NATIONAL COMPILATION OF CASE LAW
1998 TO THE PRESENT
UNDER THE IDEA AND SECTION 504/ADA

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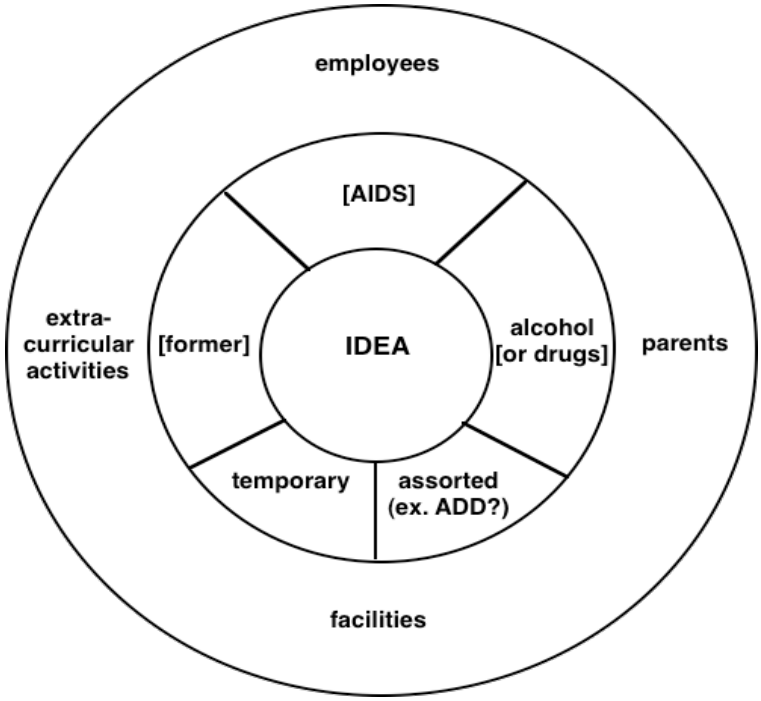

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PREFACE

This annotated outline is a relatively comprehensive compilation of the published[1] special education decisions under the Individuals with Disabilities Education Act (IDEA) and Section 504 (§ 504) or the Americans with Disabilities Act (ADA) for students from pre-K through grade 12, from 1998 to the end of 2022.[2] The coverage focuses on the issues of primary concern to educators and parents, such as eligibility, free appropriate public education (FAPE), least restrictive environment (LRE), and the remedies of tuition reimbursement and compensatory education.[3] In partial contrast, the coverage of attorneys' fees is limited to a more modest sampling of the published decisions, because they are so numerous and of less immediate interest to the primary audience. In complete contrast, the compilation does not extend, however, to technical adjudicative issues, such as exhaustion, jurisdiction, stay-put, and statute of limitations. The author welcomes suggested additions of any missing cases within these boundaries.

The case entries are organized in approximate chronological order within the common special education categories, starting with eligibility. Each entry consists of a standard citation, including the parallel cite in the INDIVIDUALS WITH DISABILITIES LAW REPORTS (IDELR), and a blurb that summarizes the major ruling(s). In addition, prefacing each citation is the outcome for the summarized ruling(s) in terms of these categories: ***P*** = Parent won; ***S*** = School district won; ***P/S*** = mixed (i.e.

[1] "Published" in this context refers to the narrow meaning of decisions appearing in the official court reporters, with the limited exception of the Circuit Court of Appeal decisions in West's Federal Appendix (F. App'x), which ceased publication in December 2021.

[2] The ending date for the search was February 1, 2023 so as to include any decisions before December 31, 2022 only appearing after the limited time lag for publication.

[3] Some of these categories inevitably overlap, such as the merits of FAPE and LRE and the remedies for denial of FAPE.

partially for each side); **( )** = Inconclusive.[4]

Those entries for decisions by the U.S. Supreme Court are in bold font. For decisions that have rulings in more than one category, each entry after the first one has an abbreviated citation ending with "supra" (literally meaning "above"), which is a cross reference to the complete citation in the first entry.[5] The only area of systematic overlap is tuition reimbursement cases; if the court resolved the issue—in the applicable, multi-step decisional framework—by determining whether the district provided FAPE, the entry appears within the "appropriate education" category,[6] whereas if the court's ruling focused on the other steps, such as whether the parent's placement was appropriate, the entry appears within the "tuition reimbursement" category.

To keep the entries brief, the blurbs include the following acronyms:

ABA = applied behavior analysis
ADA = Americans with Disabilities Act
ADAAA = Americans with Disabilities Act Amendments Act
ADHD = attention deficit hyperactivity disorder
BIP = behavior intervention plan
CAPD = central auditory processing disorder
DTT = discrete trial training
ED = emotional disturbance
ELL = English language learner
ESY = extended school year
FAPE = free appropriate public education
FBA = functional behavioral assessment
ID = intellectual disabilities
IAES = individualized alternate educational setting
IEE = independent educational evaluation
IEP = individualized education program
IFSP = individualized family service plan
IHO = impartial hearing officer
LRE = least restrictive environment
OCD = obsessive compulsive disorder

[4] "Inconclusive" in this context refers to rulings, such as denying the defendant's motion for dismissal or either party's motion for summary judgment, that preserve a final decision on the merits of the issue for further proceedings that did not appear as a published decision. Conversely, if a published decision at the trial court level is succeeded by an appellate decision that is published, only the final decision is included herein. Additionally, a few other outcome entries are in brackets because they are not between parents and districts, such as a case between a local and a state education agency.

[5] The occasional use of "infra" is for cross references in the opposite direction.

[6] In such instances, the blurb shows the overlap by ending with the designation "[tuition reimbursement case]."

OCR = Office for Civil Rights
ODD = oppositional defiant disorder
OHI = other health impairment
OT = occupational therapy
PDD = pervasive developmental disorder
PECS = picture exchange communication system
PEL = present educational level
POTS = postural orthostatic tachycardia syndrome
PRR = peer-reviewed research
PT = physical therapy
PTSD = post-traumatic stress disorder
RO = review officer
SDP = substantive due process
SLD = specific learning disabilities
SLI = speech or language impairment
SLT = speech and language therapy
TBI = traumatic brain injury

This document is not intended as legal advice. The categories and the blurbs are illustrative and representative but not precise or complete. Listing these entries as merely a starting point, the author strongly encourages direct reading of the cited cases for independent verification of the citation and interpretation of the case contents. For readers who are not attorneys, consultation with competent counsel is recommended.

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I. DIAGNOSIS AND PLACEMENT

A. IDENTIFICATION (INCLUDING CHILD FIND)

S Springer v. Fairfax Cnty. Sch. Dist., 134 F.3d 659, 27 IDELR 367 (4th Cir. 1998); cf. Mars Area Sch. Dist. v. Laurie L., 827 A.2d 1249, 39 IDELR ¶ 96 (Pa. Commw. Ct. 2003)
- despite failing grades, truancy, and drug use, evidence was insufficient to establish ED eligibility as compared to pure social maladjustment [tuition reimbursement case]

P Muller v. Comm. on Special Educ., 145 F.3d 95, 28 IDELR 188 (2d Cir. 1998)
- student diagnosed with ODD and PTSD and treated as § 504-eligible instead qualified as ED under IDEA

S Carter v. Prince George's Cnty. Pub. Sch., 23 F. Supp. 2d 585, 29 IDELR 42 (D. Md. 1998)
- upheld district's determination that slow learner was not SLD, ID, or speech/language impaired

S Norton v. Orinda Union Sch. Dist., 168 F.3d 500, 29 IDELR 1068 (9th Cir. 1998)
- upheld school district's determination that student with severe achievement-ability discrepancy was not eligible as SLD because he did not need special education

S Hoffman v. E. Troy Sch. Dist., 38 F. Supp. 2d 750, 29 IDELR 1074 (E.D. Wis. 1999)
- rejecting child find claim, court concluded that district did not have reason to suspect the student was ED [tuition reimbursement case]

P Corchado v. Bd. of Educ., 86 F. Supp. 2d 168, 32 IDELR ¶ 116 (W.D.N.Y. 2000)
- a student with OHI, SLD and speech impairment was eligible under IDEA, although achieving at an average level, based on the adverse educational effects of his seizure disorder and stuttering

S J.D. v. Pawlet Sch. Dist., 224 F.3d 60, 33 IDELR ¶ 34 (2d Cir. 2000)
- gifted child with emotional/behavioral impairment was not eligible under IDEA due to lack of requisite adverse educational effect [tuition reimbursement case]

P Johnson v. Metro Davidson Cnty. Sch. Sys., 108 F. Supp. 2d 906, 33 IDELR ¶ 59 (M.D. Tenn. 2000)
- concluded, based on additional evidence, that student met criteria for ED, including adverse effect in terms of attendance rather than grades [tuition reimbursement case]

S Maricus v. Lanett City Bd. of Educ., 141 F. Supp. 2d 1064, 34 IDELR ¶ 233 (M.D. Ala. 2001)
- rejected ED eligibility of student with discipline problems, providing latitude for district's professional judgment and noting that father flip-flopped his position to avoid child's expulsion

S Austin Indep. Sch. Dist. v. Robert M., 168 F. Supp. 2d 635, 35 IDELR ¶ 182 (W.D. Tex. 2001), aff'd mem., 54 F. App'x 413 (5th Cir. 2002)
- ADHD student in gifted program who lacked motivation did not need special education and thus was not eligible under IDEA

P W. Chester Area Sch. Dist. v. Bruce C., 194 F. Supp. 2d 417, 36 IDELR ¶ 154 (E.D. Pa. 2002)
- bright ADHD student needed special education and thus was IDEA-eligible, based on his high potential and his extensive parental help

S Ford v. Long Beach Unified Sch. Dist., 291 F.3d 1086, 37 IDELR ¶ 1 (9th Cir. 2002)
- upheld decision that student was not eligible as SLD, ruling that the district was not required to use an IQ test (as compared to alternative assessment measures) for the "severe discrepancy" determination

S Delaware Cnty. Intermediate Unit v. Jonathan S., 809 A.2d 1051, 37 IDELR ¶ 282 (Pa. Commw. Ct. 2002)
- rejected financial responsibility of education agency under IDEA Part C (early intervention) for a child with cerebral palsy where the hearing officer relied on "conventional wisdom"—and the record was devoid of specific facts—that the child needed special education

P Elida Local Sch. Dist. Bd. of Educ. v. Erickson, 252 F. Supp. 2d 476, 38 IDELR ¶ 237 (N.D. Ohio 2003)
- ruled that student with leukemia continued to be eligible as OHI even though she performed up to her potential, deferring to review officer's decision based on parents' experts

P New Paltz Cent. Sch. Dist. v. St. Pierre, 307 F. Supp. 2d 394, 40 IDELR ¶ 211 (N.D.N.Y. 2003)
- ruled that substance-abusing ninth grader was eligible as ED (rather than purely socially maladjusted) and that district was liable for tuition reimbursement due to delayed evaluation [tuition reimbursement case]

S C.J. v. Indian River Cnty. Sch. Bd., 107 F. App'x 893, 41 IDELR ¶ 120 (11th Cir. 2004)
- ruled that student diagnosed with bipolar disorder and ODD was not eligible as ED because her behavior problems did not affect her educational performance and, alternatively, she did not need special education

S Mr. and Mrs. N.C. v. Bedford Cent. Sch. Dist., 473 F. Supp. 2d 532, 47 IDELR ¶ 95 (S.D.N.Y. 2007), aff'd, 300 F. App'x 11, 51 IDELR ¶ 149 (2d Cir. 2008)
- ruled that sexually abused drug-abusing student did not qualify as ED based on any of the five alternative conditions [tuition reimbursement case]

P Mr. I. v. Me. Sch. Admin. Dist. No. 55, 480 F.3d 1, 47 IDELR ¶ 121 (1st Cir. 2007)
- ruled that student's Asperger Disorder adversely affected educational performance as broadly defined by state law, establishing that student was eligible here, since "need" was not a contested issue

S Hood v. Encinitas Union Sch. Dist., 486 F.3d 1099, 47 IDELR ¶ 213 (9th Cir. 2007)
- rejected student's eligibility as SLD or OHI based on lack of need for special education—student performed at or above grade level with 504 plan

P Bd. of Educ. v. S.G., 230 F. App'x 330, 47 IDELR ¶ 285 (4th Cir. 2007)
- affirmed ruling that child with schizophrenia qualified as ED in terms of adverse effect, concluding that her frequent absenteeism was a relevant factor because the middle school environment aggravated and contributed to her condition

S R.B. v. Napa Valley Sch. Dist., 496 F.3d 932, 48 IDELR ¶ 60 (9th Cir. 2007)
- failure to include appropriate general and special ed teachers on the team was harmless error because the child did not qualify as ED [tuition reimbursement case]

S Alvin Indep. Sch. Dist. v. A.D., 503 F.3d 378, 48 IDELR ¶ 240 (5th Cir. 2007)
- held that student with ADHD was not eligible, even if ADHD adversely affected his educational performance, because he did not need special education by reason of his ADHD (as compared with his family issues, including alcohol abuse)

