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The Year in Review:
The Key Special Education Cases

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I. THE INTERSECTION BETWEEN SPECIAL EDUCATION AND DISABILITY DISCRIMINATION LAW.

A. *A.J.T. v. Osseo Area Schools*.

1. Facts. A.J.T. has a form of epilepsy. A.J.T. did not attend school until noon. Pursuant to her individualized education program ("IEP"), A.J.T. received intensive special education from noon until after the school day at 4:15 p.m. A.J.T.'s parents made requests for A.J.T. to receive additional evening instruction, but the District denied the requests.

2. Issue.

   a. Did the District deny A.J.T. a free appropriate public education ("FAPE") in violation of the Individuals with Disabilities Education Act ("IDEA")?

   b. Did the District engage in disability discrimination in violation of Section 504 of the Rehabilitation Act of 1973 ("Section 504") and Title II of the Americans with Disabilities Act ("ADA")?

3. Eighth Circuit's Holdings (96 F.4th 1062 (8th Cir. 2024)).

   a. IDEA Case. The panel held that the school district denied the student a FAPE.

      i. The panel held that A.J.T. made "only slight progress in a few areas" over a period spanning multiple school years. For instance, A.J.T. did not meet her annual IEP goals from 2016 to 2020. The panel held that the progress was *de minimis* and that the level of progress was "predictable" and "strong evidence" that the school district denied A.J.T. a FAPE.

      ii. The panel found that "toileting ability" is "essential" for A.J.T. to live a "healthy and dignified life" and that the District "remov[ing] her toileting goal for lack of time in the short day" for a period violated its obligation to provide a FAPE.

      iii. The panel held that the school district denying the evening instruction was a "purely administrative decision" and that "its choice to prioritize its administrative concerns had a

negative impact on A.J.T.'s learning." The panel further held that A.J.T. "would have made more progress with evening instruction."

b. Section 504 and ADA Case. The Eighth Circuit panel held that the District could not be held liable for disability discrimination.

i. Bad Faith or Gross Misjudgment Standard. The Eighth Circuit panel held that the law of the circuit requires plaintiffs to prove that school officials acted with bad faith or gross misjudgment when bringing Section 504 and ADA claims based on educational services for a student with a disability. The panel held that A.J.T. had failed to make such a showing. The school district met with the parents, updated A.J.T.'s IEP each year, provided the student a "variety of services" including intensive one-on-one instruction, extended A.J.T.'s school day, and offered 16 three-hour sessions at home each summer. The panel concluded that, regardless of whether the school district complied with Section 504 and the ADA, the bad faith or gross misjudgment standard was not met. The entire Eighth Circuit declined to review the decision or, in other words, declined *en banc* review.

4. Supreme Court of the United States Holding (605 U.S. 335 (2025)).

a. In a "narrow" holding that did not address whether the District engaged in discrimination, the Court held—in agreement with both parties—that ADA and Section 504 disability discrimination "claims based on educational services should be subject to the same standards that apply in other disability discrimination contexts."

b. The Court declined to make holdings on other issues, such as what the particular intent standard is for such claims. A two-Justice concurring opinion, however, noted that the District's undecided arguments on the particular intent standard "may have a point" and that in a future case those Justices "would be willing to address" the "important" and "serious arguments" raised by the District. The concurrence further instructed the lower courts to "carefully consider whether the existing standards comport with the Constitution and the underlying statutory text."

B. ***Elsharkawy v. Chisago Lakes Bd. of Educ.*, No. 24-3177 (8th Cir. 2026).**

1. Facts.

   a. The student had multiple long-standing health and learning disabilities and received special education services under an IEP. He experienced significant absenteeism, behavioral issues, and difficulty completing assignments. The school district provided temporary homebound instruction, added IEP accommodations, provided counseling, and conducted an FBA. The student also experienced several incidents of bullying or peer misconduct. The school district responded by disciplining other students, changing seating arrangements, increasing supervision, separating students, and, on one occasion, referring the matter to law enforcement.

   b. The student's parent repeatedly alleged that the school district was not implementing the student's IEP, including accommodations concerning bathroom access, wearing a hat or hood, resting, and assignments. The school district responded by reminding staff of the student's accommodations. Following an assault by another student, the student's attendance worsened. The school district addressed the attendance concerns through truancy procedures and offered alternative educational options, after which the student's attendance and grades improved. The student continued to experience behavioral difficulties, but the IEP team determined that he remained subject to the same disciplinary procedures and code of conduct as other students. The student later died by suicide.

