

DISABILITY DISCRIMINATION & ACCOMMODATIONS BEYOND IDEA

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Overview

IDEA

- Most detailed
- Specific to schools
- FAPE

Section 504

- Less detailed
- Specific to schools
- FAPE

ADA

- Government programs
- Accommodations
- Discrimination

MHRA

- Failure to accommodate is discrimination
- Somewhat specific to schools



Exhaustion of Administrative Remedies

- Must follow administrative process before seeking remedies in court
- Fry v. Napoleon Community Schools
 - If lawsuit is not seeking determination that school failed to provide FAPE, may go straight to court
 - Two part test:
 - Could student bring the same claim against another facility?
 - Could adult bring the same claim against the school?
- Perez v. Sturgis Public Schools
 - -Can the family get the same remedy under IDEA?
 - If seeking \$, no



ADA & Section 504 & MHRA, oh my!



- Even once a student has gone through a due process hearing, they can still bring claims under these laws
- Generally, courts apply the same standards to discrimination and failure to accommodate claims under the various laws, with some minor distinctions

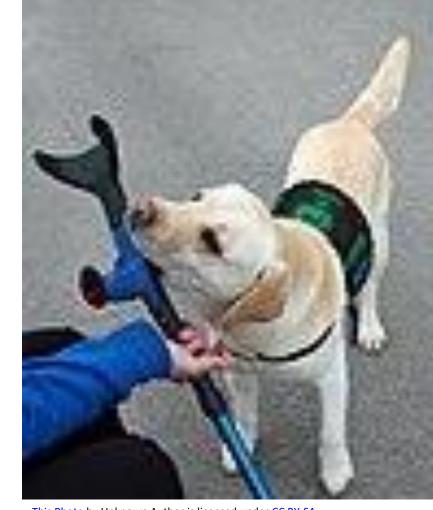




Service Animals



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Service Animal Requirements

Task-trained to address disability

Allowed anywhere student is allowed (limited exceptions)

Identify the "handler"



Kimball v. I.R.M.

Due Process Hearing

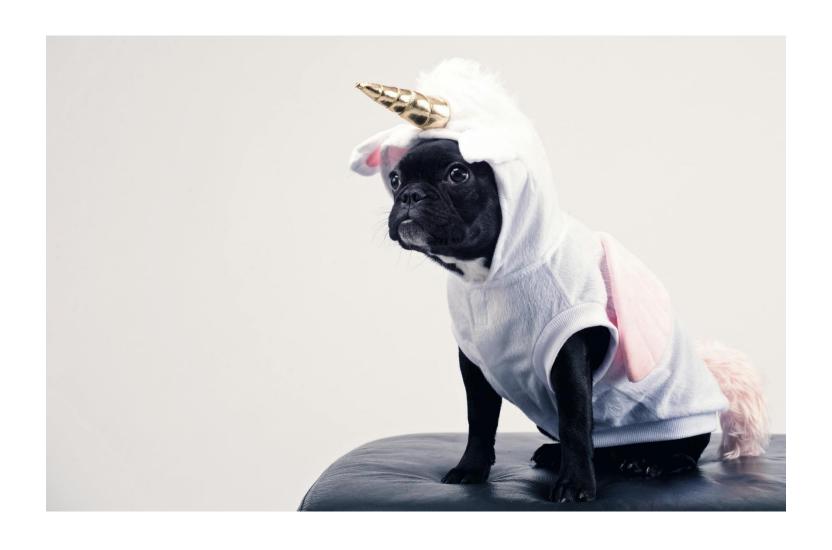
- ALJ determined service animal necessary for FAPE
 - Therefore, school was required to provide adult handler for service dog in order for student to receive FAPE
- On appeal, court reversed that decision and found the service dog was NOT required for FAPE
 - District could provide FAPE through its proposed IEP that did not rely on service dog
- Separate but also important issue:
 - ALJ ordered shortened day so student could attend ABA, even though school argued it did not have sufficient time for services necessary for FAPE
 - Court reversed and found school needed additional time to provide educational services for FAPE

Civil Claims

- Independent of due process hearing
- Alleged District discriminated by failing to provide an adult to "help" student handle service animal
- Alleged retaliation by school when Parent served as handler, and by proposing IEP with full day
- Claims settled, not decided by court



Service Animals are Unique



- Service animal must be under the control of a handler
- If a student can serve independently as handler, school likely must allow service animal, even if school could provide FAPE without it
- If the student cannot serve independently as handler, then determine necessity for FAPE



A.J.T. v. Osseo

Student succeeded in due process hearing regarding length of school day when medical condition prevented her from accessing education before noon

After, pursued ADA/504 claims based on denial of reasonable accommodation

Appellate court said failure to accommodate is not enough, must show bad faith/gross misjudgment

U.S. Supreme Court overruled: intent is not required to prove failure to accommodate

Reversed and sent back to lower court



Nonacademic and Extracurricular Activities

- Section 504 applies to childcare and community education programs
- Must accommodate to grant same access as nondisabled peers
- Cost
- Fundamental alteration



MHRA Claims

S.A.S. v. Hibbing

Goeden v. MSHSL

A.K.B. v. I.S.D. 194