S Richardson District of Columbia, 541 F. Supp. 2d 346, 50 IDELR ¶ 6 (D.D.C. 2008)
- upheld determination that student was not eligible as ED where parent refused to release the private psychiatric evaluation information that was the missing link (and the reasonable prerequisite for the district to arrange for such an evaluation)—parental participation rationale used in favor of district)

P N.G. v. D.C., 556 F. Supp. 2d 11, 50 IDELR ¶ 7 (D.D.C. 2008)
- upheld child find claim of parent, including tuition reimbursement, for student with ADHD and depression where district determined ineligibility based on recommended § 504 accommodations [tuition reimbursement case]

P M.P. v. Santa Monica Unified Sch. Dist., 633 F. Supp. 2d 1089, 50 IDELR ¶ 220 (C.D. Cal. 2008)
- ruled that student with ADHD was eligible as SLD or OHI

S cf. Parker v. Friendship Edison Pub. Charter Sch., 577 F. Supp. 2d 68, 51 IDELR ¶ 37 (D.D.C. 2008)
- ruled that failure to include classroom observation in determination that student with adjustment disorder did not qualify as OHI was harmless error in this case

P Eschenasy v. N.Y.C. Dep't of Educ., 604 F. Supp. 2d 639, 52 IDELR ¶ 62 (S.D.N.Y. 2009)
- held that teenager who cut classes, took drugs, stole classmates' property, and engaged in self-injurious behavior was eligible as ED and thus for private therapeutic placement [tuition reimbursement case – rec'd 1 of 2 years]

S C.B. v. Dep't of Educ., 322 F. App'x 20, 52 IDELR ¶ 121 (2d Cir. 2009)
- ruled that student with ADHD and bipolar disorder was not eligible under the IDEA due to successful educational performance [tuition reimbursement case]

S cf. J.A. v. E. Ramapo Sch. Dist., 603 F. Supp. 2d 684, 52 IDELR ¶ 196 (S.D.N.Y. 2009)
- misclassification of child as OHI rather than autistic was not substantive flaw entitling the parents to reimbursement for additional 1:1 behavior therapy where they failed to show that the child needed higher allocation of 1:1 as compared to group behavior therapy

S Loch v. Edwardsville Sch. Dist. No. 7, 327 F. App'x 647, 52 IDELR ¶ 244 (7th Cir. 2009)
- upheld district's determination that student with diabetes and social anxiety disorder, who was on a 504 plan, did not qualify as OHI because the parents failed to meet their burden to show a need for special education, including lack of medical evidence that her conditions justified her absenteeism [tuition reimbursement case]

S Pohorecki v. Anthony Wayne Local Sch. Dist., 637 F. Supp. 2d 547, 53 IDELR ¶ 22 (N.D. Ohio 2009)
- upheld district's determination that district properly classified child, who had previous diagnoses of ADHD, "absence seizures" and—most recently—Asperger Disorder, as ED rather than parent's proposed classifications of autism or OHI

S A.J. v. Bd. of Educ., 679 F. Supp. 2d 299, 53 IDELR ¶ 327 (E.D.N.Y. 2010)
- ruled that child with Asperger Disorder (and ADHD) was not eligible as under autism classification based on "educational performance" being primarily academic, although the adverse effect need not be severe or significant

S Maus v. Wappingers Cent. Sch. Dist., 688 F. Supp. 2d 282, 54 IDELR ¶ 10 (S.D.N.Y. 2010)
- ruled that child with various diagnoses, including Asperger Disorder, ADHD, and dysgraphia, was not eligible as OHI or ED based on narrow, academic view of adverse effect on "educational performance" [tuition reimbursement case]

S Nguyen v. D.C., 681 F. Supp. 2d 49, 54 IDELR ¶ 18 (D.D.C. 2010)
- upheld district's determination that child was not eligible as either ED or SLD with poor achievement likely attributable to attendance (and drug) problems

P D.A. v. Hous. Indep. Sch. Dist., 716 F. Supp. 2d 603, 54 IDELR ¶ 168 (S.D. Tex. 2009), aff'd on other grounds, 629 F.3d 450, 55 IDELR ¶ 243 (5th Cir. 2010)
- ruled that district's policy not to evaluate students in kindergarten and grade 1 was a violation of the reasonable-period requirement of child find

S Marshall Joint Sch. Dist. No. 2 v. C.D., 616 F.3d 632, 54 IDELR ¶ 307 (7th Cir. 2010)[7]
- upheld district's position that third-grade student with Ehlers-Danlos Syndrome, who had an IEP as OHI, no longer had adverse effect nor needed special education

P Hansen v. Republic R-III Sch. Dist., 632 F.3d 1024, 56 IDELR ¶ 2 (8th Cir. 2011)
- ruled that student with ADHD and bipolar disorder was eligible as OHI and ED with adverse effect on educational performance based in part on failing standardized test required for promotion

S W.G. v. N.Y.C. Dep't of Educ., 801 F. Supp. 2d 142, 56 IDELR ¶ 230 (S.D.N.Y. 2011)
- ruled that the child was not eligible as ED because his academic downturn was due to social maladjustment, including conduct disorder and truancy [tuition reimbursement case]

S P.C. v. Oceanside Union Free Sch. Dist., 818 F. Supp. 2d 516, 56 IDELR ¶ 252 (E.D.N.Y. 2011)
- ruled that the child did not qualify as ED (and alternatively that the parents' unilateral placement was not appropriate) [tuition reimbursement case]

P G.D v. Wissahickon Sch. Dist., 832 F. Supp. 2d 455, 56 IDELR ¶ 294 (E.D. Pa. 2011)
- ruled that fatally skewed initial eligibility evaluation of child with ADHD who belatedly received an IEP amounted to denial of FAPE, entitling student to compensatory education

(*P*) Michael P. v. Dep't of Educ., Haw., 656 F.3d 1057, 57 IDELR ¶ 123 (9th Cir. 2011)[8]
- after ruling that requiring exclusive reliance on the severe discrepancy model of identifying SLD violated the IDEA, remanded to determine whether student was eligible as SLD and, if so, whether the private tutoring and placement were appropriate so as to entitle the parents to reimbursement

S H.M. v. Haddon Heights Bd. of Educ., 822 F. Supp. 2d 439, 57 IDELR ¶ 186 (D.N.J. 2011)
- ruled that student identified as SLD in basic reading and math computation but declassified upon the triennial reevaluation was not eligible—based on larger picture, including teacher observations and other testing—as SLD in overall reading fluency despite tested weakness in oral reading fluency

[7] This reversal of the trial court decision resulted in vacating the separate $89k attorneys' fee ruling that had been in favor of the parents. Traci D. v. Marshall Joint Sch. Dist., 53 IDELR ¶ 225 (W.D. Wis. 2009).

[8] In a subsequent decision, the federal district court remanded the determination of the student's eligibility to an IHO. Elizabeth G. v. Dep't of Educ., Haw., 58 IDELR ¶ 68 (D. Haw. 2012).

S C.M. v. Dep't of Educ., Haw., 476 F. App'x 674, 58 IDELR ¶ 151 (9th Cir. 2012)
- ruled that student with ADHD and CAPD was not eligible as SLD or OHI

S D.G. v. Flour Bluff Indep. Sch. Dist., 481 F. App'x 887, 59 IDELR ¶ 2 (5th Cir. 2012)
- vacated lower court ruling of child find violation (with compensatory education and attorneys' fees) where the student was not eligible for special education at the time

S D.K. v. Abington Sch. Dist., 696 F.3d 233, 59 IDELR ¶ 271 (3d Cir. 2012)
- rejected parent's child find and inappropriate evaluation claims for elementary school child with ADHD (and both auditory processing and sensory stimulation diagnoses) who was ultimately, upon a second evaluation, determined to be eligible as OHI [compensatory education case]

P Lauren G. v. W. Chester Area Sch. Dist., 906 F. Supp. 2d 375, 60 IDELR ¶ 4 (E.D. Pa. 2012)
- upheld parents' child find claim under IDEA (and § 504), concluding that the student's psychiatric hospitalizations and failing grades provided reason to suspect disability, and determined that the child was eligible as ED (rejecting the district's claim that the duration had not been a long period) [tuition reimbursement case]

(P)/S M.A. v. Torrington Bd. of Educ., 980 F. Supp. 2d 245, 62 IDELR ¶ 28 (D. Conn. 2013)
- ruled that district violated child find, per Forest Grove,[9] but that the child, who had diagnoses of asthma and various serious allergies (e.g., mold), was not eligible as OHI due to lack of need for special education, thus denying tuition reimbursement but leaving the remedy question open for supplemental briefs [tuition reimbursement case][10]

P M.M. v. N.Y.C. Dep't of Educ., 26 F. Supp. 3d 249, 63 IDELR ¶ 156 (S.D.N.Y. 2014)
- ruled that high school student with psychiatric problems who had good but declining grades, long absences, and not enough credits to move to the next grade qualified as ED [tuition reimbursement case]

S E.M. v. Pajaro Valley Sch. Dist., 758 F.3d 1162, 63 IDELR ¶ 211 (9th Cir. 2014)
- after previous appeals and remands, upheld district's determination, based on its severe discrepancy testing, that child was not eligible as SLD and—while deferring to OSEP's interpretation that a determination of eligibility under one classification does not preclude eligibility for the same or different diagnosis under another classification—also upheld district's determination that this child's auditory processing disorder did not meet the criteria for OHI based (insufficient evidence of limited alertness, w/o reaching the other two criteria—acute or chronic and adverse effect)

[9] The district made the legal error of contending that the exclusive responsibility for evaluations and IEPs for parentally placed children in private schools belongs to the district of location. Thus, the case illustrates the potential intersection of tuition reimbursement and parentally placed children when the placement is "unilateral."

[10] In a subsequent, unpublished decision, the court denied the parents' alternative requests for tuition reimbursement and money damages, but took the equities of the case into consideration in awarding the parents' partial attorneys' fees amounting to $56K. M.A. v. Torrington Bd. of Educ., 980 F. Supp. 2d 279, 63 IDELR ¶ 64 (D. Conn. 2014).

P Jana K. v. Annville-Cleona Sch. Dist., 39 F. Supp. 3d 584, 63 IDELR ¶ 278 (M.D. Pa. 2014)
- upheld child find claim under IDEA, concluding that 7th grader's behavior (e.g., nurse office visits and "cutting") and declining grades warranted district's evaluation and constituted denial of FAPE [compensatory education case]

S Paul T. v. S. Huntington Union Free Sch. Dist., 14 N.Y.S.3d 627, 65 IDELR ¶ 273 (Sup. Ct., Suffolk Cnty. 2015)
- ruled that victim of bullying did not qualify as ED or OHI based on lack of adverse effect on educational performance – also rejected child find claim

S Dep't of Educ., Haw. v. Patrick P., 609 F. App'x 509, 65 IDELR ¶ 285 (9th Cir. 2015)
- upheld determination that student who was performing well in his classes, while in Tier I, was not eligible as SLD based on first of two applicable criteria—severe discrepancy or inadequate achievement

S D.A. v. Meridian Joint Sch. Dist. No. 2, 618 F. App'x 891, 65 IDELR ¶ 286 (9th Cir. 2015)
- upheld, in brief opinion, district's determination that high-functioning high school student with Asperger disorder was not eligible under the IDEA[11]

P Indep. Sch. Dist. No. 413 v. H.M.J., 123 F. Supp. 3d 1100, 66 IDELR ¶ 41 (D. Minn. 2015)
- upheld IHO's finding of child find violation requiring added evaluation (not compensatory education) for a child with cancer who was struggling in school likely due to excessive absenteeism and who had a diagnosis of general anxiety disorder—the district's evaluation, which found the student ineligible as OHI, lacked a medical evaluation

S Q.W. v. Bd. of Educ. of Fayette Cty, 630 F. App'x 580, 66 IDELR ¶ 212 (6th Cir. 2015)
- upheld exiting of high-functioning elementary school student with autism IEP under the IDEA, deferring to evaluation demonstrating his "academic success, an absence of significant social difficulties at school, and a disconnect between his school-based success and at-home problems"

S R.E. v. Brewster Cent. Sch. Dist., 180 F. Supp. 3d 262, 67 IDELR ¶ 214 (S.D.N.Y. 2016)
- rejected parent's child find claim in the wake of private diagnoses (e.g., Tourette syndrome) in light of § 504 plan with good grades and proficient NCLB testing

[11] In a companion decision, the Ninth Circuit held that the parents were not entitled to attorneys' fees in the wake of prevailing for an IEE at public expense and the resulting district determination that the student was not eligible under the IDEA. D.A. v. Meridian Joint Sch. Dist. No. 2 (infra).

