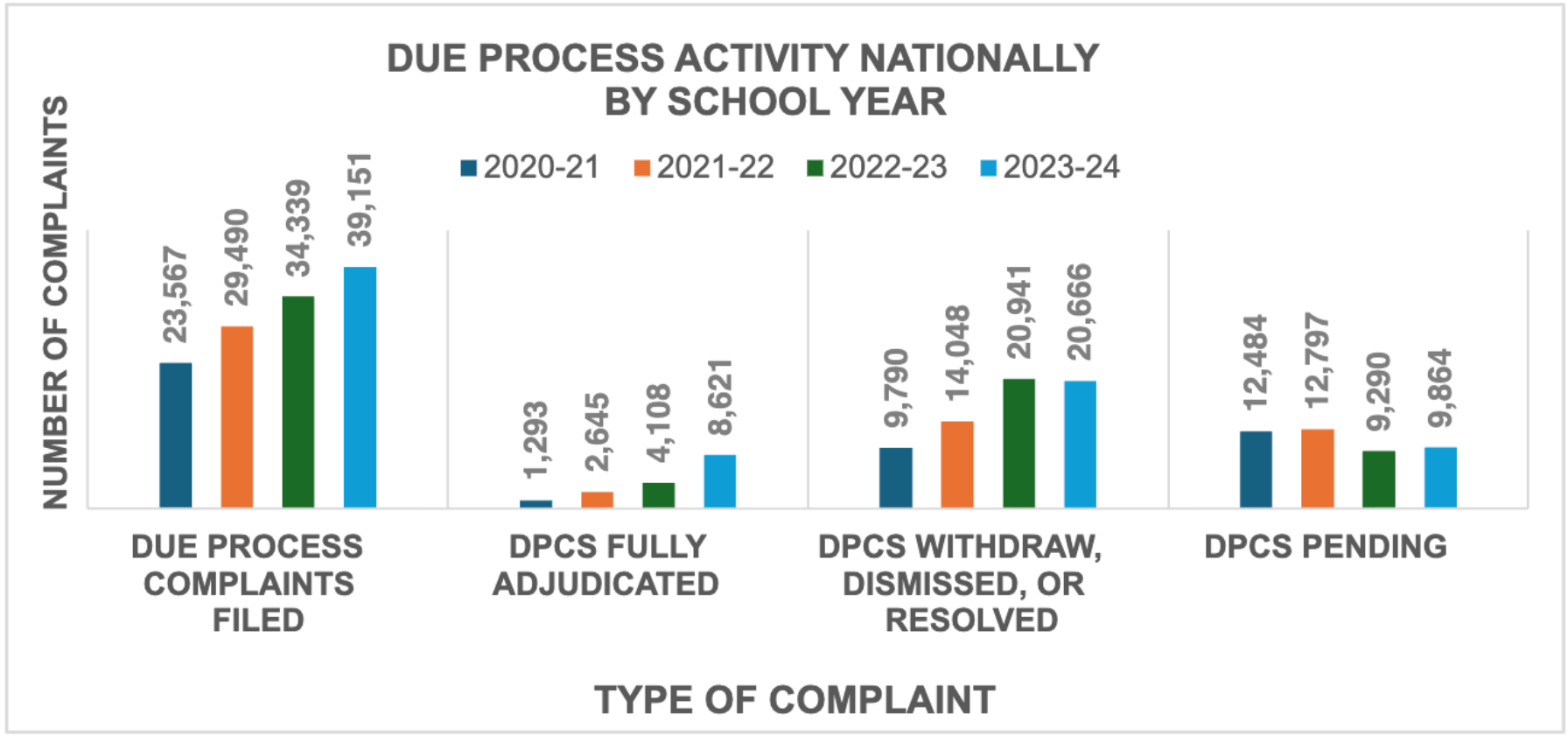
Nationally



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Child Find, Evaluations, & Eligibility

Case Law: IEE: Facts

***Gloucester Township Board of Education v. E. E.N. and M.N. on behalf of A.N.,* 125 LRP 30446 (D.N.J. October 30, 2025).**

- A school district challenged an ALJ's decision that it had violated the IDEA by failing to "fund" or "file" after an IEE request.
- Student A.N.'s parents requested an IEE when when they disagreed with the district's evaluation of A.N.
- The district provided the parents with its IEE criteria, including its $600 cost cap; however, the parents disagreed with the cost cap and asserted they expected the district to pay the full cost of the IEE, which was $3,200.
- The district did not file due process; however, the parents filed due process, arguing the district waived its right to object to their IEE since it did not file due process to defend its evaluation within the 20 days required under state regulations.
- The ALJ agreed that the district was on the hook for the parent's evaluation since it didn't file due process within 20 days. The district appealed.

Case Law: IEE: Ruling Rationale

***Gloucester Township Board of Education v. E. E.N. and M.N. on behalf of A.N.*, 125 LRP 30446 (D.N.J. October 30, 2025).**

- The Court reversed the ALJ decision.
- The Court held that failure to file a due process hearing to defend its evaluation within the 20 days required by state law only means that the district must provide the IEE that complies with its established IEE criteria at no cost to the parent.
  - It does not mean that the district must provide any IEE the parent wants, regardless of cost.
- Thus, the district was not required to file a hearing just to contest the IEE's failure to comply with the district's established criteria, including cost.
- While the district was still required to provide an IEE for $600 because it did not file to defend its own evaluation, it did not have to pay for the parents $3,200 IEE.

Case Law: IEE: Facts

Complaint Decision File 24-162C on behalf of K.W.S from Hernantown (Minn.Ct.App. April 21, 2025).

- The parent of a child with a disability filed a state complaint against the school district alleging that its IEE criteria violated the IDEA.
  - The Minnesota Dept. of Educ. agreed with the parent and required the school district to remove the requirement at issue from their IEE criteria.
  - The school district appealed the decision.
- In dispute is the district's requirement that "The IEE must focus on whether the District evaluation with which the Parents disagree was appropriate at the time it was completed."
  - In this case, the parent requested the IEE after the district had proposed additional assessment and an IEP, which the parent disagreed.

