

Index

A

A.M. v. NYC DOE, 36

Avila v. Spokane Sch. Dist., 50

ABA

failure to include in IEP, 71

Abuse of child

Section 504

violation, 73

Anova

CA private school, 62

Assistive technology

IEP must specify, 49

Attorney

misconduct, 47

Attorneys – SCOTUS

Almazan-Altobelli, Selene, 41

Bagenstos, Samuel R., 41

Fisher, Jeffrey L., 47

Heller, Caroline J., 47

Hermon, James F., 41

Katyal, Neal Kumar, 41, 47

Robinson, Jack D., 47

Attorneys by Circuit

1st

Herlan, Eric R., 38

O'Meara, Richard L., 38

2nd

Bloom, Aaron M., 36

Choudhury, Neelanjan, 78

Drohan, James P., 55

Feinstein, Andrew A., 36, 37

Goldstein, Steven, 76

Grunberg, Emma, 37

Heller, Caroline J., 38

Hinerfeld, Benjamin J., 78

Hoffman, Peter D., 58

Kopko, Edward E., 55

Loewenson, Carl H., Jr., 38

Matza-Brown, Daniel, 76

Mayerson, Gary S., 37, 53

McCann, Max, 38

Reid, Kate I., 55

Rushfield, Mark C., 58

Scotto-Lavino, Theresa, 81

Slack, Devin, 81

Steiner, Julie, 53

Stern, Jason H., 36

Weinberg, Lawrence D., 55

Wright, Kelly E., 39

3rd

Berney, David J., 77

Breth, Thomas E., 81

Knorr, III, John G., 77

Olds, Edward A., 81

Reilly, John Francis X., 70

Specht, Thomas A., 40

Walczak, Witold J., 40

Yatkin, Alan, 70

4th

Almazan-Altobelli, Selene, 79

Eig, Michael, 69, 79

Krew, Jeffrey A., 69

Nussbaum, Andrew Wayne, 79

5th

Almazan-Altobelli, Selene, 66

Atwood, Roy Tress, 66

Bowen, Dianna Dawn, 66

Clark, Todd Aaron, 42

McIntush, Holly Gene, 60

Muniz, Yvonnilda Garza, 42

Tucker, Amy Joyce Cumings, 57

Whitburn, Mark S., 57, 60

7th

Cleary, Pamela R., 44

Sinars, Laura, 44

8th

Bagsby, Larry Alan, 43

Caldwell, Theresa L., 54

Goetz, Amy Jane, 61

Gran, Judith A., 64

Jepsen, Andrea, 64

Special Education Legal Developments & Cases 2017

Ney, Marshall S., 54
Ormsby, Cindy Reeds, 43
Palmatier, Timothy R., 64
Schreifels, Roseann, 61

9th

Fernandes, Kaliko'onalani D., 71
Handlin, Jay S., 71
Harbottle, S. Daniel, 52
Knox, Christian M., 49
Mishook, David R., 49
Peck, Keith H.S., 72
Silver, Mark A., 51
Stevens, Gregory Lee, 51
Suganuma, Gary S., 72
Tiffany, Marcy J.K., 52

11th

Almazan-Altobelli, Selene, 67
Gallini, James R., 67
Johnson, William Tipton Stanley, 75
Nelson, Alice K., 67
Walding, James Kevin, 75

DC Circuit

Almazan-Altobelli, Selene, 60
Gluckman, Todd A., 60
Pittman, Lucy E., 60

Attorneys' Fees

case is now moot, 43, 67
egregious conduct, 64
graduation, impact of, 51
interim relief, 69
prevailing party, 43
 criteria to determine, 76
reduction of, 58
 by more than 50%, 64

SOL

after 90 days, 53
excusable neglect, 51

Stay Put, 69

vindication of a procedural right, 76

B

Behavioral Intervention Plan (BIP)

commitment to implement, 57
failure to prepare adequate, 36
procedural violation, failure to prepare, 81