P Horne v. Potomac Preparatory P.C.S., 209 F. Supp. 3d 146, 68 IDELR ¶ 38 (D.D.C. 2016)
- upheld child find and eligibility (as ED) of first grader in wake of suicide attempt by jumping out of school window

(*P*) Doe v. Cape Elizabeth Sch. Dist., 832 F.3d 69, 68 IDELR ¶ 61 (1st Cir. 2016)
- vacated and remanded ruling that child was ineligible as SLD, requiring reconsideration under prong 1 to determine whether competing general education performance (high) sufficiently counterweighed specific fluency performance (weak), leaving open questions of prong 2 (need for special education) and state law differences for SLD under severe discrepancy approach

S W.A. v. Hendrick Hudson Cent. Sch. Dist., 219 F. Supp. 3d 421, 69 IDELR ¶ 4 (S.D.N.Y. 2016), aff'd, 927 F.3d 126, 74 IDELR ¶ 186 (2d Cir. 2019), cert. denied, 140 S. Ct. 934 (2020)
- rejected child find claim, concluding that district had reason to suspect OHI but not the need for special education prior to initiating the evaluation and the 2.5-month time for starting the evaluation was not an unreasonable period [tuition reimbursement case]

P L.J. v. Pittsburg Unified Sch. Dist., 850 F.3d 996 (9th Cir. 2017)
- ruled that student who met one or more classifications under the IDEA was eligible in terms of the need for special education when, at the time of the evaluation, he was receiving services in general education that amounted to specially designed instruction—here, 1:1 aide, individually determined mental health services, a BIP, and various classroom accommodations

(*P*) Davis v. D.C., 244 F. Supp. 3d 27, 69 IDELR ¶ 218 (D.D.C. 2017)
- remanded for further development of the record as to the identification approach that the charter school used to determine that the child was no longer eligible as SLD, with reasoning that severe discrepancy may not be used as the sole method

S D.L. v. Clear Creek Indep. Sch. Dist., 695 F. App'x 733, 70 IDELR ¶ 32 (5th Cir. 2017)
- brief ruling upholding district's determination that high school student with ED (based on diagnoses of depression, anxiety, and ADHD) no longer needed special education—teacher observations weightier than IEE

S M.G. v. Williamson Cnty. Sch., 720 F. App'x 280, 71 IDELR ¶ 102 (6th Cir. 2018)
- affirmed child find and eligibility rulings in favor of district, concluding that the district's RTI, § 504, and evaluative efforts were reasonable and that parents did not prove that the child needed OT/PT ("We therefore find M.G.'s educators' numerous assessments a better indicator of her need for special-education services than M.G.'s doctor's prescription.")

S Mr. P v. W. Hartford Bd. of Educ., 885 F.3d 735, 71 IDELR ¶ 207 (2d Cir. 2018)
- rejected child find claim for high school student subsequently, after three short therapeutic hospitalizations, the district determined to qualify as ED

S Durbrow v. Cobb Cnty. Sch. Dist., 887 F.3d 1182, 72 IDELR ¶ 1 (11th Cir. 2018)
- affirmed child find and eligibility rulings in favor of district, concluding that high school student with ADHD performed sufficiently well in magnet program with 504 plan and other GEI and without any "alarming" signs of the need for special education and with decline in grades attributable to other factors, such as lack of effort

P S.P. v. E. Whittier City Sch. Dist., 725 F. App'x 320, 72 IDELR ¶ 88 (9th Cir. 2018)
- ruled that the district denied FAPE by tying the child's eligibility for special education services only to her SLI and not also to her hearing impairment (although not qualifying under deafness) based on (1) IDEA's special consideration requirement for IEPs of students with hearing impairment, and (2) IDEA's general requirement to assess student in "all areas of suspected disability"

S Burnett v. San Mateo-Foster City Sch. Dist., 739 F. App'x 870, 72 IDELR ¶ 147 (9th Cir. 2018)
- ruled that child find was nonprejudicial procedural violation when child was ultimately not eligible, here as SLD or OHI

S T.B. v. Prince George's Cnty. Bd. of Educ., 897 F.3d 566, 72 IDELR ¶ 171 (4th Cir. 2018)
- ruled that district's child find violation, here a procedural failure to provide an evaluation upon parental request was not a denial of FAPE, even though the district ultimately found the student eligible, because "he had no disability that special education would have remedied; he was simply unwilling to take his education seriously"[12]

P Krawietz v. Galveston Indep. Sch. Dist., 900 F.3d 673, 72 IDELR ¶ 205 (5th Cir. 2018)
- upheld that district violated child find in terms of both (a) reasonable suspicion based on hospitalization, academic decline, and behavioral incident "taken together and (b) reasonable period based on four-month delay before evaluation

P/S Z.J. v. Bd. of Educ. of Chi. Dist. 299, 344 F. Supp. 3d 988, 73 IDELR ¶ 95 (N.D. Ill. 2018)
- ruled that district violated child find one month after receiving second very low standardized test score for child subsequently determined to be eligible as OHI/SLD, though not at the earlier date that the parent asserted

S R.Z.C. v. N. Shore Sch. Dist., 755F. App'x 658, 73 IDELR ¶ 139 (9th Cir. 2018)
- summarily upheld exiting student from SLD eligibility based on the need prong

[12] After eligibility and an IEP for a self-contained ED class, the student failed to attend school. The concurring, third appellate judge relied on the parents' failure to show denial of FAPE without the majority's attribution of fault.

P Culley v. Cumberland Valley Sch. Dist., 758 F. App'x 301, 73 IDELR ¶ 170 (3d Cir. 2018)
- ruled that district violated child find under IDEA[13] for student with Crohn's disease and that, based on the IEE's linkage between this life defining condition and his numerous problems, including a steep academic decline, he was eligible as SLD and/or OHI

S S. v. W. Chester Area Sch. Dist., 353 F. Supp. 3d 369, 74 IDELR ¶ 20 (E.D. Pa. 2019)
- upheld appropriateness of first evaluation of elementary student with epilepsy as eligible for 504 plan but not IEP even though subsequent evaluation determined that the student was IDEA-eligible

S Doe v. Cape Elizabeth Sch. Dep't, 382 F. Supp. 3d 83, 74 IDELR ¶ 95 (D. Me. 2019)
- ruled that district did not violate child find for high school student with attendance problems, concussion, and diagnosis of generalized anxiety disorder—provided 504 plan despite and had no reason to suspect causally connected need for special education [tuition reimbursement case]

P Lisa M. v. Leander Indep. Sch. Dist., 924 F.3d 205, 74 IDELR ¶ 124 (5th Cir. 2019)
- rejected district's revised determination that fourth grader with dysgraphia did not need special education in light of mixed evidence (benchmark testing v. high grades) and district eligibility team's sudden reversal of its initial determination

(*P*) William V. v. Copperas Cove Indep. Sch. Dist., 774 F. App'x 253, 74 IDELR ¶ 277 (5th Cir. 2019), after remand, 826 F. App'x 374, 77 IDELR ¶ 92 (5th Cir. 2020), cert. denied, 142 S. Ct. 72 (2021)
- first, while recognizing the murky difference between general and special education (citing Lisa M.), vacated and remanded lower court's determination that student with dyslexia (who had an IEP for S/LI) was, per se, eligible as SLD, ruling that its failure to address the need prong and to make findings as to the extent of the student's progress with accommodations was fatal error, and then after remand, affirmed the lower court's ruling that the procedural violation in not determining the child was eligible did not result in substantive loss of FAPE in light of the continuation of the IEP along with Wilson reading instruction via MTSS

P Indep. Sch. Dist. No. 283 v. E.M.D.H., 960 F.3d 1073, 76 IDELR ¶ 203 (8th Cir. 2020), cert. denied, 142 S. Ct. 67 (2021)
- ruled that district (a) violated child find for gifted high school student with various mental health diagnoses and increasing attendance problems (statute of limitations info-continuing violation), and (b) had erroneously determined that she was ineligible as ED and OHI [IEE reimbursement, tutoring reimbursement, and compensatory education case]

[13] For the court's ruling for a child find violation under § 504, see the last section of this document.

P Spring Branch Indep. Sch. Dist. v. O.W., 961 F.3d 781, 76 IDELR ¶ 234 (5th Cir. 2020), cert. denied, 141 S. Ct. 1389 (2021)
- upheld child find violation based on reasonable period dimension, concluding that proactive steps rather than only length was the key consideration—here, the district had reason to know at the time of the 504 eligibility determination meeting that the general education behavioral interventions was not working (revised to clarify that intermediate measures, i.e., RTI or 504, may be warranted in other circumstances)

S Smith v. Tacoma Sch. Dist., 476 F. Supp. 3d 1112, 77 IDELR ¶ 48 (W.D. Wash. 2020)
- rejected various challenges to the instruments, personnel, and other procedures in the reevaluation of a preschool child with various medical issues that exited her from eligibility based on the need prong

S Northfield City Bd. of Educ. v. K.S., 847 F. App'x 130, 78 IDELR ¶ 181 (3d Cir. 2021)
- rejected child find claim of student with PTSD who had been hospitalized for suicidal thoughts in grade 4, ruling that district only knew when she started middle school that she had history of trauma and took affirmative responses to what appeared to be emotional, not academic problems (though subsequently found eligible as ED)

P D.C. v. Klein Indep Sch. Dist., 860 F. App'x 894, 79 IDELR ¶ 4 (5th Cir. 2021)
- upheld child find violation concluding that the district had reasonable suspicion based on student's failure to improve low standardized test scores despite ongoing 504 plan for dyslexia and that six-month delay until initiating the evaluation, even with intervening summer, was unreasonable

***S*/(*P*)** J.N. v. Jefferson Cnty. Sch. Dist., 12 F.4th 1355, 79 IDELR ¶ 151 (11th Cir. Ala. 2021)
- ruled that district violated child find for middle-school child with ADHD but was not entitled to compensatory education (or attorneys' fees) because the parent did not meet her burden of proof of a resulting denial of FAPE, including lack of proof that the general education interventions that the teachers provided were substantively different from what she subsequently received under an IEP

S Leigh Ann H. v. Riesel Indep. Sch. Dist., 18 F.4th 78, 80 IDELR ¶ 3 (5th Cir. 2021)
- rejected child find claim based on implicitly district-deferential analysis, including lack of showing of connection between behavior and ED criteria

S Crofts v. Issaquah Sch. Dist. No. 411, 22 F.4th 1048, 80 IDELR ¶ 61 (9th Cir. 2022)
- concluded that initial evaluation determining SLD was appropriate even though it did not specifically instead target dyslexia

S J.M. v. Summit City Bd. of Educ., 39 F.4th 126, 81 IDELR ¶ 91 (3d Cir. 2022)
- ruled that district did not violate child find for SLD, autism, or OHI (ADHD) due to no reason to suspect need for special education—proactive district interventions, including RTI, with due consideration of private diagnoses

S Minnetonka Pub. Schs. v. M.L.K., 42 F.4th 847, 81 IDELR ¶ 123 (8th Cir. 2022)
- ruled that reevaluation's failure to identify student's dyslexia and ADHD in addition to his previously identified autism classification did not amount to denial of FAPE in this case

S D.T. v. Cherry Creek Sch. Dist. No. 5, 55 F.4th 1268, 82 IDELR ¶ 78 (10th Cir. 2022)
- ruled that district did not violate child find for 11th grader who threatened to shoot up the school, whereupon district conducted evaluation and determined that he was eligible as ED – district successfully provided 504 plan and other general ed interventions per state law, and state law also specified requirement for of symptoms in 2 settings, including school, and the student's previous problems were almost entirely at home, including culminating brief therapeutic hospitalization

B. APPROPRIATE EDUCATION (including ESY)

S Walczak v. Florida Union Free Sch. Dist., 142 F.2d 119, 27 IDELR 1135 (2d Cir. 1998)
- upheld substantive appropriateness of district's proposed placement of a child with SLD in a day school [tuition reimbursement case]

P Stroudsburg Area Sch. Dist. v. Jared M., 712 A.2d 807, 28 IDELR 284 (Pa. Commw. Ct. 1998)
- held that district's IEP was inappropriate in terms of OHI student's social, emotional and behavioral needs [tuition reimbursement and compensatory education]

S Kathleen H. v. Massachusetts Dep't of Educ., 154 F.3d 8, 28 IDELR 1067 (1st Cir. 1998)
- upheld district's proposed mainstreamed placement of SLD student rather than parents' unilateral placement in private school [tuition reimbursement case]

S Frank S. v. Sch. Comm., 26 F. Supp. 2d 219, 29 IDELR 707 (D. Mass. 1998)
- upheld school district's proposed IEP for 12th-grade student with atypical PDD under state's maximum benefit standard [tuition reimbursement case]

P Mohawk Trail Reg'l Sch. Dist. v. Shaun D., 35 F. Supp. 2d 34, 29 IDELR 885 (D. Mass. 1999)
- upheld residential placement for student with pedophilia, paraphilia and other emotional conditions

(*P*) Ridgewood Bd. of Educ. v. N.E., 172 F.3d 238, 30 IDELR 41 (3d Cir. 1999)
- "more than a trivial educational benefit" does not meet the FAPE standard of "significant learning" and "meaningful education benefit" based on an individual analysis of the type and amount of learning of which the eligible child is capable (thus with the level of FAPE directly proportional to the child's potential) [tuition reimbursement and compensatory education case]

