



Supreme Court Special Ed Decision Leaves Questions Unanswered

By [Cora A. Alsante, Esq.](#)

A recent decision by the United States Supreme Court regarding Individualized Education Plans (IEPs) has been widely praised. The Individuals with Disabilities Education Act (IDEA) guarantees “free appropriate public education” to students with disabilities. The definition of “appropriate,” however, was at issue. The Supreme Court unanimously ruled that in order to meet the statutory standard, school programs must aim for more than “some” academic improvement by students with special needs. While this is a step in the right direction, the Supreme Court failed to establish a clear standard, leaving it to future court battles to completely resolve the issue.

The case, [*Andrew F. v. Douglas County School District RE-1*](#), involved a student with autism who failed to achieve measurable progress under the IEP developed by his public school. His parents, contending that the IEP was not designed to achieve “meaningful educational benefit,” moved their son to a private school for students with autism where he improved considerably. The family then sued the public school district for reimbursement of the private school tuition. The Supreme Court sided with the family, overturning lower court rulings in favor of the school district.

The unanimous opinion, authored by Chief Justice Roberts, summed up the Court’s findings by declaring that a student’s “educational program must be appropriately ambitious in light of his circumstances” and that “every child should have the chance to meet challenging objectives.”

It is noteworthy that the Court rejected the plaintiff’s more far-reaching demand that students with special needs be provided with opportunities “to achieve academic success, attain self-sufficiency, and contribute to society that are substantially equal to the opportunities afforded children without disabilities.”

Questions Remain

Under the Court’s ruling, the case now goes back to the 10th Circuit Court of Appeals to decide how it should be handled under the newly articulated standard. No longer will a school district be able to point to one or two items in a list where a student is showing progress, but will have to make an assessment of the student’s overall progress under the circumstances. The Court indicated that school districts, along with parents, must determine what constitutes an acceptable IEP. They did not, however, address whether or

not the school district in this case met the new standard. As the school's attorney said, "We look forward to proving to the lower courts that the IEP meets the new, higher standard." This sentiment has been echoed by other school representatives, who contend that most districts are already surpassing the newly defined standard.

According to the National Center for Education Statistics, there are about 6.6 million students, or 13 percent of all public school students, who qualify for special education services. The higher IEP standard would have significant cost implications for school districts needing to provide additional services beyond those already offered to their special education students. Under the IDEA, the federal government is supposed to cover 40 percent of such costs, but it currently pays less than half that. As school districts juggle their budgets to meet the new standard established by the Supreme Court, it is likely that IEP debates and courtroom battles on this issue are far from over.

About this Article: *We hope you find this article informative, but it is not legal advice. You should consult your own attorney, who can review your specific situation and account for variations in state law and local practices. Laws and regulations are constantly changing, so the longer it has been since an article was written, the greater the likelihood that the article might be out of date. SNA members focus on this complex, evolving area of law. To locate a member in your state, visit [Find an Attorney](#).*

Requirements for Reproducing this Article: *The above article may be reprinted only if it appears unmodified, including both the author description above the title and the "About this Article" paragraph immediately following the article, accompanied by the following statement: "Reprinted with permission of the Special Needs Alliance – www.specialneedsalliance.org." The article may not be reproduced online. Instead, references to it should link to it on the SNA website.*