



# **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

## MASE FALL LEADERSHIP CONFERENCE



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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***

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

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

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

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

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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*