P Cumberland Valley Sch. Dist. v. Lynn T., 725 A.2d 215, 30 IDELR 356 (Pa. Commw. Ct. 1999)
- district committed substantive and procedural FAPE violations to eligible student who moved from another district

S Ross v. Framingham Sch. Comm., 44 F. Supp. 2d 104, 30 IDELR 378 (D. Mass. 1999)
- district adequately implemented undisputed appropriate IEP

P T.H. v. Bd. of Educ., 55 F. Supp. 2d 830, 30 IDELR 764 (N.D. Ill. 1999)
- rejected district's cross-categorical early childhood placement, w/o aide, upholding instead appropriateness of parents' home-based Lovaas placement for autistic five-year-old [tuition reimbursement case]

S Renner v. Bd. of Educ., 185 F.3d 635, 30 IDELR 885 (6th Cir. 1999)
- upheld the appropriateness of the district's IEP for an autistic child even though it did not have the extent of Lovaas-type discrete trial training that the parents unilaterally implemented at home [tuition reimbursement case]

S Wagner v. Short, 63 F. Supp. 2d 672, 31 IDELR ¶ 53 (D. Md. 1999)
- upheld appropriateness of IFSP proposed for autistic child, despite parents' preference for a particular ABA program

(***P***) Metro. Bd. of Pub. Educ. v. Guest, 193 F.3d 457, 31 IDELR ¶ 75 (6th Cir. 1999)
- remanded the case to determine whether the district's procedural errors were prejudicial and whether the proposed 67% segregated placement was reasonably calculated to provide FAPE [tuition reimbursement case]

S Mandy S. v. Fulton Cnty. Sch. Dist., 205 F. Supp. 2d 1358, 31 IDELR ¶ 79 (N.D. Ga. 2000), aff'd mem., 273 F.3d 1114 (11th Cir. 2001)
- concluded that district's IEPs, including transition plans, were "substantially" in compliance with procedural requirements and met substantive standards of IDEA

P/S Adams v. Or., 195 F.3d 1141, 31 IDELR ¶ 130 (9th Cir. 1999)
- upheld district's IFSP for child with autism, rather than intensive Lovaas-type program parent preferred, but rejected district's revised IFSP that reduced weekly service hours, because it "was not linked to [the child's] unique developmental needs" [tuition reimbursement case]

P Walker Cnty. Sch. Dist. v. Bennett, 203 F.3d 1293, 31 IDELR ¶ 239 (11th Cir. 2000)
- upheld tuition reimbursement for private placement for student with autism, declining to hear additional evidence and pointing out deficiencies in IEP, including lack of BIP, OT and ESY

S Soraruf v. Pinckney Cmty. Sch., 208 F.3d 215, 32 IDELR ¶ 4 (6th Cir. 2000); cf. Gill v. Columbia 93 Sch. Dist., 217 F.3d 1027, 32 IDELR ¶ 254 (8th Cir. 2000) [tuition reimbursement case]
- upheld procedural and substantive appropriateness of district's self-contained placement for a student with autism

P Wilson Cnty. Sch. Sys. v. Clifton, 41 S.W.3d 645, 32 IDELR ¶ 34 (Tenn. Ct. App. 2000)
- rejected district's proposed placement for hearing-impaired child based on deficiencies in classroom physical setting, instructional methods and teacher's experience/training [tuition reimbursement case]

S Burilovich v. Bd. of Educ., 208 F.3d 560, 32 IDELR ¶ 85 (6th Cir. 2000)
- upheld the substantive and procedural appropriateness of district's IEP for elementary school student with autism, thereby rejecting reimbursement for in-home program

S Briley v. Bd. of Educ., 87 F. Supp. 2d 441, 32 IDELR ¶ 119 (D. Md. 2000)
- district's procedural violations, including untimely placement notice, were not sufficient to amount to a denial of FAPE

S Bd. of Educ. v. Hunter, 84 F. Supp. 2d 702, 32 IDELR ¶ 95 (D. Md. 2000)
- upheld private placement for ED student with epilepsy rather than district's proposed mainstreamed placement—LRE not a factor where lack of FAPE [tuition reimbursement case]

(*P*) Bd. of Educ. v. Michael M., 95 F. Supp. 2d 600, 32 IDELR ¶ 170 (S.D. W.Va. 2000)[14]
- ruled that district did not meet its burden to prove that its program, rather than the parents' in-home Lovaas program, was appropriate [tuition reimbursement case]

P/S Nein v. Greater Clark Cnty. Sch. Corp., 95 F. Supp. 2d 961, 32 IDELR ¶ 171 (S.D. Ind. 2000)
- ruled that district's proposed program was not appropriate for dyslexic child but, due to their failure to follow notice requirements, parent's tuition reimbursement should be reduced to one half

S Socorro Indep. Sch. Dist. v. Angelic Y., 107 F. Supp. 2d 761, 33 IDELR ¶ 273 (W.D. Tex. 2000)
- upheld appropriateness of school district's IEP based on: 1) sufficiently individualized assessment; 2) elaborately designed and effectively implemented to meet child's individual needs; and 3) meaningful progress in the LRE, with test scores assessed in relation to the student, not the rest of the class [tuition reimbursement case]

[14] The court subsequently upheld the appropriateness of the parents' program and ordered tuition reimbursement. Board of Educ. v. Michael M., 33 IDELR ¶ 185 (S.D. W.Va. 2000).

(***P***) Knable v. Bexley City Sch. Dist., 238 F.3d 755, 34 IDELR ¶ 1 (6th Cir. 2001)
- ruled that: 1) failure to convene an IEP meeting within the mandated IDEA timeline was a prejudicial violation in terms of depriving parents of meaningful role in formulating an appropriate program; 2) draft IEP failed to meet IDEA's technical and substantive requirements; and 3) full reimbursement would not be equitable to the extent that the costs were unreasonable [tuition reimbursement case]

S Steinberg v. Weast, 132 F. Supp. 2d 343, 34 IDELR ¶ 113 (D. Md. 2001)
- upheld appropriateness of district's proposed placement of SLD (borderline ID) child in segregated public rather than private residential school

P/S Gonzalez v. Puerto Rico Dep't of Educ., 254 F.3d 350, 34 IDELR ¶ 291 (1st Cir. 2001)
- upheld district's proposed placement of 17-year-old student with autism in self-contained class rather than residential placement, but added parent training to manage the child's behavior to the extent it linked to education progress

S Devine v. Indian River Cnty. Sch. Bd., 249 F.3d 1289, 34 IDELR ¶ 203 (11th Cir. 2001)
- upheld appropriateness of district's specialized day program for child with autism rather than parent's unilateral residential placement [tuition reimbursement case]

P Amanda J. v. Clark Cnty. Sch. Dist., 267 F.3d 877 (9th Cir. 2001); cf. Jaynes v. Newport News Sch. Bd., 13 F. App'x 166, 35 IDELR ¶ 1 (4th Cir. 2001) (repeated failure to notify parents of right to challenge IEP via due process hearing)
- failure to furnish parents with copies of child's evaluation reports was prejudicial procedural violation based on need for early detection of autism and for parental participation in planning [tuition reimbursement case]

S White v. Sch. Bd., 549 S.E.2d 16, 35 IDELR ¶ 7 (Va. Ct. App. 2001)
- upheld substantive appropriateness (including LRE) of SLD child's placement in regular school and concluded that various procedural violations did not deny him FAPE [tuition reimbursement case]

P Indep. Sch. Dist. No. 284 v. A.C., 258 F.3d 769, 35 IDELR ¶ 59 (8th Cir. 2001)
- ruled that the child with ED—per the mutually agreed upon IEE—needed residential placement, which the parent had requested, for educational benefit

S W.A. v. Pascarella, 153 F. Supp. 2d 144, 35 IDELR ¶ 91 (D. Conn. 2001)
- district's failure to implement IEP team's unanimous recommendation of full-time special education teacher was not a prejudicial procedural violation where it was an optimal, not necessary, service and the IEP was not revised to reflect this recommendation

P/S Pitchford v. Salem-Keizer Sch. Dist. No. 24J, 155 F. Supp. 2d 1213, 35 IDELR ¶ 126 (D. Or. 2001)
- upheld appropriateness of a series of IEPs for a child with autism, including TEACCH rather than Lovaas, but found that lack of district (or other child-knowledgeable) member of IEP team for one year was a prejudicial error (ordering mediation as the first-resort remedy)

(*P*) Lagares v. Camdenton R-III Sch. Dist., 68 S.W.3d 518, 35 IDELR ¶ 270 (Mo. Ct. App. 2001)
- remanded determination of whether IEP was appropriate for failure to apply the higher, maximization standard under state law

S Sch. Bd. v. K.C., 285 F.3d 977, 36 IDELR ¶ 122 (11th Cir. 2002)
- upheld appropriateness of district's proposed IEP for student with SLD where key stakeholders implemented it in collaborative manner and its procedural deficiencies did not impact FAPE

S Tyler v. Nw. Indep. Sch. Dist., 202 F. Supp. 2d 557, 36 IDELR ¶ 236 (N.D. Tex. 2002)
- upheld procedural and substantive appropriateness of proposed IEP for autistic child, which included six hours of Lovaas in-home training instead of the 25 hours the parents insisted was necessary

S Delaware Valley Sch. Dist. v. Daniel G., 800 A.2d 989, 37 IDELR ¶ 7 (Pa. Commw. Ct. 2002)
- upheld substantive appropriateness of IEP for SLD student who made two months of progress in 10 instructional months via specially targeted instruction (Lindamood Bell)

S Vasheresse v. Laguna Salada Union Sch. Dist., 211 F. Supp. 2d 1150 (N.D. Cal. 2001)
- procedural violations in evaluation process did not deprive student of FAPE; evaluation was adequate; and IEP was substantively appropriate [IEE and tutoring reimbursement case]

S Todd v. Duneland Sch. Corp., 299 F.3d 899, 37 IDELR ¶ 151 (7th Cir. 2002)
- upheld substantive appropriateness of IEP for SLD student who demonstrated improvement in grades and standardized test scores (and ESY denial based on regression standard) [tuition reimbursement case]

S MM v. Sch. Dist., 303 F.3d 523, 37 IDELR ¶ 183 (4th Cir. 2002); see also Gray v. O'Rourke, 48 F. App'x 899, 37 IDELR ¶ 272 (4th Cir. 2002)
- neither failure to start school year w/o completed IEP nor failure to develop new IEP for the following year was prejudicial in this case (and single standard for ESY—significant regression jeopardizing progress during year or toward self sufficiency—did not violate IDEA)[15]

[15] The federal Office of Special Education Programs interpreted the MM decision as requiring significant regression or a jeopardization of benefits accrued during the school year, not lack of progress alone, for ESY. Letter to Given, 39 IDELR ¶ 129 (OSEP 2003).

S A.S. v. Bd. of Educ., 245 F. Supp. 2d 417, 37 IDELR ¶ 179 (D. Conn. 2001), aff'd mem., 47 F. App'x 615, 37 IDELR ¶ 246 (2d Cir. 2002)
- upheld proposed IEP for student with SLD, ED and ADHD at the district's high school, finding the school staff members to be more weighty witnesses than the parents' outside experts [tuition reimbursement case]

S J.S. v. Shoreline Sch. Dist., 220 F. Supp. 2d 1175, 37 IDELR ¶ 253 (W.D. Wash. 2002)
- upheld proposed IEP, using deferential reasonableness approach and applying equities to district's evaluation in light of parents' concealment [tuition reimbursement case]

(*S*) DiBuo v. Bd. of Educ., 309 F.3d 184, 37 IDELR ¶ 271 (4th Cir. 2002)
- remanded to determine whether procedural violations (e.g., failure to consider parents' evaluations for ESY) amounted to denial of FAPE

S J.P. v. W. Clark Cmty. Sch., 230 F. Supp. 2d 910, 38 IDELR ¶ 5 (S.D. Ind. 2002)
- upheld appropriateness of district's eclectic TEACCH/PECS-based program, which includxyed ABA/DTT, for high school student with autism rather than parents' full-time Lovaas-type program—rejection of parents' cookie-cutter, cost-related arguments

S Waller v. Bd. of Educ., 234 F. Supp. 2d 531, 38 IDELR ¶ 37 (D. Md. 2002)
- upheld substantive appropriateness of proposed IEP for student with SLD and used equitable-type analysis to reject parents' procedural claims

S Arlington Cnty. Sch. Bd. v. Smith, 230 F. Supp. 2d 704, 38 IDELR ¶ 38 (E.D. Va. 2002)
- upheld appropriateness of district's resource program for ED student rather than private day school, based largely on expert testimony