Case Law: IEE: Ruling Rationale

Complaint Decision File 24-162C on behalf of K.W.S from Hernantown (Minn.Ct.App. April 21, 2025).

- The Court upheld the Dept. of Ed's decision that the IEE criteria violated the IDEA.
- The IDEA requires that an IEE at public expense must have the same criteria (including location of evaluation and qualifications of examiner) as the criteria used by the school system, to the extent those criteria are consistent with the parent's right to an IEE. 34 C.F.R. § 300.502(e)(1).
  - The criteria at issue is a criteria of a district evaluation.
- Additionally, the IDEA states that a district "may not impose conditions or timelines" related to obtaining an IEE at public expense, other than those specifically described above.

Case Law: IEE: Facts

Regional School District 1, 125 LRP 35022 (SEA CT Nov. 5, 2025).

- Parent filed a state complaint alleging that the district failed to respond to an IEE request challenging the district's gifted evaluation.
- When the parent disagreed with the district's evaluation (consideration of data and evaluation provided by the parent) determining that the student was not a student with a disability, specifically that the student was not gifted, the parent requested an IEE at public expense, which the district did not provide.

Case Law: IEE: Ruling Rationale

Regional School District 1, 125 LRP 35022 (SEA CT Nov. 5, 2025).

- Because the IDEA (not State law) provides the right to an IEE if a parent disagrees with an evaluation, the parent was not entitled to an IEE for a disagreement with gifted eligibility, as giftedness is not a disability category under the IDEA (only under State regulations).
- Therefore, the district was not legally required to provide an IEE at public expense (or respond to the parent's request for an IEE).

IEP Development & Implementation

Landmark FAPE Cases

- What is a free appropriate public education (FAPE)?
  - *Rowley Standard:* For a student who is fully integrated into the regular education setting, the student's IEP should be "reasonably calculated to enable the child to achieve passing marks and advance from grade to grade." *Board of Educ. of the Hendrick Hudson Central Sch. Dist. v. Rowley,* 553 IDELR 656 (U.S. 1982).
  - *Endrew F. Standard:* For a student who is not fully integrated into the regular education setting, the student's IEP should be "appropriately ambitious" and give the student a "chance to meet challenging objectives" – goals must be "appropriately ambitious in light of [the child's] circumstances." *Endrew F. v. Douglas County Sch. Dist. RE-1,* 69 IDELR 174 (U.S. 2017).

Case Law: IEP: Facts

M.L. v. Howell Township Bd. of Educ., 125 LRP 4958 (D.N.J. Feb. 18, 2025).

- The guardians ad litem for M.L., a 6th grader with ADHD, anxiety, and learning disabilities, appeal a due process due decision in the school district's favor, alleging that M.L. did not received FAPE due to her lack of appropriate progress.
- M.L. was identified as a student with a disability in 1st grade but continued to struggle in school despite the frequent revisions to her IEPs to try to address her struggles.
  - She struggled with remote learning during the pandemic, but her parents choose to keep her on it due to her grandfather being at high risk.
  - Once she returned to school, her IEP team added additional sped services, and offered ESY, but she did not attend.
  - In 4th grade her reading was at a 1st grade level, and she began to have social-emotional concerns and behavior issues.
    - The IEP team offered counseling, but the parent declined because she occasionally saw an outside therapist.
    - The IEP team added a behavioral intervention plan to her IEP.
- In the fall of her 5th grade school year, plaintiffs enrolled her in a special education school, where she has reportedly made significant progress.

Case Law: IEP: Ruling Rationale

M.L. v. Howell Township Bd. of Educ., 125 LRP 4958 (D.N.J. Feb. 18, 2025).

- The Court held that M.L.'s IEP's were reasonably calculated to allow her to make adequate progress to receive FAPE based on the district's repeated efforts to adjust her IEP when she struggled.
  - The district frequently reevaluated her needs.
  - They amended the IEPs when she struggled/regressed.
  - Overall, she did progress slightly.
  - And plaintiffs did not take advantage of several programs offered by the district (ESY and individual counseling) and chose to continue in remote instruction during the pandemic.

Case Law: IEP: Facts

***North East Independent School District v. I.M.*, 125 LRP 34491 (5th Cir. Dec. 23, 2025).**

- I.M. was an elementary student with autism and an intellectual disability who had disruptive behavior, elopement, and toileting issues.
- After I.M.'s 2nd grade school year, the IEP team offered ESY services to prevent regression between terms, which included 4-days a week, half days, for 3 weeks in June.
- After I.M.'s 3rd grade school year, the parent requested full-day ESY throughout the summer, but the school district only agreed to provide half-day services for six weeks of the summer (which left a month long break).
- Data showed that I.M. made progress on academic goals, but he regressed with toileting and elopement after breaks (particularly the summer breaks).
- The District Court found that the school district denied I.M. a FAPE by failing to provide year-round ESY services to prevent regression. The school system appealed.

Case Law: IEP: Ruling Rationale

- ***North East Independent School District v. I.M.*, 125 LRP 34491 (5th Cir. Dec. 23, 2025).**
  - The 5th Circuit affirmed the denial of FAPE.
  - The Court held that the IEP was insufficiently individualized because the ESY services offered did not address the regression—the summer ESY services were too short and the district refused to offer services during other school breaks.
    - The dangerousness of the student's behavior was taken into consideration, with the Court stating that the danger "required more of the School District."
    - "I.M. regressed with toileting, and his elopement grew more frequent (and more dangerous) after every break."
  - The Court also held that because the district failed to employ a strategy known to be effective in ameliorating I.M.'s regression, his behavioral regression outweighed his academic progress.

Case Law: IEP: Facts

T.F. v. District of Columbia, 125 LRP 9183 (D.D.C. Mar. 28, 2025).