2. Issue.

   Did the school district protect the student from bullying, implement his IEP, and have disciplinary practices in compliance with the ADA and Section 504?

3. Holding.

   a. The Eighth Circuit affirmed the ruling that the parent failed to establish that the school district intentionally discriminated against the student in violation of the ADA and Section 504.

b. The Eighth Circuit Court of Appeals adopted the "deliberate indifference" standard for Section 504 and ADA claims challenging the provision of IDEA services.

c. To meet the "deliberate indifference" standard, "it is enough that a plaintiff prove the defendant disregarded a 'strong likelihood' that the challenged action would result 'in a violation of federally protected rights.'"

C. *W.H. ex rel. Larry G. v. Fort Bend Indep. Sch. Dist.*, No. 4:24-CV-1515, 2025 WL 2147067 (S.D. Tex. July 29, 2025).

1. Facts.

a. The student filed a due process hearing complaint. The hearing officer held that the proposed IEP's placement of the student in the resource setting for Math met the least restrictive environment ("LRE") requirement. The hearing officer, however, held that the proposed IEP violated the LRE requirement by placing the student in a resource setting for English because evidence supported a placement in the general education English class.

b. The student filed suit against the school district challenging the hearing officer's decision under the IDEA. Specifically, the student sought to reverse the student's placement in the resource setting for Math. The student also brought a claim under Section 504 based on an alleged denial of a FAPE.

2. Issue.

a. Did the proposed IEP provide the student a FAPE in the LRE in compliance with the IDEA?

b. Did the school district violate Section 504?

3. Holding.

a. IDEA. The proposed IEP provided the student a FAPE in the LRE.

b. Section 504.

i. The parties agreed that if the court held that the school district provided the student a FAPE that the Section 504

claim failed and thus, the court held that the student's section 504 claim fails as a matter of law because the school district provided the student a FAPE.

ii. The Court held that the school district was not deliberately indifferent and thus, that the student's Section 504 claim failed for that additional reason. The school district's decision to place the student in the resource classroom for Math and English was not "clearly unreasonable in light of the known circumstances." The school district made the proposal with the student's "education as its priority" based on "a careful analysis of [the student's] assessments and performance over years in the general education classroom, and [the school district] collaborated with key stakeholders," including the guardian.

II. MEANINGFUL PARENTAL PARTICIPATION.

A. *Adams v. Indep. Sch. Dist. No. 885*, No. 26-cv-2437 (KMM/DJF) (D. Minn. June 18, 2026).

1. Facts.

a. Between November 2025 and April 2026, the parent exchanged dozens of increasingly antagonistic emails with district employees, including messages that personally criticized staff and repeatedly threatened complaints or legal action. In April 2026, the district issued a trespass order against the parent, restricting the parent's access to district property. The district also restricted her communications with staff. The frequent communication lasted for nearly six months before the trespass order was issued and included "personally condemning District staff for alleged transgressions." The communications were written in a manner that intimidated, harassed, and instilled fear in employees, creating a toxic environment for staff. The district later clarified that the parent could communicate through U.S. mail, contact the school regarding her child's educational needs and disability accommodations, and visit the school under limited circumstances.

b. Shortly before the trespass order, the parent requested a Section 504 accommodation for her child.

c. The parent sued the district and sought a preliminary injunction and temporary restraining order, alleging procedural due process violations, first amendment retaliation, and retaliation under the ADA and Section 504.