Bias of Hearing Officer

former sch supt, 57

Braille, 63

Brittany O. v. Bentonville Sch. Dist., 53

Burlington/Carter test

independent verification of, 77

three prongs, 55

C

C.E. v. Chappaqua Cent. Sch. Dist.+NYDOE, 57

C.G. R.G. v. Winslow Township Bd. Ed., 64

C.G. v. Waller Indep. Sch. Dist., 60

Carter cases, 10

Cases

1st

Maine

M. v. Falmouth Sch. Dept, 37

2nd

New York

A.M. v. NYC DOE, 36

C.E. v. Chappaqua Cent. Sch. Dist.+NYDOE, 57

D.B. v. Ithaca City Sch. Dist., 55

J.C. v. Katonah-Lewisboro Sch. Dist., 54

J.D. v. NYC DOE, 38

J.P. v. NYC DOE, 81

L.K. v. NYC DOE, 36

Luo v. Baldwin Union Free Sch. Dist., 39

N.B. v. NYC DOE, 75

R.B. v. NYC DOE, 52

R.C. v. Wappingers Bd. Ed. Cent. Sch. Dist., 77

3rd

New Jersey

C.G. R.G. v. Winslow Township Bd. Ed., 64

Pennsylvania

H.E. v. Walter Palmer Charter Sch. + PA DOE,
76

Issa v. Lancaster Sch. Dist., 39

M.R. J.R. v. Ridley Sch. Dist., 69

Wellman v. Butler Area Sch. Dist., 79

4th

Maryland

M.L. v. Montgomery Cnty Bd. Ed. + Supt.
Smith, 68

N.P. v. Prince George's County Bd. Ed. +
Maxwell, 78

5th

Texas

C.G. v. Waller Indep. Sch. Dist., 60

D.L. v. Clear Creek Indep. Sch. Dist., 56

Dallas Indep. Sch. Dist. v Woody, 64

Reyes v. Manor Indep. Sch. Dist., 41

7th

Illinois

Ostby v. Manhattan Sch. Dist., 43

8th

Arkansas

Brittany O. v. Bentonville Sch. Dist., 53

Minnesota

I.Z.M. v. Rosemount-Apple Valley Eagan Pub. Sch., 63

Special School District 1 v. R.M.M., 61

Missouri

J.M. v. Francis Howell Sch. Dist., 42

9th

California

E.F. v. Newport Mesa Unif. Sch. Dist., 44

Irvine Sch. Dist. v. K.G., 51

M.C. v. Antelope Valley, 47

R.A. v. West Costra Costa Sch. Dist., 62

S.H. v. Tustin Unif. Sch. Dist., 43

Hawaii

I.T. v. Hawaii DOE, 58

R.E.B. v. Hawaii DOE, 71

Rachel H. v. Hawaii DOE, 70

Washington

Avila v. Spokane Sch. Dist., 50

11th

Alabama

J.S. v. Houston Cnty Bd. Ed., 73

Jefferson Cnty Bd. Ed v. Brian M, Darcy M, 67

DC Circuit

DL v. DCPS, 59

SCOTUS

Andrew F. v. Douglas County Sch. Dist., 46, 99

Fry v. Napoleon Comm. Sch., 40, 83

Cases of the Year

9th

M.C. v. Antelope Valley, 47

11th

J.S. v. Houston Cnty (Alabama) Bd. Ed., 73

SCOTUS

Andrew F. v. Douglas County Sch. Dist., 46

Fry v. Napoleon Comm. Sch., 40

Charter school

as defendant, 76

defaulted, 76

Circuit Court Split, 10

Circuit Judges

1st

Stahl, 37

2nd

Wesley, 36

3rd

Fisher, 39

Krause, 69, 76

Rendell, 64

Shwartz, 79

4th

Agee, 68

Wynn, 78

5th

Costa, 41

Southwick, 64

Weiner, 60

7th

Rovner, 43

8th

Benton, 42

Loken, 63

Shepherd, 61

9th

Bea, 71

Christen, 50

Fisher, 70

Hawkins, 71

Kozinski, 47

DC Circuit

Tatel, 59

Citations

USC for 504, ADA, ESSA, FERPA, McKinney-Vento, 2

Collateral estoppel, 39

Commentary - Federal Register, 3

Compensatory relief, 69

COPAA Amicus Brief, 35, 36, 37, 41, 47, 64, 66, 67

Courts

U.S. Courts of Appeal

Table of States covered by each, 9

U.S. District Courts, 8

Courts of Appeals

list of circuits / states, 9

Current Educational Placement

after DP decision, 69

D

D.B. v. Ithaca City Sch. Dist., 55

Special Education Legal Developments & Cases 2017

D.L. v. Clear Creek Indep. Sch. Dist., 56

DL v. DCPS, 59

Dallas Indep. Sch. Dist. v Woody, 64

Deference

to ALJ / HO, 47

to IHO and SRO, 81

to IHO, not SRO, 54

usual standard, 44

Deliberate attempt to mislead, 47

Deliberately indifferent, 73

Depositions

video taping by attorney, 64

DIR/Floortime, 75

Discrimination

intentional, 73

intertwined with IDEA violations, 63

District Court