- T.F., a 21-year-old with severe autism and significant cognitive and social limitations, challenges the appropriateness of the district's IEPs when he was 18 and 19 years old, including his postsecondary transition plan.
  - T.F. was functioning at a 1st grade level (with math at a kg level and reading at a pre-kg level) and required maximum support from his teachers to make progress towards his IEP goals. His is unable to read street signs or grocery signs, do laundry, count money, or tell time independently.
  - His postsecondary plan included living in an assisted living community and attending a training program to become a maintenance helper (custodian), based upon transition assessments.
  - His postsecondary goals stated that he would (1) Explore requirements for 2 vocational training programs that will assist him in becoming a maintenance helper/custodian; (2) research 2 daily tasks of a maintenance helper, and (3) research assisted living communities in his area.
  - His transition services included: (2002 IEP)- Access to computer and internet with teacher supports, Special education teacher support, and independent living skills services and instruction; (2003 IEP)- vocational training, career counseling, and training on independent living skills.

Case Law: IEP: Ruling Rationale

T.F. v. District of Columbia, 125 LRP 9183 (D.D.C. Mar. 28, 2025).

- The Court held that the ALJ erred in determining that the transition services were appropriate because T.F. lacked the skills necessary to make progress towards the goals.
  - He was unable to read or use the computer on his own.
  - The Court held that it is "unclear how T.F. could 'explore,' using a 'computer,' the requirements of certain vocational training programs, or how he could ever 'research'—even with the benefit of unspecified 'career counseling' and other supports—the daily tasks of a custodian or the offerings of local assisted living facilities."
  - The transition plan should have focused on any number of functional skills he was missing, not more advanced skills like "researching" using a computer.
- As such, the IEP's deficiencies denied him FAPE.

Case Law: Facts

W.A. v. Clarksville-Montgomery Cnty. Sch. Sys., 2024 U.S. Dist. LEXIS 93311 (M.D.Tenn. May 24, 2024), *affirmed* 2025 U.S. App. LEXIS 2353 (6th Cir. Feb. 3, 2025).

- The IEP of a student with a specific learning disability and a language impairment included interventions in reading (focusing on fluency and expression), math, written expression, and language.
- By high school, the IEPs no longer acknowledged that basic reading skills were deficient despite the fact that more than one teacher expressed concerns that the student could not read.
- The student used various technologies to assist him in reading and writing, which helped him receive passing grades (e.g., ChatGPT, speech to text, Grammarly, Snap&Read)
- After a reevaluation and IEE during the 11th grade identified possible dyslexia, the student began receiving private tutoring with Wilson Reading and Language. His tutor, Dr. Sarah McAfee recommended that the IEP include 1:1 tutoring using the Wilson program. However, the IEP continued to focus on fluency and expression. Cont…..

Case Law: Facts

W.A. v. Clarksville-Montgomery Cnty. Sch. Sys., 2024 U.S. Dist. LEXIS 93311 (M.D.Tenn. May 24, 2024), *affirmed* 2025 U.S. App. LEXIS 2353 (6th Cir. Feb. 3, 2025).

- The school district argued that it provided the student FAPE because he received passing marks and advanced from grade to grade, but the district court held that while "grades are significant evidence in favor of a finding that [of] FAPE," "grades alone do not render this an open-and-shut case."
  - Here, the student's passing grades were, in significant part, the result of technology accommodations that allowed him to "bypass the need for reading and writing skills."
- The District Court held that the school district denied the student FAPE by failing to provide basic reading intervention that was reasonably calculated to enable him to make progress appropriate in light of his circumstances, regardless of whether the district called it "dyslexia-specific" intervention.
- The District Court affirmed the ALJ's ordered 888 hours of comp ed (5, 1-hr sessions per week in the Wilson program) and held that the District could provide the services or outsource them (denying the parent's request that they be provided by their preferred provider).
- The school district appealed to the 6th Circuit Court of Appeals.

Case Law: Ruling Rationale

W.A. v. Clarksville-Montgomery Cnty. Sch. Sys., 2024 U.S. Dist. LEXIS 93311 (M.D.Tenn. May 24, 2024), *affirmed* 2025 U.S. App. LEXIS 2353 (6th Cir. Feb. 3, 2025).

- The 6th Circuit Court affirmed the district court & ALJ's decisions.
  - The Court reasoned that his educational plans remained the same through middle school, while he failed to meet any of his reading fluency goals or improve them above the 10th percentile.
  - Expert testimony established that reading fluency skills would not increase until more basic reading skills (which were not provided) were improved, and the school district did not rebut this testimony.
  - The ALJ held that W.A. was capable of reading, and the school did not try to prove that wrong.
- Thus, while the IDEA does not guarantee a particular outcome such as learning to read, when a child is capable of learning to read, and his IEP does not aim to help him do so, the IEP does not provide FAPE.

Case Law: IEP Implementation: Facts

***Panicacci v. West Ada School District #2,* 125 LRP 16127 (D.Idaho May 28, 2025).**

- The parents claimed that their son's school district violated the IDEA by failing to provide comparable services to his transfer IEP.
  - During height of the pandemic, G.P.'s family moved from California to Idaho.
  - In August of 2020, the California district developed a new "transfer" IEP (because his May 2020 IEP had expired due to school closures).
  - The transfer IEP did not contain any goals or objectives, any methodology related to behavior services, any specifics about who should provide services, or any qualifications for staff providing behavioral services.
  - The Idaho district provided a 1:1 paraprofessional (with training in ABA strategies) to support G.P.'s behavioral needs for comparable services. The parent claimed that it was required to use an RBT (and BCBA) because that was what G.P. received in California. There was also dispute over allowing the district to conduct updated behavioral assessments.