2. Issue.

Did the parent demonstrate significant likelihood of success on her procedural due process, first amendment retaliation, and ADA/Section 504 retaliation claims to justify emergency injunctive relief against the district's trespass order and communication restrictions?

3. Holding.

a. The court denied the parent's motion for a preliminary injunction and temporary restraining order, concluding the parent had not demonstrated a sufficient likelihood of success on any of her claims. The court determined that the parent had not identified a constitutionally protected liberty or property interest in unrestricted access to school property or a particular level of communication with school officials.

b. The parent failed to establish that the district's actions were motivated by retaliation. The record showed that the district's concerns about the parent's communications predated her Section 504 request. Additionally, the district continued to provide avenues for communication and participation in her child's education.

B. ***Minnesota Special Education Due Process Hearing Decision (2025).***

1. Facts.

a. The student has speech/language impairments and is nonverbal. The student received special education services under an IEP that included areas focused on speech services. The student uses assistive technology and was trialing different speech devices as the student had shown interest in assistive devices.

b. The student imitates signs that are modeled to him both at home and in the classroom. The student communicates using signs and sign approximations.

c. The student's IEP provides for multimodal communication, but not specifically ASL signs. The district honored all communications from the student. The district also taught the student signs and intended to continue teaching the student signs as part of multimodal communication.

d. The student did not make progress on their speech goal during one reporting period. The student had demonstrated refusal behaviors, which led staff to trial a different approach, which showed improvement.

e. At the next IEP meeting, the parent requested and the district considered the parent's request for ASL direct instruction and an ASL interpreter. Following the consideration, the district proposed an IEP that continued to use multimodal communication but did not specifically provide ASL interpretation or direct ASL instruction.

2. Issue.

Did the district deny the student a FAPE when it declined to include ASL direct instruction and an ASL interpreter in the student's IEP?

3. Holding.

a. The ALJ determined that the student's IEP did not require ASL interpretation or instruction, and as such, the student was not denied a FAPE. The ALJ further determined that ASL interpretation and instruction were not necessary for FAPE. When the student's behaviors impeded access to educational progress, staff shifted their approach, resulting in increased engagement from the student.

b. The ALJ stated that schools must offer and provide students with a FAPE, and that an IEP formulated consistently with the IDEA is presumed to offer a FAPE. The ALJ explained that the evidence demonstrated that the student benefitted from learning signs and the district intended to continue teaching functional signs and ASL through a multimodal communication approach. The ALJ concluded the proposed services were appropriate given the

student's current communication abilities, despite the parent's request for additional ASL services.

III. INDEPENDENT EDUCATIONAL EVALUATIONS ("IEE").

A. *Complaint Decision File 24-162C ex rel. K.W.S.,* No. A24-1167, 2025 WL 1157176 (Minn. Ct. App. Apr. 21, 2025).

1. Facts.

   a. The district conduct an evaluation of a student pursuant to the IDEA. Over a year later, the student's parents requested an IEE at public expense. The district granted the parent's request for an IEE at public expense so long as it "focus[ed] on whether the [d]istrict evaluation with which the Parents disagree was appropriate at the time it was completed." The parents objected to the condition, but the district refused to remove the condition.

   b. In a special education complaint decision, the Minnesota Department of Education ("MDE") held that the challenged condition violated IDEA because it imposed a condition related to obtaining an IEE at public expense that was not the same as the criteria used by the district when it initiated an evaluation and that was not consistent with a parents' right to an IEE.

2. Issue.

   Whether MDE erred when it concluded that the district violated IDEA by including a requirement in its IEE criteria that was not the same as the criteria used by the district when it initiates an evaluation?

3. Holding.

   a. The court held that MDE did not err by requiring the district to remove that condition from its IEE criteria. It determined that the challenged IEE condition violated the IDEA.

   b. The court held that the "focus" requirement went beyond the criteria the district used when it conducted an evaluation. The court noted that it would be logically impossible for the district to apply the challenged criterion to its own evaluation because it

could not focus on whether an evaluation that it was just initiating "was appropriate at the time it is was completed."