Expanded Legal Risk for Schools Beyond the IDEA: High Court Lowers Standard of Proof in ADA and Section 504 Claims Related to Educational Services

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Public school districts face many challenges these days, including decreased federal and state funding, teacher shortages, and issues of all kinds related to providing students with a high-quality education while working within a budget that is acceptable to all stakeholders and approved by the Department of Education. Addressing the needs of its students with disabilities is chief among these challenges, as it comes with the specter of litigation when parents are not satisfied with what is proposed and/or provided by the district.

Until somewhat recently, most litigation arising out of parent dissatisfaction with educational services was brought under the Individuals with Disabilities Education Act (IDEA), which requires public school districts to provide students with disabilities with a Free and Appropriate Public Education (FAPE) by way of an Individualized Education Plan (IEP) that meets all of the child's educational needs. The IDEA establishes a procedure for resolving disputes about whether the child's IEP will provide or has provided a FAPE, beginning with administrative review (by way of a Hearing Officer or an Administrative Law Judge) followed by judicial review in federal or state court. In the event of a dispute, the IDEA provides for injunctive and declaratory relief, including compensatory education, but not monetary damages.

On a parallel track, the anti-discrimination statutes, Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA), which include the remedies of injunctive relief and monetary damages, have always applied to students with disabilities. A claim might be made under Section 504 and/or the ADA that a school district had prevented a student with a disability from participating in a program or activity provided to nondisabled students solely because of their disability or had failed to provide an accommodation that would have allowed the student to participate.

However, until recently, two legal standards impeded the efficacy of relying upon anti-discrimination claims for students with disabilities who have IEPs. The first impediment, which was based upon a finding that the IDEA provided the exclusive avenue by which a student or parent could challenge the adequacy of educational services, required parents to exhaust their administrative remedies under the IDEA before seeking any relief under Section 504 or the ADA. However, in *Perez v. Sturgis* School District, the Supreme Court recently removed that impediment by holding that if a student or parent seeks monetary damages (which cannot be provided under the IDEA) by way of an anti-discrimination claim, then they are not required to exhaust their administrative remedies under the IDEA prior to filing suit under the ADA or Section 504. The *Perez* decision, which clarified some confusing case law surrounding the interplay of the IDEA and the anti-discrimination statutes, essentially cleared the way for families seeking to hold school districts educationally and financially accountable

for educational decisions with which they disagree, thereby potentially increasing the financial strain that many school districts already face.

The second impediment was removed by the Supreme Court in *A.J.T. v. Osseo Area Schools*, 605 U.S. _____ (slip opinion June 12, 2025), which struck down the generally applied rule that, in order to succeed on ADA and Section 504 claims of discrimination related to educational services, students or parents were required to meet a heightened "bad faith or gross misjudgment" standard.

Facts and Procedural History as Set Forth by the Court

As described by the Court, the student at issue in the case suffered from a seizure disorder that caused multiple seizures throughout the day. *Id.,* page 3. The seizures were so prevalent during the morning that it was determined that A.J.T. could not attend school before noon, but that she was alert and able to learn between noon and 6 p.m. *Id.* As such, for the first few years of school, A.J.T.'s IEP provided for evening instruction at home. *Id.* at 3-4. However, when her family moved to the Osseo Public School District in Minnesota, that district declined to include evening home instruction in her IEP, which meant that she received only 4.5 hours of instruction per day compared with the 6.5 hours received by other students. *Id.* at 4. As A.J.T. approached middle school, the district proposed a further reduction in her hours of instruction. *Id.*

A.J.T.'s parents filed for due process, alleging that the district's refusal to provide evening home instruction denied A.J.T. a FAPE. The administrative law judge agreed and ordered the district "to provide several hundred hours of compensatory education" and to add additional services to the IEP, including at-home instruction from 4:30 to 6:00 p.m. each school day. *Id.* The district appealed, and the federal district court affirmed the A.L.J.'s decision, finding that the district's "shifting reasons" for denying the evening home instruction were based on "concerns of administrative convenience – namely, maintaining the regular hours of faculty" rather than on A.J.T.'s needs. *Id.* at 5. Upon further appeal by the district, the Eighth Circuit affirmed the lower court's decision, which agreed that the district's "choice to prioritize its administrative concern" had a negative impact on A.J.T.'s learning and that "she would have made more progress with evening instruction." *Id.*