Case Law: IEP Implementation: Ruling Rationale

***Panicacci v. West Ada School District #2,* 125 LRP 16127 (D.Idaho May 28, 2025).**

- The Court held that the Idaho district provided comparable services (similar or equivalent) to the transfer IEP when it provided the required frequency and duration of services by a paraprofessional (not an RBT).
  - The Court was impressed that the district's staff had ABA training, applied those principles when working with G.P. and were overseen by qualified special education teachers.
  - Because the IEP did not specify the provider, it was within the district discretion to use a parapro as opposed to an RBT and BCBA.
  - There was no evidence that G.P was unable to access his education.

Case Law: IEP: Facts

***J.A. and M.A on behalf of G.A. v. Royal Oak Sch. Dist.*, 125 LRP 26919 (E.D.Mich. Sept. 4, 2025).**

- Plaintiffs allege that the district's IEP violated the IDEA and denied G.A. FAPE and equal access by failing to state that G.A. was allowed to participate in specific extracurricular activities.
- G.A., a 13-year-old with numerous diagnoses including Fetal Alcohol Spectrum Disorder, ADHD, and Reactive Attachment Disorder, struggled with emotional regulation particularly in the afternoons, including elopement from classrooms, physical aggression, and yelling curse words.
- Despite the IEP being silent on the issue, the district provided a 1:1 paraprofessional to support G.A. when he chose to attend a weightlifting club.
- G.A. was allowed to attend soccer club until he became too physically aggressive towards other students and was told he could no longer attend.
- G.A. was told he was not allowed to attend a school dance because the school did not have support available for him to attend.

Case Law: IEP: Ruling Rationale

***J.A. and M.A on behalf of G.A. v. Royal Oak Sch. Dist.*, 125 LRP 26919 (E.D.Mich. Sept. 4, 2025).**

- The Court found in favor of the district.
  - While the IEP should have included a statement about G.A.'s participation in extracurricular activities pursuant to the IDEA, failure to do so was merely a technical error that did not result in substantive harm.
  - G.A. was provided support to allow him to participate in weightlifting club.
  - Based on the limited evidence submitted by the parents, the Court deferred to the judgement of school officials that G.A.'s behavior became unsafe during soccer club, justifying removal.
  - While "simply announcing that no support was available" for the school dance is not equal access, the Court concluded that failing to provide access to one event (which G.A. was arguably unable to safely attend) clearly did not deny FAPE or show that the IEP, taken in its entirety, did not provide educational benefit.

Case Law: IEP: Facts

***West Hartford Board of Education*, 125 LRP 24407 (SEA CT Aug. 15, 2025).**

- Parent alleged that district failed to provide FAPE by failing to provide the student with transportation as a related service due to shortness of breath, for which she required an inhaler.
  - Student attended a choice magnet school outside of the district's school zone, so it was only responsible for providing transportation if required as a related service on the student's IEP.
  - At issue was whether the student could walk 0.6 miles to the bus stop.
  - The student regularly participates in gym class (45 minutes) and recess (20 mins).
  - She used her inhaler 15x during school year, but was never in distress and never had shortness of breath.

Case Law: IEP: Facts

***West Hartford Board of Education*, 125 LRP 24407 (SEA CT Aug. 15, 2025).**

- Initially student did not have special transportation.
- Upon parental request for parent's barriers getting student to bus stop, the IEP team met, but determined she did not need special transportation.
- After parent provided a doctor's note stating student needed special transportation because she couldn't walk longer than 5 minutes, the IEP team provided door-to-door transporation for the remainder of the school year.
- However, at the end of the school when parent did not provide additional medical documentation, the IEP team determined it was not required for the next school year.

Case Law: IEP: Ruling Rationale

***West Hartford Board of Education*, 125 LRP 24407 (SEA CT Aug. 15, 2025).**

- The hearing officer held that the district proved it had provided FAPE when it eliminated special transportation.
  - The student regularly attended school before she had door-to-door transportation.
  - She had only used her inhaler 15x after actively playing and hadn't use it at all for a two-month period.
  - She has no medical restrictions for recess or gym class activities.

Least Restrictive Environment (LRE)

Case Law: Placement: Facts

***C.B. v. Henry Cnty. Sch. Dist.*, 2026 U.S. App. LEXIS 4981 (11th Cir. 2026).**

- The parent's filed due process challenging the district's proposed placement for C.B., a s student with Down's Syndrome.
  - The district proposed that C.B.'s instruction in an interrelated resource (IRR) class for his language arts and math instruction be changed to a mild intellectual disability (MID) class.
    - The IRR class was a special education setting where students of varying disabilities received specialized instruction based on the general education curriculum.
    - The MID class was a special education setting where students with more significant impairments received specialized instruction that was more paced and modified to to support the student's cognitive and adaptive abilities.

Case Law: Placement: Ruling Rationale

***C.B. v. Henry Cnty. Sch. Dist.*, 2026 U.S. App. LEXIS 4981 (11th Cir. 2026).**

- The Court held that the parents failed to raise an LRE issue because the student's LRE was not changed with the proposed setting change.
  - Both placements were in a special education setting, so the issue was an issue of "methodology or program selection," not LRE.
  - The IDEA makes clear that LRE only applies to placement choices between regular education and special education…not placement choices among different types of special education classes in the same school.
  - The Court deferred to the district on decisions of methodology.

Behavior & FBAs/BIPs

Case Law: Behavior: Facts

Banta v. Haysahi, 125 LRP 5426 (9th Cir. 2025).

- The parent of I.B., a 16-year-old boy with autism and an intellectual disability, claimed his district denied him FAPE when it failed to offer a residential program when the district did not provide a substitute RBT for 10-weeks while his RBT was on maternity leave.
- While the RBT was on maternity leave, the district used other staff members to provide I.B. with behavioral supports in his IEP, and he continued to make academic progress.

Case Law: Behavior: Ruling Rationale

Banta v. Haysahi, 125 LRP 5426 (9th Cir. 2025).

- The Court held that the district's failure to strictly comply with the IEP was not material and did not deny I.B. FAPE.
- Additionally, even if there had been a material failure of I.B.'s IEP, a residential placement would not be the appropriate remedy.