P Neosho R-C Sch. Dist. v. Clark, 315 F.3d 1022, 38 IDELR ¶ 61 (8th Cir. 2003). But cf. Sch. Bd. of Indep. Sch. Dist. No. 11 v. Renollett, 440 F.3d 1007, 45 IDELR ¶ 117 (8th Cir. 2006) (not required and not denial of FAPE in this case)
- held that the IEP's failure to include a proper BIP amounted to, in this case, a denial of FAPE in light of the obvious need of the child with autism and SLD for a BIP and unpersuasive evidence of academic progress

S N.L. v. Knox Cnty. Pub. Sch., 315 F.3d 688, 38 IDELR ¶ 62 (6th Cir. 2003)
- held that failure to include the parent in the multidisciplinary evaluation team and in the preparation of the draft assessment report, which concluded that the child was ineligible under the IDEA, did not amount to a denial of FAPE in this case

S Kuszewski v. Chippewa Valley Sch., 56 F. App'x 655, 38 IDELR ¶ 63 (6th Cir. 2003)
- upheld appropriateness of district's IEP, concluding that failure to update it during stay-put was not procedural violation and that district maintained substantial communication with parents [tuition reimbursement case]

S Banks v. Danbury Bd. of Educ., 238 F. Supp. 2d 428, 38 IDELR ¶ 65 (D. Conn. 2002)
- upheld substantive appropriateness of proposed IEP that provided one hour per day of Orton-Gillingham ("not a 'Cadillac'") [tuition reimbursement case]

P Shapiro v. Paradise Valley Unified Sch. Dist., 317 F.3d 1072, 38 IDELR ¶ 91 (9th Cir. 2003)
- held that failure to have the private school special education teacher on the IEP team and to reschedule the IEP meeting for the parents' participation was a prejudicial procedural violation [tuition reimbursement case]

S CJN v. Minneapolis Pub. Sch., 323 F.3d 630, 38 IDELR ¶ 208 (8th Cir. 2003)
- upheld appropriateness of IEP based on reasonable academic progress despite increased use of time-outs and physical restraints [tuition reimbursement case]

P/S Troy Sch. Dist. v. Boutsikaris, 250 F. Supp. 2d 720, 38 IDELR ¶ 210 (E.D. Mich. 2003)
- upheld procedural (harmless error approach) and substantive (Chevy, not Cadillac) appropriateness of IEP with limited exception of insufficient integration consultant services (for which court upheld compensatory education)

S Kings Local Sch. Dist. Bd. of Educ. v. Zelazny, 325 F.3d 724, 38 IDELR ¶ 236 (6th Cir. 2003)
- upheld appropriateness of IEP despite child's increasing behavior problems at home and harmless procedural error (here, lack of parental participation at third IEP meeting)

S Adam J. v. Keller Indep. Sch. Dist., 328 F.3d 804, 39 IDELR ¶ 1 (5th Cir. 2003)
- upheld substantive appropriateness of proposed IEP for student with autism (Asperger Disorder), rather than private placement, based on Cypress-Fairbanks four-factor test and upheld procedural appropriateness based on no loss of educational opportunity (or infringement on parental-participation opportunity)

P S.H. v. State-Operated Sch. Dist., 336 F.3d 260, 39 IDELR ¶ 121 (3d Cir. 2003)
- reversed district court's decision that proposed IEP for hearing impaired child was appropriate (including LRE), ruling that said court did not accord sufficient deference to the factual conclusions of the hearing officer under the "modified de novo" standard of judicial review—de minimis mainstreaming opportunities and prejudicial deficiencies, including recognition, but failure, to address need for ESY

S Grim v. Rhinebeck Cent. Sch. Dist., 346 F.3d 377, 40 IDELR ¶ 2 (2d Cir. 2003)
- procedural violations of delayed IEPs were not prejudicial after parents' unilateral placement of SLD child, absent evidence they would have returned the child to the district, and district's choice not to use Orton-Gillingham method was within its discretion [tuition reimbursement case]

(*P*) G v. Fort Bragg Dependent Sch., 343 F.3d 295, 40 IDELR ¶ 4 (4th Cir. 2003)
- remanded to determine whether the district's proposed IEP for four-year-old with autism, which contained Lovaas elements but not a Lovaas-certified consultant, met the Rowley substantive standard and whether the district denied the child FAPE during the previous three years (rejecting parental-objection standard for triggering education)

S Alexis v. Bd. of Educ., 286 F. Supp. 2d 551, 40 IDELR ¶ 7 (D. Md. 2003)
- omission of PELs was harmless procedural error in this case, and lack of progress in one of several SLD child's sub-skill areas did not constitute violation of substantive standard of FAPE

S/P E.D. v. Enterprise City Bd. of Educ., 273 F. Supp. 2d 1252, 40 IDELR ¶ 35 (M.D. Ala. 2003)
- procedural violations were not prejudicial but district's failure to include provisions in the IEP for speech/language impaired child with school phobia for transition to the in-school placement constituted a substantive violation of FAPE (with the remedy being involvement of the child's psychiatrist on the IEP team)

S A.B. v. Lawson, 354 F.3d 315, 40 IDELR ¶ 121 (4th Cir. 2003)
- upheld substantive and procedural appropriateness of IEP proposed for mainstreamed SLD student [tuition reimbursement case]

P Pawling Cent. Sch. Dist. v. New York State Educ. Dep't, 771 N.Y.S.2d 572, 40 IDELR ¶ 180 (App. Div. 2004)
- held that IEP was not appropriate due to failure to complete district's recommended testing, lack of measurable goals, absence of description of specially designed instruction and unilateral change in related services [tuition reimbursement case]

S Cone v. Randolph Cnty. Sch., 302 F. Supp. 2d 500, 40 IDELR ¶ 207 (M.D.N.C. 2004)
- held that district's proposed transfer of student from out-of-state school to in-state residential placement met the state's more stringent standard for FAPE and that the procedural violations were not prejudicial

S T.B. v. Warwick Sch. Comm., 361 F.3d 80, 40 IDELR ¶ 253 (1st Cir. 2004)
- upheld district's proposed placement of autistic kindergarten student in a specialized class that used the TEACCH approach rather than private school that relied on DTT – nonprejudicial procedural violations and deferential Rowley standard [tuition reimbursement case]

S Johnson v. Olathe Dist. Sch., 316 F. Supp. 2d 960, 41 IDELR ¶ 64 (D. Kan. 2003)
- upheld district's proposed IEP for an autistic sixth grader in a life skills class that used ABA and redirection techniques rather than home placement—procedural violations (e.g., IEP team composition) were nonprejudicial and methodology (here, using redirection more than planned ignoring) is within district's discretion

S Keith H. v Janesville Sch. Dist., 305 F. Supp. 2d 986, 41 IDELR ¶ 132 (W.D. Wis. 2004)
- upheld appropriateness of district's placement for child with SLD and OHI (school phobia), including temporary homebound placement and subsequently proposed school-based placement

S Alex R. v. Forrestville Valley Cmty. Unit Sch. Dist., 375 F.3d 603, 41 IDELR ¶ 146 (7th Cir. 2004)
- upheld appropriateness of district's IEP for disruptive third grader with OHI, rejecting parents' argument that the IDEA had a substantive standard for a BIP and an implementation standard beyond "good faith" for staff training (per previous IDEA regulation)

S Watson v. Kingston City Sch. Dist., 325 F. Supp. 2d 141, 41 IDELR ¶ 181 (N.D.N.Y. 2004), aff'd, 142 F. App'x 9 (2d Cir. 2005)
- upheld appropriateness of district's IEP for SLD student rather than parents' proposal for placement in private school that offered Orton Gillingham—methodology is within the district's discretion

P Bd. of Educ. v. Summers, 325 F. Supp. 2d 565, 41 IDELR ¶ 210 (D. Md. 2004)
- ruled that IEP, which provided for largely mainstreamed placement of student with multiple disabilities was – based on substantive, not procedural, grounds—inappropriate (including restrictive effect of aide and lack of speech and language progress) and that parents' proposed private special education placement provided FAPE in the LRE

P Shore Reg'l High Sch. Bd. of Educ. v. P.S., 381 F.3d 194, 41 IDELR ¶ 234 (3d Cir. 2004)
- ruled that the district did not offer FAPE to ninth-grade student with a disability (OHI) who had been the target of constant peer harassment and bullying—based on deference to the hearing officer's assessment of the expert testimony (and lower court's lack of sufficient explanation for disagreeing with said assessment), thus awarding tuition reimbursement case for parents' unilateral placement at neighboring district

P Fisher v. Bd. of Educ., 856 A.2d 552, 41 IDELR ¶ 238 (Del. 2004)
- ruled that district did not offer FAPE to sixth grade student with SLD (ADHD and dyslexia), providing deference (modified de novo standard) to hearing officer re lack of progress on standardized tests and loss of instruction (distraction plus pull-out) in mainstreamed placement and upholding education award of two-years at prep school

(*S*) Kenton Cnty. Sch. Dist. v. Hunt, 384 F.3d 269, 41 IDELR ¶ 259 (6th Cir. 2004)
- reversed and remanded district court's ESY decisions in favor of parents for previous four summers, requiring rigorous application of whether the parents had proven "significant skill losses of such degree and duration so as to seriously impede [the child's] progress toward his educational goals"

S Wagner v. Bd. of Educ., 340 F. Supp. 2d 603, 42 IDELR ¶ 6 (D. Md. 2004)
- upheld appropriateness of proposed IEP, despite cut-and-pasted goals/objectives from previous IEP and placement, which was change from Lovaas to non-Lovaas school, including rejection of procedural violations as nonprejudicial

P M.L. v. Fed. Way Sch. Dist., 394 F.3d 634, 42 IDELR ¶ 57 (9th Cir. 2005)
- held that failure to include a general education teacher on the IEP team where mainstreaming is a possibility was a significant structural error requiring re-convening the required IEP team—rejected harmless error approach and ducked deciding whether the IEP was appropriate [tuition reimbursement case]

P Deal v. Hamilton Cnty. Dep't of Educ., 392 F.3d 840, 42 IDELR ¶ 109 (6th Cir. 2004); see also H.B. v. Las Virgenes Unified Sch. Dist., 239 F. App'x 342, 48 IDELR ¶ 31 (9th Cir. 2007), further proceedings sub nom. Berry v. Las Virgenes Unified Sch. Dist., 370 F. App'x 843, 54 IDELR ¶ 73 (9th Cir. 2010) (predetermination)
- held that parents were entitled to tuition reimbursement based on two independent prejudicial procedural violations (fixed predetermination for TEACCH, not Lovaas, and repeated absence of general education teacher on IEP team where integration was at issue) and possible substantive violation of FAPE (remanding for careful determination, with limits on deference re methodology, based on "meaningful benefit" standard)[16]

S J.R. v. Bd. of Educ., 345 F. Supp. 2d 386, 42 IDELR ¶ 113 (S.D.N.Y. 2004); see also Parents of Danielle v. Mass. Bd. of Educ., 430 F. Supp. 2d 3, 45 IDELR ¶ 247 (D. Mass. 2006)
- upheld appropriateness of inclusionary class for student with speech/language and other disabilities based on genetic disorder, deferring to hearing officer's progress findings and commenting that "IDEA [does not] entitle … [the student] to the 'best education that money can buy' at the expenditure of the District's finite financial resources" [tuition reimbursement case]

(*S*) JH v. Henrico Cnty. Sch. Bd., 395 F.3d 185, 42 IDELR ¶ 199 (4th Cir. 2005)
- reversed and remanded for determination as to whether parents sustained burden of proof that the level of ESY services significantly jeopardized gains kindergarten student with autism made during the school year

P Lamoine Sch. Comm. v. Ms. Z, 353 F. Supp. 2d 18, 42 IDELR ¶ 172 (D. Me. 2005)
- held that district's failure to act decisively to address student's attendance problems resulting from his SLD-related depression constituted denial of FAPE [tuition reimbursement case]

[16] In an unpublished decision, that the Sixth Circuit affirmed, the district prevailed on remand with regard to the methodology issue, but, based on the overall outcome of the case, the parents received 50% reimbursement. Deal v. Hamilton Cnty. Dep't of Educ., 46 IDELR ¶ 45 (E.D. Tenn. 2006), aff'd, 258 F. App'x 863 (6th Cir. 2008). In a separate decision, the trial court awarded attorneys' fees to the parents in the substantially reduced amount of approximately $240,000. Deal v. Hamilton Cnty. Dep't of Educ., 2006 WL 285446 (E.D. Tenn. 2006).