reversal of, reasons, 78

Do Not Publish, 5

Due Process Complaint Notice

failure to respond to, 47

Due Process Hearing

deference not warranted, 47

deference to decision, 47

single-tier v. two-tier, 54

E

E.F. v. Newport Mesa Unif. Sch. Dist., 45

Eligibility for an IEP

head injury, 79

multiple disabilities, 56

Andrew F. v. Douglas County Sch. Dist.

4th

a new standard, 78

5th

reference to, 60

9th

new guidance, 47

Full Text, 99

Summary, 46

Syllabus, 107

Transcript of Chief Justice Roberts Announcement,
109

English language learners (ELL)

Equal Educational Opportunities Act, 39

SLIFE—students with limited or interrupted formal
education, 39

Equal Educational Opportunities Act, 39

Establishment Clause, 67

Evaluation

failure to conduct FBA and BIP, 81

failure to observe child, 36

Full and Individual Evaluation (FIE), 64

in person, 52

observation by parent, 62

private, must consider, 54

Exclusion of child

Section 504 violation, 73

Exhaustion of Administrative Remedies. *See also Fry*

Constitutional, ADA, 504 claims, 42

IDEA / 504 claims overlap, 41

judicial record created for later review, 42

No IEP or 504 plan, 79

not required

stay put, 69

three exceptions, 42

required

isolation, physical restraints, 42

Exhibit production

hiding altered IEP, sanctions, 47

Expert testimony

rejected, must explain why, 54

Extended School Year (ESY)

LRE included in IEP, 71

F

FAPE

4 factor test to determine, 60

private school, 61

Federal Question, 8

Federal Register - Commentary, 3

Federal Rules of Appellate Procedure, 9

Federal Rules of Civil Procedure, 8

Florence County Sch. Dist. IV v. Carter, 10

Fry v. Napoleon Comm. Sch., 40, 83

3rd

exhaustion required, head injury, 79

Full Text, 83

Syllabus, 94

Transcript of Justice Kagan's Announcement, 96

Functional Behavioral Assessment (FBA)

explained, 58

failure to conduct adequate, 36

procedural violation, failure to prepare, 81

G

Google Scholar
how to use, 13

H

H.E. v. Walter Palmer Charter Sch. + PA DOE, 76
Hearing Officer
competency, attack on, 57

I

I.T. v. Hawaii DOE, 58
I.Z.M. v. Rosemount-Apple Valley Eagan Pub. Sch., 63
IDEA
judicial enforcement, 60
Section 504 contrasted with, 63
IEP
accommodate disabilities, 47
alteration unknown to parent, 47
ARD Committee - Texas, 64
assistive technology devices, specified, 47
blueprint for enforcement, 71
child changes school districts, 64
child's potential must be considered, 47
comparable, 29, 64
contractual nature, 47
failure to include parent counseling, training, 36
four factors test to assess, 60
location of services, 70
LRE, failure to include, 71
methodology. *See* Methodology
Orthodox Jewish instruction included, 68
parental participation
denied, 81
predetermination of placement, 67, 81
remediate disabilities, 47
specificity, amount of, 71
unilateral change of, 47
Independent Educational Evaluation (IEE)
denied by school, 50
school failed to consider, 64
school requests due process, 50
Irvine Sch. Dist. v. K.G., 51
Isolation of child
Section 504 violation, 73
Issa v. Lancaster Sch. Dist., 39

J

J.C. v. Katonah-Lewisboro Sch. Dist., 54
J.D. v. NYC DOE, 38
J.M. v. Francis Howell Sch. Dist., 42
J.P. v. NYC DOE, 81
J.S. v. Houston County Bd. Ed., 73
Jefferson Cnty Bd. Ed v. Brian M, Darcy M, 67
Jury Trial, 74

L

L.K. v. NYC DOE, 37
Least Restrictive Environment (LRE)
IEP failure to include, 71
private placement more restrictive, 61
Location of services
advance notification, 70
Luo v. Baldwin Union Free Sch. Dist., 39