Case Law: Behavior: Facts

Boone v. Rankin Cnty. Pub. Sch. Dist., 125 LRP 18544 (5th Cir. 2025).

- K.A. is a teenager with severe autism (functioning around a kg level) who, in middle school, was placed at a therapeutic school (CARES) for students with autism, partly because K.A. had elopement issues and the school was a locked and fenced facility.
- The reports on K.A.'s progress at CARES was mixed, at times reporting that he was unmanageable and disruptive (with tendencies to run from staff, smear fecal matter, and display physical aggression) and at other times reporting he was making progress.
- The IEP team proposed returning K.A. to his middle school of zone "due to his age and the lack of programing to meet his needs" at CARES.
  - The parent objected because the middle school was too large, and did not have an appropriate program, which would exacerbate his elopement. The parent requested the team consider placing him at the high school, as he would soon be transitioning to high school and it could better meet his needs.
  - The team told the parent that per the special education director, "K.A. is to return to his home school" and if she disagreed, she could file a complaint.
  - The district proposed immediately implementing his BIP from CARES until it could review/revise it, but there was nothing in the behavior plan to address elopement.

Case Law: Behavior: Ruling Rationale

Boone v. Rankin Cnty. Pub. Sch. Dist., 125 LRP 18544 (5th Cir. 2025).

- The Court held that the school district's plan was not sufficiently individualized to transition K.A. back to his zoned school as it failed to address his elopement issues.
- Additionally, the decision to return K.A. to his zoned school was predetermined by the district because the special education director made the decision without parental input.
  - The school district did not have an open mind as to K.A's placement.

Case Law: MDR: Facts

Boggs v. Bd. of Educ. of Fayette Cnty, Ky 125 LRP 19498 (E.D.Ky June 30, 2025).

- Boggs was born deaf-blind. In high school, he was involved in a severe car accident, which he alleges resulted in TBI (but did not provide documentation supporting diagnosis of TBI) resulting in adverse behavioral and learning challenges.

- Boggs challenges an MDR decision from conduct occurring approximately 2.5 years after the accident, asserting that the district did not consider Boggs' TBI.
  - Almost a year after the accident, Boggs told a school security officer "don't touch me or I'll sue you" after he didn't respond to the officer and the officer grabbed his shoulder. He was not disciplined, but the school began conducting searches of his bag and person each morning.
  - A year and a half later, Boggs gave the AP the middle finger, when the AP tried to question him, he ran out of the building, took his pants off, and entered his old middle school. The school gave him a letter reminding him of behavioral expectations.
  - That night between midnight and 9am, he left 5 voicemails for the AP, cursing out the AP and in one voicemail, states "if I had a twenty yesterday, things would be different" for the AP and mentioning that he had friends in Texas that would take care of the AP.
  - An MDR (which his parent did not attend) determined the conduct was not a manifestation of his disability and he was transferred to an alternative high school.

Case Law: MDR: Ruling Rationale

Boggs v. Bd. of Educ. of Fayette Cnty, Ky 125 LRP 19498 (E.D.Ky June 30, 2025).

- The Court upheld the district's MDR decision.
  - Boggs never presented a formal diagnosis of TBI.
  - He had no documented disciplinary incidents during the first 11 months after the car accident.
  - The conduct in question occurred almost 2.5 years after the car accident, with no interim behavioral issues other than the minor incident with the security officer.
  - These facts contradict claims that Boggs' voicemail threats were related to a disability caused by his car accident.

Procedural/Parental Participation

Case Law: Procedural: Facts

Augustyn v. Wall Township Bd. of Educ., 125 LRP 14486 (3rd Cir. May 9, 2025).

- After an ALJ dismissed Augustyn's IDEA claim that her school district violated the IDEA by failing to amend her grades (in light of later completed work) reasoning that a special education due process hearing was not the proper venue to resolve the dispute, Augustyn appealed the decision in federal court and prevailed (remanding her case back to the ALJ).

- She requested attorney's fees, but the Court reduced her fee award by approximately 90% because of the "extremely limited nature of the procedural relief" obtained.

- She now claims that the Court erred in reducing her attorney's fees.
  - She obtained $23,079.10 and now requests $198,901.50.

Case Law: Procedural: Ruling Rationale

Augustyn v. Wall Township Bd. of Educ., 125 LRP 14486 (3rd Cir. May 9, 2025).

- The 3rd Circuit Court of Appeals held in Augustyn's favor, explaining that irrespective of whether the right vindicated is substantive or procedural, a prevailing party is entitled to attorneys' fees.
  - Having "sought and having been afforded a due process hearing, Augustyn accomplished the objective of her litigation before the district court in its entirety," irrespective of whether she wins on the merits of her case.
- The case will be remanded to determine the appropriate fee award.

Case Law: Procedural: Facts

***Sandra S. and Diego M. on behalf of D.M.S. v. Upper Darby Sch. Dist.*, 126 LRP 5 (E.D.Penn. Dec. 31, 2025).**

- Parents of a student with a disability challenged a hearing officer's dismissal of their IDEA claim asserting that the school district failed to provide them over twenty specific records when they requested all of of their child's educational records.
  - Parents bring their claims under the IDEA and Section 504.
- The district filed a motion to dismiss the parent's case at the district court, arguing that the parents did not have a private right of action for a failure to produce educational records.

Case Law: Procedural: Ruling Rationale

***Sandra S. and Diego M. on behalf of D.M.S. v. Upper Darby Sch. Dist.*, 126 LRP 5 (E.D.Penn. Dec. 31, 2025).**

- The Court ruled in favor of the district on the Section 504 claim and in favor of the parents on the IDEA claim.
  - The Court held that there is no private cause of action for Section 504's regulatory requirement to provide parents with access to their child's educational records.
  - However, the Court held that the IDEA allows a parent to claim mere procedural violation under the IDEA, such as failing to provide the child's educational records related to "the identification evaluation, placement or FAPE of a child."
  - While the parents must prove that the district violated this procedural provision AND that such violation (1) impeded the child's right to FAPE, (2) significantly impeded the parents' opportunity to participate in the decision making process regarding the child's FAPE, OR (3) caused a deprivation of educational benefits, the parent had a right to their claims under the IDEA.
  - The Court remanded the IDEA claims to the hearing officer.