(*P*) Cnty. Sch. Bd. v. Z.P., 399 F.3d 298, 42 IDELR ¶ 229 (4th Cir. 2005)[17]
- remanded appropriateness issue to trial court to reconsider with due deference to the hearing officer's findings that the parent's ABA placement for preschool student with autism was appropriate and the district's proposed TEACCH placement was not [tuition reimbursement case]

S Pace v. Bogalusa City Sch. Bd., 403 F.3d 272, 43 IDELR ¶ 2 (5th Cir. 2005)
- denied sovereign immunity defense but, on the merits, rejected wheelchair-bound student's IDEA accessibility claim, thereby precluding same claim under § 504 and the ADA

S L.C. v. Utah State Bd. of Educ., 125 F. App'x 252, 43 IDELR ¶ 29 (10th Cir. 2005)
- upheld substantive appropriateness in formulation and implementation of IEP for student with multiple disabilities and rejected his procedural challenges (e.g., impartiality) to the due process hearing

S Fayette Cnty. Bd. of Educ. v. M.R.D., 158 S.W.3d 195, 43 IDELR ¶ 37 (Ky. 2005)
- upheld substantive appropriateness of district's IEP for middle school child with SLD based on various sources of evidence of progress despite admitted difficulty in attribution "due to the extensive private assistance procured by his parents"

P Montgomery Twp. Bd. of Educ. v. S.C., 135 F. App'x 534, 43 IDELR ¶ 186 (3d Cir. 2005)
- rejected substantive appropriateness of district's proposed placement for various reasons, including inflated grades, substantial parental assistance and lack of significant difference from previous services in general education [tuition reimbursement case]

S R.D. v. D.C., 374 F. Supp. 2d 84, 43 IDELR ¶ 194 (D.D.C. 2005)
- upheld hearing officer's finding that parent and her legal counsel engaged in bad faith attempt to "game the system" by upping the hours of special education to obtain a private placement

P Zayas v. Commonwealth of Puerto Rico, 378 F. Supp. 2d 13, 43 IDELR ¶ 246 (D.P.R. 2005), aff'd, 163 F. App'x 4, 44 IDELR ¶ 241 (1st Cir. 2005)
- concluded that district did not provide FAPE, where the proposed IEP met the substantive standard, but the trial placement was deleterious to the child [tuition reimbursement case]

S B.L. v. New Britain Bd. of Educ., 394 F. Supp. 2d 522, 44 IDELR ¶ 126 (D. Conn. 2005)
- upheld substantive appropriateness of district's IEP for SLD student based on "snapshot" standard—expert's reevaluation report was after the events [tuition reimbursement case]

[17] In an unpublished decision, the district prevailed on remand. Cnty. Sch. Bd. v. Z.P., 45 IDELR ¶ 96 (E.D. Va. 2005).

S Clear Creek Indep. Sch. Dist. v. J.K., 400 F. Supp. 2d 991, 44 IDELR ¶ 60 (S.D. Tex. 2005)
- ruled that incomplete implementation of IEP provision for in-home and parent training sessions for child with autism did not amount to denial of FAPE where the child received the requisite overall benefit from the IEP and the parents did not prove that the failure was more than de minimis

S Mackey v. Bd. of Educ., 373 F. Supp. 2d 292, 44 IDELR ¶ 155 (S.D.N.Y. 2005) (Mackey V); see also Cerra v. Pawling Cent. Sch. Dist., 427 F.3d 186, 44 IDELR ¶ 89 (2d Cir. 2005)
- upheld the appropriateness of IEP for high school student with SLD based on deference to review officer's decision and inconsequential effect of child's classification [tuition reimbursement case]

(*S*) D.F. v. Ramapo Cent. Sch. Dist., 430 F.3d 595, 44 IDELR ¶ 180 (2d Cir. 2005)
- reversed and remanded decision that had ordered district to provide at least 10 hours of in-home ABA therapy in the preschool program, requiring the district court to decide whether the hearing and review officers committed reversible error by using post-IEP evidence to determine the substantive appropriateness of the IEP

S A.I. v. D.C., 402 F. Supp. 2d 152, 44 IDELR ¶ 255 (D.D.C. 2005)
- upheld procedural (despite technical violations such as partial PELs) and substantive (despite largely anecdotal rather than quantitative evidence – nonacademic too) appropriateness of district's IEP for SLD student [tuition reimbursement case]

P Escambia Cnty. Bd. of Educ. v. Benton, 406 F. Supp. 2d 1248, 44 IDELR ¶ 272 (S.D. Ala. 2005)
- rejected appropriateness of IEP for student with autism based on prejudicial procedural violations (e.g., measurable PELs and goals/objectives) and lack of FBA-BIP

S W.C. v. Cobb Cnty. Sch. Dist., 407 F. Supp. 2d 1351, 44 IDELR ¶ 273 (N.D. Ga. 2005)
- ruled that district's proposed placement for sixth grader with ED met Rowley substantive standard in terms of primarily academic, but also behavioral progress and that the parents' placement was inappropriate (LRE and certification) despite his progress there [tuition reimbursement case]

S M.M. v. Sch. Bd., 437 F.3d 1085, 45 IDELR ¶ 1 (11th Cir. 2006)
- parents claim that a particular approach (here, auditory verbal method) was "the best and most desirable method" does not state a claim under IDEA [tuition reimbursement case]

S Lesesne ex. rel. B.F., 447 F.3d 828, 45 IDELR ¶ 208 (D.C. Cir. 2006)
- upheld appropriateness of district's proposed IEP where parents failed to show that the failure to meet some of the IDEA's procedural violations affected FAPE

S Ariel B. v. Fort Bend Indep. Sch. Dist., 428 F. Supp. 2d 640, 45 IDELR ¶ 210 (S.D. Tex. 2006)
- upheld procedural and substantive appropriateness of program for student with ADHD and sleep disorder who had progressed satisfactorily despite attendance problems [tuition reimbursement case]

S T.F. v. Special Sch. Dist., 449 F.3d 816, 45 IDELR ¶ 237 (8th Cir. 2006); cf. Viola v. Arlington Cent. Sch. Dist., 414 F. Supp. 2d 366, 45 IDELR ¶ 39 (S.D.N.Y. 2006)
- upheld appropriateness of district's proposed placement of student with multiple disabilities, including autism, in self-contained class in regular school with mainstreaming opportunities, rather than residential placement [tuition reimbursement case]

P Gellert v. D.C. Pub. Sch., 435 F. Supp. 2d 18, 45 IDELR ¶ 248 (D.D.C. 2006)
- rejected appropriateness of proposed placement for ED student who needed small classes [tuition reimbursement case]

P Cnty. Sch Bd. v. R.T., 433 F. Supp. 2d 657, 45 IDELR ¶ 274 (E.D. Va. 2006)
- upheld ABA at-home program as FAPE in the LRE for four-year-old with autism rather than district's TEACCH program [tuition reimbursement case]

S Nack v. Orange City Sch. Dist., 454 F.3d 604, 46 IDELR ¶ 32 (6th Cir. 2006)
- upheld appropriateness of IEP in special class for seventh grader with SLD and speech/language disorder, concluding that lack of progress was not substantively fatal due to reasonable calculation (specifically, "extraordinary effort") and harmless procedural violations (preparation rather than predetermination and sufficient test results without PELs)

S Reinholdson v. Bd. of Educ., 187 F. App'x 672, 46 IDELR ¶ 63 (8th Cir. 2006)
- rejected parents' claim that the IDEA required the district to provide them with its ESY proposal at least 105 days before the start of the summer

S Miller v. Bd. of Educ., 455 F. Supp. 2d 1286, 46 IDELR ¶ 133 (D.N.M. 2006), further proceedings, 565 F.3d 1232, 52 IDELR ¶ 61 (10th Cir. 2009)
- rejected parents' claim that their proposed methodology (Alternative Language Therapy + Books on Tape) was essential to FAPE of student with SLD

S Cabouli v. Chappaqua Cent. Sch. Dist., 202 F. App'x 519, 46 IDELR ¶ 211 (2d Cir. 2006)
- ruled that the proposed IEP for student with Asperger Disorder and pervasive developmental disorder, although representing an abrupt change to a much more mainstreamed environment, met the substantive standard for appropriateness [tuition reimbursement case]

S Mr. B. v. E. Granby Bd. of Educ., 201 F. App'x 834, 46 IDELR ¶ 212 (2d Cir. 2006); A.E. v. Westport Bd. of Educ., 463 F. Supp. 2d 208, 46 IDELR ¶ 277 (D. Conn. 2006), aff'd, 251 F. App'x 685, 48 IDELR ¶ 270 (2d Cir. 2007)
- upheld procedural and substantive appropriateness of IEPs [tuition reimbursement cases]

S B.B. v. Haw. Dep't of Educ., 483 F. Supp. 2d 1042, 46 IDELR ¶ 213 (D. Haw. 2007)
- rejected parents' various procedural and substantive challenges to IEP, including predetermination and inadequate "transfer" plan (from private school)

S Leighty v. Laurel Sch. Dist., 457 F. Supp. 2d 546, 46 IDELR ¶ 214 (E.D. Pa. 2006)
- upheld appropriateness of IEP as proposed and implemented for student with SLD, rejecting gap-closing and NCLB-testing arguments [tuition reimbursement case]

S Paolella v. D.C., 210 F. App'x 1, 46 IDELR ¶ 271 (D.C. Cir. 2006)
- rejected parent's claim of predetermination and upheld district's choice of placement, not requiring district to provide daily schedule for the child

S W.S. v. Rye City Sch. Dist., 454 F. Supp. 2d 134, 46 IDELR ¶ 285 (S.D.N.Y. 2006)
- upheld appropriateness of proposed 50/50 placement of kindergartner with autism in regular school, concluding that FBA was appropriate and district's failure to send out notices to private schools did not constitute predetermination [tuition reimbursement case]

S Z.W. v. Smith, 210 F. App'x 282, 47 IDELR ¶ 4 (4th Cir. 2006)
- upheld appropriateness of district's proposed placement for student with SLD and ADHD based on the "modest" IDEA substantive standard for FAPE

S Leticia H. v. Ysleta Indep. Sch. Dist., 502 F. Supp. 2d 512, 47 IDELR ¶ 13 (W.D. Tex. 2006)
- lack of specific diagnosis of autism and lack of precise goals did not deny this eligible preschool child FAPE

S Bd. of Educ. v. Ross, 486 F.3d 267, 47 IDELR ¶ 241 (7th Cir. 2007)
- rejected procedural (e.g., predetermination) and substantive (including LRE) challenges to mid-year change from mainstreamed placement to "multiple needs" program for 11th grader with Rett Syndrome

P A.K. v. Alexandria City Sch. Bd., 484 F.3d 672, 47 IDELR ¶ 245 (4th Cir. 2007), on remand, 544 F. Supp. 2d 487, 50 IDELR ¶ 13 (E.D. Va. 2008). But see T.Y. v. N.Y.C. Dep't of Educ., 584 F.3d 412, 53 IDELR ¶ 69 (2d Cir. 2009); Brad K. v. Bd. of Educ., 787 F. Supp. 2d 834, 56 IDELR ¶ 197 (N.D. Ill. 2011) ("location" refers to type of appropriate environment, not specific school site); cf. D.K. v. D.C., 983 F. Supp. 2d 138, 62 IDELR ¶ 52 (D.D.C. 2013); Aikens v. D.C., 950 F. Supp. 2d 186, 61 IDELR ¶ 132 (D.D.C. 2013) (move from one school to another that was not materially different was not a change in placement for stay-put)

- ruled, in tuition reimbursement case for a child with Asperger Disorder and OCD, that district's proposed placement in an unspecified (rather than one specifically identified) private day school was a prejudicial procedural error amounting to denial of FAPE [tuition reimbursement case]

S San Rafael Elementary Sch. Dist. v. Cal. Special Educ. Hearing Office, 482 F. Supp. 2d 1152, 47 IDELR ¶ 259 (N.D. Cal. 2007); see also L.G. v. Sch. Bd., 255 F. App'x 360, 48 IDELR ¶ 271 (11th Cir. 2007) [tuition reimbursement case]

- upheld district's proposed placement of 13-year-old with autism in private day school rather than parents' requested residential placement, rejecting parents' claim that substantive standard for FAPE extended to generalization of behavioral effects to the home environment

S A.S. v. Madison Metro. Sch. Dist., 477 F. Supp. 2d 969, 47 IDELR ¶ 304 (W.D. Wis. 2007)

- rejected tuition reimbursement for residential placement of child with autism where the parents failed to show the connection between his aggressive behavior at home and the services he received at school—i.e., parents' reason rather than child's need

S O'Dell v. Special Sch. Dist., 503 F. Supp. 2d 1206, 47 IDELR ¶ 216 (W.D. Tex. 2007)

- lack of precise goals/objectives were not substantively harmful to child with multiple disabilities

S Marc V. v. N.E. Indep. Sch. Dist., 455 F. Supp. 2d 577, 48 IDELR ¶ 41 (W.D. Tex. 2006)

- upheld appropriateness of program/placement of prekindergarten child with autism despite district's refusal to grant parents' medically-based (diagnosis of PTSD after district stopped parent from accompanying child to class) request for homebound instruction—parents refused to allow district to speak with the doctor

S Hjortness v. Neenah Joint Sch. Dist., 507 F.3d 1060, 48 IDELR ¶ 119 (7th Cir. 2007)

- procedural errors, including alleged predetermination of LRE, were not prejudicial and despite lack of complete PELs, the proposed IEP for gifted student with autism, ADHD and OCD was substantively appropriate under these particular circumstances [tuition reimbursement case]