A.J.T.'s parents did not stop there, however. They then sued the district in federal court, alleging violations of the ADA and Section 504, requesting a "permanent injunction, reimbursement for certain costs, and compensatory damages." *Id.* While the federal district court acknowledged that A.J.T. "was denied the same length school day as her nondisabled peers," it nonetheless granted the district's motion for summary judgment because A.J.T. "failed to state a *prima facie* case under Section 504 or the ADA because she did not show that school officials acted with bad faith or gross misjudgment." *Id.*

On further appeal, the Eighth Circuit affirmed that decision based upon the precedent that, when alleged violations under Section 504 or the ADA are "based upon educational services for disabled children . . . a district's simple failure to provide a reasonable accommodation is not enough to trigger liability. . . Rather, a plaintiff must prove that school officials acted with either bad faith or gross misjudgment." *Id.* In other words, case law had established that in the educational context, "mere noncompliance" was not enough to carry the day.

Although the Eighth Circuit felt constrained to follow this precedent, it questioned why there was a higher bar in educational services cases than in other disability discrimination cases, where plaintiffs did not have to prove intent in failure to accommodate cases and had only to show "deliberate indifference" when seeking monetary damages. *Id*. at 6. While feeling bound to follow the precedent, the Eighth Circuit characterized this imposition of a higher bar as judicial speculation that Congress intended the IDEA to limit the protections available under Section 504 and noted that "although questioned along the way," it had "spread like wildfire" among the circuits. *Id.* The Supreme Court agreed to hear the case and unanimously vacated the Eighth Circuit's decision and remanded the case for further proceedings.

The Supreme Court's Reasoning

The Court began by noting that outside the context of education cases, there are two standards in ADA and Section 504 cases – one to obtain injunctive relief and the other to obtain compensatory damages. It explained that the former can be obtained "without proving the intent to discriminate," but the latter requires a showing of "intentional discrimination," which in most circuits amounts to a showing of "deliberate indifference." When comparing these standards to that applied to A.J.T., the Court then noted that neither of these standards required "a showing of personal ill will or animosity toward the disabled person." *Id.* at 7. In fact, a showing of "deliberate indifference" generally required only proof that the defendant "disregarded a strong likelihood" that the challenged action violated a federally protected right. *Id.* at 8.

Having identified this disparity between educationally-based and general discrimination cases, the Court held that nothing in the statutes suggests that educational services claims brought under the ADA or Section 504 "should be subject to a distinct, more demanding analysis." *Id*. In holding that educationally based claims should be held to same standard that applies to other disability discrimination cases, the Court disavowed the rationale behind the previously applied heightened standard – i.e., an attempt to find " a proper balance between the rights of [disabled] children and the responsibilities of state education officials" and the attempt to "harmonize the IDEA's specific guarantee of a free and appropriate public education, on the one hand, with more broadly applicable anti-discrimination laws, on the other." *Id*. at 9. In reaching this decision, the Court rejected the idea that the IDEA "implicitly limit[s] the ability of children with disabilities to vindicate their independent" rights under the ADA and Section 504. *Id.* at 11.

In closing, the Court noted that as children with disabilities and their families "face daunting challenges on a daily basis," the "need to satisfy a more stringent standard of proof than other plaintiffs" should not be added to those challenges.

Implications for School Districts

This decision likely will encourage dissatisfied parents to seek injunctive relief under the IDEA and to sue for monetary damages on the basis that the district failed to provide a FAPE and disregarded a strong likelihood that its actions violated the ADA or Section 504. Assuming this case doesn't settle and actually gets remanded for further proceedings consistent with this opinion, we don't know what the outcome will be when a lower standard is applied to the facts at issue. However, considering the Eighth Circuit court's very negative view of the district's failure to provide evening home instruction in the related IDEA case, it does not seem promising.

In essence, the decision increases the risk faced by school districts as they navigate the complex and often highly charged process of providing appropriate services and accommodations to their special education population. When a court disagrees with what a district believed would provide a FAPE, it is now likely that, in addition to being ordered to provide specific services, the district may also be hit with monetary damages. This decision should prompt a review of insurance coverage for special education matters, which currently may be focused only on the fee-shifting provision under the IDEA and not on the possibility of monetary damages under the ADA or Section 504.