Discrimination

Procedures for Filing Section 504 & ADA Claims

- Generally, parties must exhaust their administrative remedies under the IDEA before seeking relief in court, even if the claim is being brought under Section 504 or the ADA. 34 CFR 300.516(e).
- There are exceptions for some situations when administrative decision-makers do not have the authority to award the requested relief, the claims would be futile, or the claims involve systemic violations.
- Additionally, two U.S. Supreme Court cases within the last decade have made it much easier to file Section 504 and ADA claims directly in federal court without exhausting administrative remedies.

Landmark Exhaustion Cases

- In ***Fry v. Napoleon Community Schools***, 69 IDELR 116 (U.S. 2017), the U.S.S.C. held that the IDEA's exhaustion requirement only applies when the substance ("gravamen") of the complaint is a denial of FAPE.

- Even when the claim can be categorized as a denial of FAPE, if a student seeks money damages, a remedy not available under the IDEA, the exhaustion requirement does not apply, according to ***Perez v. Sturgis Public Schools***, 123 LRP 10045 (U.S. 03/21/23).
  - "Under our view, for example, a plaintiff who files an ADA action seeking both damages and the sort of equitable relief IDEA provides may find his request for equitable relief barred or deferred if he has yet to exhaust § 1415(f) and (g)."

FAPE or Discrimination Claim?

- ***C.H. v. Henry County Sch. Dist., 125 LRP 9171 N.D.Ga. Mar. 31, 2025).***
  - The parents of a 7-year-old child with autism and speech language impairment can proceed with their Section 504 and ADA discrimination claims against his school district.
  - C.H.'s parents claim the district failed to provide him with an accessible toilet and told the parents that "is just how schools are built," which caused him to soil his clothes frequently at school and be socially isolated. Additionally, they claimed the district placed him in violent segregated classrooms with limited educational services.
  - The Court held that, while the gravamen of C.H.'s claims involve both FAPE and discrimination, exhaustion does not apply to his claims for money damages pursuant to *Perez.*

FAPE or Discrimination Claim?

- ***G.B. v. Wood County Bd. of Educ., 125 LRP 8956 (S.D.W.V. Mar. 24, 2025).***
  - The parents of a 6-year-old non-verbal child with autism can proceed with their Section 504 and ADA discrimination claims against her school district.
  - G.B.'s parents claim the district discriminated against her when they subjected her to a 40 min. restraint that did not follow CPI training, resulting in the district terminating the special education teacher and reporting her to child protective services.
  - The Court held that the gravamen of G.B.'s claims involved discrimination not FAPE because they do not seek to alter her educational services but only seek compensatory damages. Therefore, she does not have to exhaust her claims at the administrative level.

FAPE or Discrimination Claim?

- ***Derek S. and Ashley T.S. on behalf of J.S. v. The Ballston Spa Central Sc. Dist.*, 125 LRP 32922 (2d Cir. 2025).**
  - The parents of a child with autism must exhaust their Section 504 and ADA discrimination claims against her school district to the extent they seek an injunction for ABA services.
  - The Court held that the gravamen of G.B.'s claims for a "structured ABA program" with a "1:1 aide" to "help J.S. make progress" while he is in school involved FAPE because a visitor at a school, library, or theater could not expect ABA services from those entities.
  - While their claim for compensatory services can proceed in federal court, the court affirmed dismissal of their injunctive claims.

NEW Landmark Discrimination Case!

***A.J.T. v. Osseo Area Sch.*, 145 S.Ct. 1647 (U.S. 2025).**

- In addition to IDEA FAPE claims, plaintiffs also sued for disability discrimination under Section 504 and the ADA 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 level court had granted the school district's motion for summary judgment concluding that the district did not act with bad faith or gross misjudgment.

NEW Landmark Discrimination Case!

***A.J.T. v. Osseo Area Sch.*, 145 S.Ct. 1647 (U.S. 2025).**

- Similarly, the 8th Circuit held that the district's actions did not amount to wrongful intent (bad faith or gross misjudgment) because the district did not ignore the parent's requests for extended school day. 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.
- So, while the district failed to provide FAPE under the IDEA, the 8th Circuit held that it did not discriminate.

NEW Landmark Discrimination Case!

***A.J.T. v. Osseo Area Sch.*, 145 S.Ct. 1647 (U.S. 2025).**

- On further appeal, the USSC held that the "bad faith or gross misjudgment" standard is irreconcilable with the unambiguous direction of 20 U.S.C. 1415(l) of the IDEA, which states that nothing in the IDEA "shall be construed to restrict or limit the rights, procedure, and remedies available" under the ADA, Section 504, and other federal laws protecting disabled child's rights.
- The USSC held "school children bringing ADA and [Section 504] claims related to their education are not required to make a heightened showing of "bad faith or gross misjudgment" but instead are subject to the same standards that apply in other disability discrimination contexts.

NEW Landmark Discrimination Case!

***A.J.T. v. Osseo Area Sch.*, 145 S.Ct. 1647 (U.S. 2025).**

- NEW Standard:
  - To obtain compensatory damages, courts typically require a showing of intentional discrimination, which is typically satisfied by a showing of "deliberate indifference"—a standard requiring only a showing that the defendant disregarded a strong likelihood that the challenged action would violate federally protected rights.
    - That standard does not require a showing of personal ill will or animosity towards the disabled person.
  - To obtain injunctive relief, no proof of intent is likely required.

Discrimination Standard

- To establish discrimination under Section 504 or the ADA, a plaintiff must prove the following:
  - (1) He is disabled under the statute;
  - (2) He is 'otherwise qualified' for participation in the program; and
  - (3) He is being excluded from participation in, denied the benefits of, or subjected to discrimination under the program by reason of his disability.