P A.D. v. Sumner Sch. Dist., 166 P.3d 837, 48 IDELR ¶ 191 (Wash. Ct. App. 2007)
- district's failure to identify additional data and to take into consideration private school's recommendations for ESY deprived parents of meaningful opportunity for participation

S Van Duyn v. Baker Sch. Dist. 5J, 502 F.3d 811 (9th Cir. 2007); see also Catalan v. D.C., 478 F. Supp. 2d 73, 47 IDELR ¶ 223 (D.D.C. 2007); Melissa S. v. Sch. Dist., 183 F. App'x 184, 45 IDELR ¶ 271 (3d Cir. 2006). But cf. S.S. v. Howard Road Acad., 585 F. Supp. 2d 56, 51 IDELR ¶ 151 (D.D.C. 2008) (failure to provide ESY per IEP was "material," i.e., significant or substantial)
- rejected FAPE implementation claim for student with severe autism, concluding that the standard is whether district's implementation was more than a minor discrepancy with due attention to child's progress (and with liberal credit for the district's "corrective actions" in compliance with hearing officer's prospective order, which did not provide education)

S Mr. C. v. Me. Sch. Admin. Dist. No. 6, 538 F. Supp. 2d 298, 49 IDELR ¶ 36 (D. Me. 2008)
- rejected claim that IDEA 2004 changed the Rowley standard for FAPE

S M.M. v. Special Sch. Dist. No. 1, 512 F.3d 455, 49 IDELR ¶ 61 (8th Cir. 2008)
- district did not deny FAPE to child with ED when 1) she made academic progress despite clear failure to meet behavioral goals; and 2) during the following year, she incurred eight short-term suspensions totaling 30 school days in a four-month period and, although agreeing that a placement change would be warranted, parent refused the district's offer of alternative education services at home

P Ringwood Bd. of Educ. v. K.H.J., 258 F. App'x 399, 49 IDELR ¶ 63 (3d Cir. 2007)
- ruled that district's IEP that resulted in negligible progress in reading for student with SLD was not substantively appropriate, thus reinstating IHO's order for prospective private placement

S Fairfax Cnty. Sch. Bd. v. Knight, 261 F. App'x 606, 49 IDELR ¶ 122 (4th Cir. 2008)
- upheld substantive appropriateness of IEPs for high school student with SLD, deferring to district's experts and methodology in spite of remarkable increase in student's test scores at the private placement [tuition reimbursement case]

S J.P. v. Cnty. Sch. Bd. of Hanover Cnty., 516 F.3d 254, 49 IDELR ¶ 150 (4th Cir. 2008)
- ruled that IHO's decision that the proposed IEP was appropriate for the child with autism, although it could have been more thorough, was "regularly made" and thus entitled to deference [tuition reimbursement case]

S Lessard v. Wilton-Lyndeborough Coop. Sch. Dist., 518 F.3d 18, 49 IDELR ¶ 180 (1st Cir. 2008)
- upheld procedural and substantive appropriateness of IEP for child with multiple disabilities, rejecting what the parents purported to be requirements for a transition plan (in contrast with transition services) and for a BIP (in contrast with consideration as to whether the child needed it)

S Jalloh v. D.C., 535 F. Supp. 2d 13, 49 IDELR ¶ 190 (D.D.C. 2008)
- district's insufficient response to parents' due process hearing request was not prejudicial procedural violation in this case

S Travis G. v. New Hope-Solebury Sch. Dist., 544 F. Supp. 2d 435, 49 IDELR ¶ 248 (E.D. Pa. 2008)
- upheld appropriateness of district's IEP for kindergarten child with autism, including reduction of OT and ABA, and the district's proposed ESY placement

P Sch. Bd. v. E.S., 561 F. Supp. 2d 1282, 49 IDELR ¶ 251 (M.D. Fla. 2008)
- upheld residential placement for child with autism, rejecting district's proposed transfer to nonresidential program

P/S Claudia C-B v. Bd. of Tr., 539 F. Supp. 2d 474, 49 IDELR ¶ 276 (D. Mass. 2008)
- upheld appropriateness of charter school's IEP for ninth grader with ADHD and executive functioning difficulties despite problematic competency-based grading system but awarded partial attorneys' fees for consultation order

S J.N. v. Pittsburgh City Sch. Dist., 536 F. Supp. 2d 564, 50 IDELR ¶ 74 (W.D. Pa. 2008)
- upheld appropriateness of IEP for child with autism in approved private school, concluding, inter alia, that child's injuries from classmates did not result in denial of FAPE

S Mendoza v. Placentia Yorba Linda Unified Sch. Dist., 278 F. App'x 737, 50 IDELR ¶ 93 (9th Cir. 2008)
- upheld substantive appropriateness of district's evaluation and program for student with disabilities, including factors that 1) student's poor attendance gave the district little time to assess the benefits of his IEP; and 2) his parents refused mental health goals and services

P/S JG v. Douglas Cnty. Sch. Dist., 552 F.3d 786, 50 IDELR ¶ 119 (9th Cir. 2008)
- district's evaluation was appropriate and reasonably timely, and district had adequate resources to implement IEPs of twins with autism, but procedural violation of not providing parents with notice of the evaluation warranted full reimbursement where parents' refusal to share information was neither prejudicial nor a breached obligation

S Thompson R2-J Sch. Dist. v. Luke P., 540 F.3d 1143, 50 IDELR ¶ 212 (10th Cir. 2008)
- ruled that district did not deny FAPE to student with autism who made progress under three successive IEPs even though it did not generalize to other settings [tuition reimbursement case]

S Sytsema v. Acad. Sch. Dist. No. 20, 538 F.3d 1306, 50 IDELR ¶ 213 (10th Cir. 2008)
- ruled that district's failure to provide finalized IEP to preschool student with autism was procedural error that did not result in substantive harm [tuition reimbursement case][18]

P/S N.B. v. Hellgate Elementary Sch. Dist., 541 F.3d 1202, 50 IDELR ¶ 241 (9th Cir. 2008)
- upheld tuition reimbursement for IEP where district did not evaluate the child with speech impairment in all the areas of suspected disability, i.e., autism (treating it as prejudicial procedural violation), but rejected parents' claim that the child was eligible for ESY, thus ducking question of FAPE substantive standard for ESY

S Fisher v. Stafford Twp. Bd. of Educ., 289 F. App'x 520, 50 IDELR ¶ 272 (3d Cir. 2008)
- district's failure to provide a child with autism any classroom aide for ten days during a five-week period and parent's belief that she was required to supplement the aides' salaries to prevent them from resigning did not constitute denial of FAPE

S Sinan v. Sch. Dist., 293 F. App'x 912 (3d Cir. 2008)
- upheld the appropriateness of the IEP despite sketchy transition plan, deferring to the hearing/review officer decisions [tuition reimbursement case]

S O.O. v. D.C., 573 F. Supp. 2d 41, 51 IDELR ¶ 9 (D.D.C. 2008); see also Hinson v. Merritt Educ. Ctr., 579 F. Supp. 2d 89, 51 IDELR ¶ 65 (D.D.C. 2008)
- ruled that proposed IEP and placement were each appropriate despite not being semantically precise and best suited, respectively

S Winkelman v. Parma City Sch. Dist., 294 F. App'x 997, 51 IDELR ¶ 92 (6th Cir. 2008)
- rejected parents' claim of denial of FAPE based on delayed OT goals, lack of music therapy and lack of 1:1 aide [tuition reimbursement case]

S M.M. v. N.Y.C. Dep't of Educ., 583 F. Supp. 2d 498, 51 IDELR ¶ 128 (S.D.N.Y. 2008)
- rejected procedural challenges, including predetermination, and ruled that district's proposed IEP met substantive standard, which is not maximization of potential, for student with autism [tuition reimbursement case]

S A.C. v. Bd. of Educ., 553 F.3d 165, 51 IDELR ¶ 147 (2d Cir. 2009)
- held that IEP for child with autism developed, in violation of state regulation requiring FBA, was neither procedurally nor substantively deficient—IDEA's IEP "special consideration" provision, in effect, trumped state regulations [tuition reimbursement case]

[18] On remand, however, the court granted tuition reimbursement for the previous year based on substantive inappropriateness. Sytsema v. Acad. Sch. Dist. No. 20, 53 IDELR ¶ 226 (D. Colo. 2009).

S N.M. v. Sch. Dist., 585 F. Supp. 2d 657, 51 IDELR ¶ 154 (E.D. Pa. 2008), aff'd, 394 F. App'x 920, 55 IDELR ¶ 91 (3d Cir. 2010)
- upheld substantive appropriateness of IEP, including provisions for multisensory instruction and auditory processing provisions, for student with SLD (and inappropriateness based on LRE of unilateral placement) [tuition reimbursement case]

S T.P. v. Mamaroneck Union Free Sch. Dist., 554 F.3d 247, 51 IDELR ¶ 176 (2d Cir. 2009)
- held that consultant chart's "School Response" showing that district did not intend to offer more than 10 hours of school-based ABA did not constitute predetermination of IEP for kindergarten child with autism [tuition reimbursement case]

S Schaffer v. Weast, 554 F.3d 470, 51 IDELR ¶ 177 (4th Cir. 2009)
- held that "inclusion-model" (one half mainstreamed) 8th grade IEP for child with SLD and ADHD was appropriate despite 10th grade IEP that called for self-contained class [tuition reimbursement case]

S Stanley C. v. M.S.D. of Sw. Allen Cnty. Sch., 628 F. Supp. 2d 902, 51 IDELR ¶ 207 (N.D. Ind. 2008)
- ruled that IEPs for child with multiple disabilities, including TBI, had various deficiencies, e.g., lack of goals for social skills, that did not rise to the level of a denial of FAPE [tuition reimbursement case]

S Kasenia R. v. Brookline Sch. Dist., 588 F. Supp. 2d 175, 51 IDELR ¶ 218 (D.N.H. 2009)
- held that: 1) lack of pull-out services did not invalidate IEP where parents had objected to them and IEP was reasonably calculated to confer benefit without them; and 2) unilateral placement was not LRE [tuition reimbursement case]

S B.S. v. Placentia-Yorba Linda Unified Sch. Dist., 306 F. App'x 397, 51 IDELR ¶ 237 (9th Cir. 2009)
- upheld substantive appropriateness and LRE of two successive IEPs for child with autism [tuition reimbursement case]

P Blake C. v. Dep't of Educ., 593 F. Supp. 2d 1199, 51 IDELR ¶ 239 (D. Haw. 2009)
- held that district's program for child with autism did not meet the heightened "meaningful benefit standard" for FAPE under N.B. v. Hellgate (supra), showing difficulty of measuring progress and resulting in award of remaining tuition reimbursement for part of 2007 ($62,000) as education for violation in 2005-06

S G.N. v. Bd. of Educ., 309 F. App'x 542, 52 IDELR ¶ 2 (3d Cir. 2009)
- upheld substantive appropriateness of IEP and concluded that various procedural defects, including lack of individualized goals and objectives, were not prejudicial [tuition reimbursement case]

S A.G. v. Placentia-Yorba Linda Unified Sch. Dist., 320 F. App'x 519, 52 IDELR ¶ 63 (9th Cir. 2009)
- reluctantly concluded, based on Ninth Circuit precedent (R.B. v. Napa Valley, supra), that one of the student's previous special education teachers, rather than the current one, sufficed as the required special education teacher/provider member of the IEP team

S Joshua A. v. Rocklin Unified Sch. Dist., 319 F. App'x 692, 52 IDELR ¶ 64 (9th Cir. 2009)
- upheld appropriateness of eclectic approach for child with autism as sufficient for PRR provision in the IDEA

S Anderson v. D.C., 606 F. Supp. 2d 86, 52 IDELR ¶ 100 (D.D.C. 2009)
- held that new, proposed placement and IEP for four-year-old student with developmental disability was substantively appropriate and that lack of full IEP team and monthly progress reports in this case were harmless procedural violations [tuition reimbursement case]

S K.C. v. Mansfield Indep. Sch. Dist., 618 F. Supp. 2d 568, 52 IDELR ¶ 103 (N.D. Tex. 2009)
- upheld appropriateness of transition plan that focuses on fashion and child care, student's biggest strengths, but not music, which was area of major interest but limited skill

S M.M. v. Gov't of D.C., 607 F. Supp. 2d 168, 52 IDELR ¶ 128 (D.D.C. 2009)
- district's refusal to revise IEP was not denial of FAPE where reevaluation was pending

S S.J. v. Issaquah Sch. Dist., 326 F. App'x 423, 52 IDELR ¶ 153 (9th Cir. 2009)
- ruled that IEPs for child with SLD did not have fatal deficits (e.g., blank section for teacher supports/aids was not prejudicial in this case and lack of timely IEP was due to parents' delays) and parents' meaningful participation does not mean veto power [tuition reimbursement]

