

# **U.S. SUPREME COURT RULES THAT IDEA'S EXHAUSTION REQUIREMENT DOES NOT PRECLUDE PLAINTIFF'S ADA CLAIM BECAUSE THE RELIEF SOUGHT IS NOT AVAILABLE UNDER IDEA**

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*Perez v. Sturgis Pub. Sch., No. 21-887 (U.S. Mar. 21, 2023)*

The Supreme Court issued a unanimous decision on March 21, 2023, holding that a plaintiff may seek a remedy, such as money damages, under the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 or other federal

laws without first exhausting the administrative procedures provided through IDEA and State law. This holds true even when the underlying dispute deals with the student's individual special education program. The only claims which require exhaustion under the IDEA are those claims where the relief requested, i.e., the remedy, can be provided through the administrative procedures of the IDEA itself.

This decision may have a significant impact on the way that disputes from special education students are brought against school districts. It opens the door for parents to directly file federal lawsuits seeking monetary relief when there is a dispute over special education services without first having to file for and exhaust the administrative hearing procedures required by the IDEA. It could also increase "dual forum" cases wherein the District is litigating an administrative due process claim while at the same time defending a federal lawsuit.

#### FACTS/BACKGROUND

This was a case that brought by a deaf student (Perez) in Michigan alleging deficiencies within the District's special education program after learning that the student would not be

receiving a graduation diploma. The IDEA claims were settled by the parties by allowing the student to continue his education in a specialized school. The parents of the student then brought a federal lawsuit under ADA seeking compensatory damages from Sturgis Public Schools (SPS).

SPS filed a motion to dismiss the original complaint in federal court under IDEA, 20 U. S. C. §1415(l), arguing that Perez was barred from bringing forth the ADA claim as he had not yet exhausted all of IDEA's administrative dispute resolution procedures. The district court ruled in favor of SPS and dismissed the complaint and that decision was affirmed on appeal by the Sixth Circuit Court of Appeals. The rulings were, in large part, based upon the interpretation of a specific section of the IDEA which required exhaustion of the administrative procedures before filing a civil action "seeking relief that is also available under [IDEA]", 20 U.S.C. §1415(l) and the Supreme Court's decision in *Fry v. Napoleon Community Schools*, 580 U.S. 154 (2017).

#### SUPREME COURT RULING

In interpreting the plain language of IDEA, the Court found that

the term “relief” found in the first clause of the IDEA is synonymous with the word “remedy”, which is used in the second clause of the IDEA. The Court agreed with Perez in determining that exhaustion is not required when the remedy of monetary damages are sought. The Court even opined that 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)” while permitting his claim for damages to proceed. This is a departure from previous caselaw that held that when the gravamen of a lawsuit dealt with the denial of FAPE for the IDEA provides relief, exhaustion was required even if the Plaintiff brought the claim under separate laws and sought different remedies.

This decision will have a clear impact on future special education cases. Parents can now avoid the requirement of exhaustion of IDEA remedies if they file a federal lawsuit under ADA or Section 504 requesting monetary damages. This is true even if the alleged harm stated stems from a denial of FAPE from a district. While the Supreme Court intimated that a request for equitable relief may be barred or deferred if there has yet to

an exhaustion of the IDEA administrative process, that does not necessarily assist school districts. Instead, it means that a parent could both file a federal lawsuit for monetary damages, while at the same time pursue a due process hearing, creating the potential for parallel lawsuits with potentially different outcomes.

The standard for monetary damages under ADA or Section 504 will be limited, however, as there must be a finding of deliberate indifference or intentional discrimination, which is a high bar to overcome. Any request for compensation in the form of compensatory or educational expenses is available under IDEA and therefore the exhaustion rule should still apply in these instances.

If you have questions about exhaustion or other IDEA matters, please contact one of our attorneys at 708/799-6766 (Flossmoor), 630/928-1200 (Oak Brook), or 630/796-2086 (Downers Grove).