M

M. v. Falmouth Sch. Dept, 37
M.C. v. Antelope Valley, 47
M.L. v. Montgomery Cnty Bd. Ed. + Supt. Smith, 68
M.R., J.R. v. Ridley Sch. Dist., 69
Magistrate Judge, 8
Methodology
ABA, 62
deliberately omitted from IEP, 36
superior method, 71
DIR/Floortime, 75
failure to specify, 71
fear of restricting staff, 36
Specialized Program Individualizing Reading
Excellence (SPIRE), 37
specified in advance, 52
Minnesota Blind Persons' Literacy Rights and Education
Act, 63
Moot
attorneys' fees, 43, 67
case is now, 43
child not returning to school district, 67
relief still available, 71

N

N.B. v. NYC DOE, 75
N.P. v. Prince George's County Bd. Ed. + Maxwell, 78
Non-English-speaking, 39
Non-Verbal Learning Disability (NVLD), 55

Special Education Legal Developments & Cases 2017

Notice of

abuse

failure to respond, 73

prior information about, 73

O

Orton-Gillingham Approach, 37

Ostby v. Manhattan Sch. Dist., 43

P

P369K, 75

Pacific Autism Center, 71

Phoenix Academy, 39

Placement

challenges to proposed, 55

change of, 43

predetermination of, 43, 61

Pleading and practice

504

abuse, discrimination, 73

briefing, failure to comply pages/fonts, 57

child find violation, failure to allege, 56

Complaint

Alabama *Houston Bd Ed*, 73

Colorado *Ebonie S.*, 73

Due Process Complaint Notice

failure to respond to, 47

filing a late answer, 39

prehearing, failure to request, 41

Pleading and Practice

federal question, 8

motion for summary judgment, 8

removal of case from state court, 8

Potential

IEP must consider child's, 47

Prevailing party. *See* attorneys' fees

Private school

FAPE, entitlement to, 61

Procedural violations

classroom placement ratio, 36

failure to conduct FBA / BIP, 81

IEP alteration, 47

Per Se, 48

Prospect School, 54

R

R.A. v. West Contra Costa Sch. Dist., 62

R.B. v. NYC DOE, 52

R.C. v. Wappingers Bd. Ed. Cent. Sch. Dist., 77

R.E.B. v. Hawaii DOE, 71

Rachel H. v. Hawaii DOE, 70

Reyes v. Manor Indep. Sch. Dist., 41

Relief sought

exhaustion of administrative remedies, 42

Removing state court case to federal court, 8

Restraints

Ebonie S. jury trial, 73

Rifton Chair, 73

Section 504 violation, 73

Rifton Chair, 73

Rules of the Supreme Court of the United States, 10

S

S.H. v. Tustin Unif. Sch. Dist., 43

Section 504

exclusion of child, 73

IDEA contrasted with, 63

physical abuse, 73

restraint, 73

SELF Program, 44

SETSS - Special Education Teacher Support Services, 38

Settlement agreement

subsequent litigation, 79

Single-Tier States, 8

SLIFE—students with limited or interrupted formal education, 39

Social Emotional Learning Foundations, 44

Special School District 1 v. R.M.M., 61

Split between circuits, 10

Standard of review

circumscribed *de novo* review, 77

Statute of Limitations (SOL)

attorneys' fees, 53

knew or should have known, 51

Texas – one year, 41

Washington – two years, 50

Statutory interpretation, 61

Stay Put, 43

Attorneys' Fees, 69

DP Decision, after, 69

three years through appeals, 71

violation of, remedy, 69

Sterling School, 38

Supremacy Clause, 2, 3, 11

T

Teacher of Visually Impaired (TVI)
 services, amount of, 48
Tiered States - Single or Two, 8
Tolling of SOL, 41
Transition
 new environment, to, 71
 support services for child's new teacher, 36
Tucker v. Bay Shore Union Free School Dist., 10
Tuition reimbursement
 child moves, 64
 Hawaii, 71
 Maryland, 68, 78

New York, 36, 52, 54, 55, 57, 75, 77, 81
Pennsylvania, 79
 reduction in amount, parents conduct, 64
 stay put, for duration of case, 69
Texas, 60, 64
Two-Tier States, 8

W

Wellman v. Butler Area Sch. Dist., 79
Winston School, 65
Writ of Certiorari, 10
Written Prior Notice
 purpose of, 37