Doe v. Sumner Cty. Bd. of Educ., No. 3:19-CV-01172, 2020 WL 5797980, at *2 (M.D. Tenn. Sept. 29, 2020), *citing S.S. v. E. Ky. Univ.*, 532 F.3d 445, 452–53 (6th Cir. 2008); Title II of the ADA, 42 U.S.C. § 12132; § 504, 29 U.S.C. § 794(a).

Discrimination Standard

- Element #3- Exclusion from participation in, denied the benefits of, or subjected to discrimination under the program by reason of his disability can be proven under different theories.
  - Failure to provide Section 504-FAPE.
    - Not sure if this exists separate from intentional discrimination after USSC decision in *A.J.T. v. Osseo Area Sch.*
  - Failure to provide a reasonable accommodation under Title II of the ADA.
  - Or some other act of intentional discrimination.

See Marble v. Tennessee, 767 Fed.Appx. 647, 651 (6th Cir. 2019); *C.G. v. Pennsylvania Dep't of Educ.*, 734 F.3d 229, 235 (3d Cir. 2013).

Failure to Provide Reasonable Accommodation

- The requirements for proving a Title II ADA failure to reasonably accommodate is still a somewhat gray area of law, which frequently looks to employment case law (Title I of the ADA).
  - The Sixth Circuit considers the extent to which the relationship between the covered entity and the plaintiff was analogous to an employer/employee relationship in *Marble v. Tennessee*, 767 Fed.Appx. 647 (6th Cir. 2019).
  - Claims under the ADA's reasonable accommodation provision do not require "intent," but instead seem to require a request for an accommodation and a response to such request. *Marble v. Tennessee*, 767 Fed.Appx. 647 (6th Cir. 2019); *S.B. v. Lee*, 566 F. Supp. 3d 835, 865 (E.D. Tenn. 2021).

Intentional Discrimination

- Most Section 504/ADA claims in the K-12 context focus on a district's intentional discrimination by failure to provide Section 504 FAPE or some other act where the defendant treated someone less favorably on account of his disability. *See Knox County v. M.Q.*, 62 F.4th 978 (6th Cir. 2023).
- For a Section 504 procedural violation to constitute disability discrimination, it must be significant enough to *effectively* deny a disabled child the benefit of a public education" *CTL ex rel. Trebatoski v. Ashland Sch. Dist.*, 743 F.3d 524, 529-30 (7th Cir. 2014).

Intentional Discrimination Under Section 504

- The Sixth Circuit has held that Section 504 regulations (such as Section 504's LRE standard) does not provide a distinct form of discrimination. *Knox County v. M.Q.*, 62 F.4th 978 (6th Cir. 2023).
  - Plaintiffs must still prove the elements of discrimination, not just show that the district failed to meet certain procedural obligations under Section 504.
  - Meaning, the plaintiff must prove how the alleged act (or failure to act) excluded him from participation in, denied him the benefits of, or subjected him to discrimination by reason of his disability.

Intentional Discrimination Case

- ***Chavez-Bravo v. Brighton Sch. Dist 27J, 125 LRP 7913 (D.Col. Mar. 14, 2025).***
  - An 18-year-old with learning disabilities and autism spectrum disorder claims that the district violated Section 504 and the ADA because her high school varsity basketball coach did not break down the plays in a way consistent with her IEP, played her very little in games because she could not remember the plays, and told her that he only make accommodations for "retarded kids."
  - The Court disregarded the school district's argument that she had failed to adequately pled deliberate indifference by district officials, denying its motion to dismiss those claims.

Intentional Discrimination Case

- ***Romo v. Spring Branch Indep. Sch. Dist.*, 125 LRP 33289 (S.D.Tex. Dec. 15, 2025).**
  - The school district filed a motion to dismiss Plaintiffs' Section 504 & ADA "failure to accommodate" claims for failure to state a claim.
  - In an unfortunate incident, S.R., a high schooler with significant autism, died after suffocating on a rubber glove at school.
  - Plaintiffs allege that the school district should have known that S.R., who had a history of ingesting non-edible items such as a paperclip, required additional accommodations (presumably additional supervision or removal of items he could ingest).
  - The school district argues the claim should be dismissed because Plaintiffs do not identify any specific accommodations they requested but were denied.
  - However, the Court denied the motion to dismiss because Plaintiffs had pled that the need for specific accommodations were open and obvious.

Case Law: Discrimination: Facts

***Bryant v. Calvary Christian Sch. Of Columbus Georgia,* 126 LRP 3796 (11th Cir. Feb. 12, 2026).**

- A middle-school student with autism and ADHD was removed from in-person instruction to virtual instruction at a private school (unilateral placement) due to his behavioral difficulties.
  - Slammed down a laptop, threw a pencil, and threw a calculator into a wall (breaking it) on separate occasions.
- The private school made his return to in-person instruction contingent on his receiving private ABA therapy and/or medication management.
- The parent requested an accommodation to allow C.B. to return to in-person instruction with an ABA assistant to support C.B. and train the private school staff on techniques to implement his therapy plan.
- The private school refused to allow the C.B. back in school with an ABA therapist and withdrew him from the school.
- The parent claimed the school discriminated against his under Section 504 by failing to reasonably accommodate his disability.

Case Law: Discrimination: Ruling Rationale

***Bryant v. Calvary Christian Sch. Of Columbus Georgia,* 126 LRP 3796 (11th Cir. Feb. 12, 2026).**

- To prove discrimination, a student must be "otherwise qualified" to participate in the school environment, according to the school's standards, without or without a reasonable accommodation.
- Here, the Court held that C.B.'s requested accommodation to allow an ABA therapist to attend school with him would "require substantial modification" to the private school's programming because 1:1 support was not generally available at the private school and an ABA "shadow" would restructure the classroom environment.
- As such, it was not a reasonable accommodation, and C.B. could not show that he was "otherwise qualified" to attend the school because his conduct violated the school's discipline policy and the parent refused to seek medication or private ABA as proposed by the school.
- NOTE: Remember…this is a private school.

