

# PUBLICATION

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## Supreme Court Rules in Favor of Expanding the Rights of K-12 Special Education Students

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**The United States Supreme Court has ruled students with disabilities in grades K-12 are entitled to meaningful academic progress. On March 22, 2017, the Court decided the case of *Endrew F. v. Douglas County School District*, holding that to meet its substantive obligations under the Individuals with Disabilities Education Act (IDEA), a school must offer an Individual Education Plan (IEP), reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.**

The student in this case (Drew) has autism. From pre-school through the fourth grade, Drew was a student in the Douglas County School District. For the fifth grade, he was enrolled in private school after his parents disagreed with the County over the proposed IEP for the fifth grade, arguing that it was too similar to the goals from earlier years. They filed a lawsuit in federal court, stating that Drew has been denied a Free Appropriate Public Education (FAPE). The parents sought tuition reimbursement for Drew's private school, where they say he made considerable behavioral, academic and social progress. The lower court ruled that the IEP was "substantially adequate" after clarifying that the educational benefit was "merely more than de minimis."

Drew's parents and the Supreme Court disagreed. In an 8-0 decision, the Court found that, per the IDEA, children with disabilities are entitled to a higher standard of education. The IDEA provides federal funds to states to help educate children with disabilities. The Act provides funding upon compliance with certain statutory requirements, the most important of which is that the states provide each eligible child with a FAPE by using a tailored IEP.

The Supreme Court first addressed the FAPE requirements in 1982 in *Board of Education of Hendrick Hudson Central School District, West Chester City v. Rowley*. The *Rowley* court held that the IDEA requirements were satisfied if the IEP used is "reasonably calculated to enable the child to receive educational benefits." For a child who is fully integrated in a "normal" classroom situation, this would typically require an IEP to enable the child to obtain passing grades and advance from grade to grade. The IEP that was challenged in the *Rowley* case met that standard, said the *Rowley* court.

In the *Endrew* case, the lower courts ruled in favor of the defendant school district, stating that the intent of IDEA is to ensure that children with disabilities have access to public education, but that it does not guarantee any particular level of education once in the program.

The central question was, must a school provide meaningful education in which the disabled child will show significant progress, and where they are given substantially equal opportunities as typical children, or can they provide education that results in "just some improvement?" Chief Justice John Roberts stated that the "educational program must be appropriately ambitious in light of a child's circumstances, and that every child should have the chance to meet challenging objectives." He continued by stating that "a student offered an educational program providing single 'merely more than de minimis' progress from year to year can hardly be said to have been offered an education at all," and "for children with disabilities receiving instruction that aims so low would be tantamount to 'sitting idly ... awaiting the time when they were old enough to 'drop out.'"

With this Supreme Court precedent in hand, plaintiffs' attorneys and advocates will now be looking to ensure public and private schools providing K-12 education are providing more than a de minimis education to students with disabilities. Rather, the emphasis will need to be on the word "individual" in the Individual Education Plan. Please contact Baker Donelson's [education attorneys](#) if you have any questions regarding compliance.

For more information on this or other rulings concerning higher education, please contact a member of Baker Donelson's [Higher Education Group](#).