Other Legal Issues

Case Law: Comp Ed: Facts

William A. v. Clarksville-Montgomery Cnty. Sch. Sys., 125 LRP 12983 (M.D.Tenn. April 21, 2025).

- William's parents claim that CMCSS failed to provide the mandated tutoring (compensatory education) required by the Court's prior order and seeks to amend the order to provide William with a compensatory education fund or alternatively, allow parent's preferred provide to provide the tutoring.
  - CMCSS was ordered to provide 888 hours of dyslexia tutoring from a reading interventionist trained to provide tutoring through the Wilson Reading and Language System.
    - The Court denied Plaintiffs request for their preferred provider at CMCSS expense.
  - The sessions were supposed to be 5x per week, at 1 hour per session, "insofar as it is reasonably possible."
  - The sessions began 1 year and 2 months after the ALJ's order (2 months after the federal court affirmed).
    - CMCSS argues that they would have began sooner if the parent had not caused delay by insisting that the tutor be "certified" in Wilson.
    - William regressed during year he did not have tutoring, but has made progress in the Wilson program since beginning the tutoring with CMCSS staff.
  - CMCSS currently provides tutoring 3 days per week (roughly 3.5 hours per week) to accommodate William's work schedule and has completed 133.25 of the required hours.
    - The CMCSS tutor has cancelled due to illness, inclement weather, and family illness.
    - There has been complications with scheduling because William will not agree to meet at his home, and instead tutoring occurs at a public library which has closures and is near heavy traffic areas.

Case Law: Comp Ed: Ruling Rationale

William A. v. Clarksville-Montgomery Cnty. Sch. Sys., 125 LRP 12983 (M.D.Tenn. April 21, 2025).

- The Court refused to amend the Order to allow for a compensatory education fund or to allow the parent's preferred provider, or to require a "certified" Wilson instructor.

- However, the Court did amend the Order as follows:
  - CMCSS must provide five 1-hour sessions per week, on a set schedule, (not dependent on William's work schedule), strive to ahear to the schedule, and make-up any missed sessions.
  - Within 14 days of the Order, the parties will file notice of the set schedule.
  - Within 60 days, the parties will file notice to the Court of every cancelled session, who cancelled it, the reason for the cancellation, and whether the session was made up.
  - Within 60 days, the parties will propose an agreed upon expert to evaluate Willaims' progress, with the fees for the evaluation being evenly split before the parties.

Negligence Case

***Dodson-Stephens v. Metro Government of Nashville and Davidson County*, 125 LRP 32924 (Tenn.Ct.App. Dec. 9, 2025).**

- The school district appealed a trial court's ruling that it was negligent and breached its duty of care to a teenager with an emotional disturbance when it failed to supervise her, resulting in the teen jumping from a second-story window and sustaining permanent, paralyzing injuries.

Cont.

Negligence Case

***Dodson-Stephens v. Metro Government of Nashville and Davidson County,* 125 LRP 32924 (Tenn.Ct.App. Dec. 9, 2025).**

- The Court of Appeals affirmed the trial court's decision holding that the district violated its increased duty of care and duty to supervise the student (duty higher than a typical high schooler) based on the following facts:
  - The school knew she was a special education student at a level 3 group home.
  - She was placed in a special school for students with behavioral and mental health issues.
  - The window in the second story classroom was unlocked, easily accessible to students, and big enough to step out of.
  - The teacher was gone from the class approximately 10 minutes (with other students walking out of the class during that time too).
  - It was not unusual for students at that school to try to run away from school or break rules when unsupervised.
  - For the first 5 weeks of student transferring, the district not have special education services in place or request an IEP meeting.
  - School staff did not read the psychological evaluation indicating she had an emotional disturbance that was provided to them, and they did not request her previous educational records.
- The Court held that the harm would have been reasonably foreseeable if someone had simply read the psych evaluation, requested her transfer records, and held an IEP meeting to discuss her needs & develop an IEP.

Advocate Conduct Case

- ***Powhatan Cnty. Sch. Bd. v. Skinger and Lucas, 125 LRP 22455 (E.D.Vir. July 31, 2025).***
  - Parent advocate is repeatedly sanctioned by the federal court, requiring her to pay thousands of dollars.
    - Lucas has repeatedly represented publicly and to the Court that she is an "IDEA special advocate accredited in Virginia"; however, Virginia neither issues certificates nor otherwise regulates the conduct of special advocates
  - She represented a parent (allowed in Virgina for IDEA hearings) in 9 due process hearings again PCSB (school district) on essentially the same claims. The district seeks attorneys' fees and an injunction prohibiting parent and advocate from continuing to file due process complaints on the same issue.
  - Previously (in another matter), the Court had sanctioned her $1,000 for lying to the Court and entered a permanent injunction against Lucas, prohibiting her from "participating in any way, directly or indirectly, in any case filed in this Court under the IDEA" which includes acting as a special advocate for parents appearing before the Court.
  - Again, she was sanctioned $3,000 for making material representations to the Court about the effect that its temporary stay in the case had on due process hearings around the Commonwealth of Virginia.

Advocate Conduct Case

- ***Powhatan Cnty. Sch. Bd. v. Skinger and Lucas, 125 LRP 22455 (E.D.Vir. July 31, 2025).***
  - Now, the Court addresses whether it should again sanction Lucas.
    - The Court held that Lucas engaged in the unauthorized practice of law when she emailed a magistrate judge a legal brief seeking relief on "behalf" of her client.
    - As she had already been permanently enjoined from participating as a special advocate in federal court (which is not allowed by statute, as it is for due process hearings), the Court found her conduct to also be in violation of that permanent injunction.
  - In total, she was sanctioned an additional $6,000-$3,000 for each violation.

Thank you!

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