S R.R. v. Scarsdale Union Free Sch. Dist., 615 F. Supp. 2d 283, 52 IDELR ¶ 185 (S.D.N.Y. 2009), aff'd on other grounds, 366 F. App'x 239, 54 IDELR ¶ 2 (2d Cir. 2010)
- rejected various procedural challenges, including predetermination claim, to IEP of child with SLD [tuition reimbursement case]

S T.H. v. D.C., 620 F. Supp. 2d 86, 52 IDELR ¶ 216 (D.D.C. 2009)
- teenager's lack of progress was not dispositive of substantive appropriateness of IEP where district modified his services and placement in response to it

S E.G. v. City Sch. Dist., 606 F. Supp. 2d 384, 52 IDELR ¶ 228 (S.D.N.Y. 2009)
- rejected parents' predetermination claim and ruled that district's proposed IEP, which included 10 hours of at-home behavior therapy and five half-days in general education for child with autism, was FAPE in the LRE [tuition reimbursement case]

S Richard S. v. Wissahickon Sch. Dist., 334 F. App'x 508, 52 IDELR ¶ 245 (3d Cir. 2009)
- held that district did not violate its child find obligations during student's 7th and 8th grade years and that subsequent IEPs met Rowley's substantive standard in light of parents' continued resistance and refusals

S L. v. N. Haven Bd. of Educ., 624 F. Supp. 2d 163, 52 IDELR ¶ 254 (D. Conn. 2009)
- upheld procedural and substantive appropriateness (in the LRE) of successive IEPs for child with Down Syndrome

S James D. v. Bd. of Educ., 642 F. Supp. 2d 804, 52 IDELR ¶ 281 (N.D. Ill. 2009)
- ruled that IEP of fourth grader with SLD and SLI provided FAPE in the LRE, rejecting alleged procedural violations (e.g., failure to consider IEE or allow evaluator to observe the class w/o student there) and substantive limited progress (e.g., declining percentiles) [tuition reimbursement case]

S/P L.M. v. Capistrano Unified Sch. Dist., 556 F.3d 900 (9th Cir. 2009), further proceedings, 462 F. App'x 745, 58 IDELR ¶ 31 (9th Cir. 2011)
- reversed the lower court's ruling of denial of FAPE based on procedural violation concerning parental participation where there was no finding that said violation — limiting observation time for independent evaluator—had significant effect rather than being harmless error (despite violation of state law that required equivalent opportunity) — subsequently upheld substantive appropriateness (and prevailing status of parents for attorneys' fees) of modified IEP [tuition reimbursement case]

P Hous. Indep. Sch. Dist. v. V.P., 582 F.3d 576, 53 IDELR ¶ 1 (5th Cir. 2009)
- upheld, based on clear error review standard, that successive IEPs for student with hearing and speech impairment denied FAPE because they were not: 1) sufficiently individualized; 2) effectively in the LRE; 3) implemented with sufficient collaboration and training; and 4) yielding, except for unapproved deviations, meaningful, reliably measured progress [tuition reimbursement case]

S P.P. v. W. Chester Area Sch. Dist., 585 F.3d 727, 53 IDELR ¶ 109 (3d Cir. 2009)
- concluded that an unduly long period to complete evaluation was not procedurally prejudicial violation of FAPE where the child with SLD was in private school and the IEPs were substantively appropriate

S E.H. v. Bd. of Educ., 361 F. App'x 156, 53 IDELR ¶ 141 (2d Cir. 2009)
- ruled that district did not deny FAPE by placing student with PDD in class of 12, rather than 6, other students and did not deny parents meaningful participation in development of the IEP

S Sch. Bd. v. M.M., 348 F. App'x 504, 53 IDELR ¶ 142 (11th Cir. 2009)
- ruled that the various procedural violations in developing the IEP and its deficiencies prior to the behavior-improving effects of medication did not result in substantive denial of FAPE for first-grade child with multiple disabilities [tuition reimbursement case]

P Springfield Sch. Comm. v. Doe, 623 F. Supp. 2d 150, 53 IDELR ¶ 158 (D. Mass. 2009)
- ruled that districts have a duty in certain relatively narrow circumstances to revise IEP in the face of chronic absenteeism

S Rodriguez v. San Mateo Union High Sch. Dist., 357 F. App'x 752, 53 IDELR ¶ 178 (9th Cir. 2009)
- summarily rejected parents' various claims of denial of FAPE, including district's failure to refer the student to county mental health services [tuition reimbursement case]

S Souderton Area Sch. Dist. v. J.H., 351 F. App'x 755, 53 IDELR ¶ 179 (3d Cir. 2010)
- ruled that district's IEP for student with SLD was appropriate in terms of the three challenged components: OT, SLT and—including the use of standardized tests, a rubric, and a "research-based" best practice—writing

S Rosinsky v. Green Bay Area Sch. Dist., 667 F. Supp. 2d 964, 53 IDELR ¶ 193 (E.D. Wis. 2009)
- ruled that formulation and implementation of IEP for student with Fragile X syndrome was appropriate, including reevaluation and transition plan

P Drobnicki v. Poway Unified Sch. Dist., 358 F. App'x 788, 53 IDELR ¶ 210 (9th Cir. 2010)
- ruled that district's failure to make reasonable efforts to schedule IEP team meeting for parents to attend deprived them of opportunity for meaningful participation

S Anello v. Indian River Sch. Dist., 355 F. App'x 594, 53 IDELR ¶ 253 (3d Cir. 2009)
- rejected not only child find claims, which were based on the child's § 504 plan, but also the subsequent substantive and procedural FAPE claims due, respectively, to IEP's focus on the SLD's qualifying area of reading and the lack of prejudicial effect

S Lessard v. Wilton-Lyndeborough Coop. Sch. Dist., 592 F.3d 267, 53 IDELR ¶ 279 (1st Cir. 2010)
- rejected parents' challenges to qualifications of the provider of the methodology component of the IEP, the sufficiency of the transition plan, and the LRE of the day school placement (in comparison to their home-community proposal)

S J.L. v. Mercer Island Sch. Dist., 592 F.3d 938, 53 IDELR ¶ 280 (9th Cir. 2010)
- upheld appropriateness of IEP for child with autism, rejecting lower court's ruling that IDEA '97 raised the Rowley substantive standard and concluding that various asserted procedural violations, such as failure to include methodology in the IEP and premeeting meeting, were not a denial of FAPE [tuition reimbursement case]

S K.S. v. Fremont Unified Sch. Dist., 679 F. Supp. 2d 1046, 53 IDELR ¶ 287 (N.D. Cal. 2009), aff'd, 426 F. App'x 536, 56 IDELR ¶ 190 (9th Cir. 2011)
- rejected parents' substantive FAPE challenge to IEP, including their claim that the child with autism, who had made slow progress, needed 30 hours of ABA therapy per week

P D.C. v. Bryant-James, 675 F. Supp. 2d 115, 53 IDELR ¶ 290 (D.D.C. 2010)
- ruled that district's IEP and inclusionary placement at a charter school was inappropriate due to its failure to reflect the recommendations of the two evaluators whose expertise and whose evaluations were not questioned

P J.N. v. D.C., 677 F. Supp. 2d 314, 53 IDELR ¶ 326 (D.D.C. 2010)
- ruled that district's failure coordinate with parent to schedule the child's IEP meeting eliminated her ability to participate in the formulation process and thus was a denial of FAPE

S J.L. v. Francis Howell R-3 Sch. Dist., 693 F. Supp. 2d 1009, 54 IDELR ¶ 5 (E.D. Mo. 2010)
- ruled that district's IEP for ninth grader with OHI (based on ADHD and bipolar disorder) met the Rowley substantive standard [tuition reimbursement case]

S J.G. v. Briarcliff Manor Union Free Sch. Dist., 682 F. Supp. 2d 387, 54 IDELR ¶ 20 (S.D.N.Y. 2010)
- ruled that: 1) parents of child with dyslexia had meaningful opportunity to participate in IEP development despite goals/objectives drafted after (and outside) the initial meeting, short notice for next meeting, and parents' absence from that meeting; and 2) IEP sufficiently addressed the child's needs [tuition reimbursement case]

P/S Anchorage Sch. Dist. v. D.S., 688 F. Supp. 2d 883, 54 IDELR ¶ 29 (D. Alaska 2010)
- ruled that three consecutive IEPs failed to provide FAPE to child with autism based on prejudicial procedural violations, including lack of accurate and timely evaluation, and upheld tuition reimbursement for ABA home program despite lack of special education certification, but reversed hearing officer's order to replace IEP team with private company that implements the program

S Jaccari J. v. Bd. of Educ., 690 F. Supp. 2d 687, 54 IDELR ¶ 53 (N.D. Ill. 2010)
- rejected parents' substantive FAPE challenge to IEP of fourth grader, concluding that purported regression in standard scores of achievement testing was commensurate with his limited cognitive abilities and use of Wilson trainer not certified by the company did not show requisite lack of qualifications when the company allowed her to continue to conduct the training

S Adrianne D. v. Lakeland Cent. Sch. Dist., 686 F. Supp. 2d 361, 54 IDELR ¶ 95 (S.D.N.Y. 2010)
- ruled that progress of sixth grader, although he did not fulfill 9 of 10 goals in reading and 2 of 7 in writing, met substantive standard for FAPE [tuition reimbursement case]

P D.S. v. Bayonne Bd. of Educ., 602 F.3d 553, 54 IDELR ¶ 141 (3d Cir. 2010)
- ruled that IEP for ninth grader in self-contained special education class who had 92 average, but low standardized achievement test scores was not reasonably calculated to provide meaningful benefit [tuition reimbursement case]

S Allyson B. v. Montgomery Cnty. Intermediate Unit, 409 F. App'x 602 (3d Cir. 2011)
- brief affirmance of decision rejecting various procedural and substantive FAPE challenges to IEP for preschool child with cochlear implant

S M.N. v. N.Y.C. Dep't of Educ., 700 F. Supp. 2d 356, 54 IDELR ¶ 165 (S.D.N.Y. 2010)
- held that procedural violations (e.g., lack of FBA) did not deny FAPE and that the IEP for five-year-old at public charter school for children with autism (using an ABA model) met the substantive standard without the parents' additionally sought itinerant services

P N.S. v. D.C., 709 F. Supp. 2d 57, 54 IDELR ¶ 188 (D.D.C. 2010)
- ruled that IEP that lacked specifics (e.g., PELs, specialized instruction and related services) constituted denial of FAPE [tuition reimbursement case]

P D.B. v. Bedford Cnty. Sch. Bd., 708 F. Supp. 2d 564, 54 IDELR ¶ 190 (W.D. Va. 2010)
- ruled that district denied FAPE based on 1) confusion between ID, SLD, and OHI, without consideration of suspected SLD; and 2) lack of meaningful progress in inclusionary placement [tuition reimbursement case]

S W.T. v. Bd. of Educ., 716 F. Supp. 2d 270, 54 IDELR ¶ 192 (S.D.N.Y. 2010)
- upheld procedural and substantive appropriateness of IEP for student with SLI, despite possible violation of state regulations for the age range within a class, based on deference to review officer [tuition reimbursement case]

S C.H. v. Cape Henlopen Sch. Dist., 606 F.3d 59, 54 IDELR ¶ 212 (3d Cir. 2010); cf. Tracy N. v. Dep't of Educ., 715 F. Supp. 2d 1093, 54 IDELR ¶ 216 (D. Haw. 2010) (reasonably justifiable delay)
- ruled that district's failure to provide timely notice of subsequent IEP meeting and its delay in finalizing IEP until one week after school year started were harmless procedural violations, and used alternative rationale of equities based on lack of parental notice of unilateral placement [tuition reimbursement case]

S Doe v. Hampden-Wilbraham Reg'l Sch. Dist., 715 F. Supp. 2d 185, 54 IDELR ¶ 214 (D. Mass. 2010)
- ruled that: 1) failure to have IEP in place at start of school year for child with autism could be attributed to the parents (deference to hearing officer's finding); 2) parents' approval of previous IEPs did not waive FAPE implementation claim; 3) parents did not meet their burden of proving district did not implement expired IEP; and 4) the new IEP met the substantive standard for FAPE (including PRR)

S Lathrop R-II Sch. Dist. v. Gray, 611 F.3d 419, 54 IDELR ¶ 276 (8th Cir. 2010)
- ruled that lack of baseline data, behavioral goal and full parental notice did not amount to denial of FAPE where the district made a good faith effort and reasonably met individual needs of student with autism [tuition reimbursement case]

S M.F. v. Irvington Union Free Sch. Dist., 719 F. Supp. 2d 302, 54 IDELR ¶ 288 (S.D.N.Y. 2010)
- ruled that various procedural violations did not amount to denial of FAPE and that strict "four-corners" rule did not apply where child with SLD received services reasonably calculated to meet his needs[19] [tuition reimbursement case]

S K.J. v. Fairfax Cnty. Sch. Bd., 361 F. App'x 435 (4th Cir. 2010); cf. Shaw v. Weast, 364 F. App'x 47, 53 IDELR ¶ 313 (4th Cir. 2010) (appropriate, specified interim placement was sufficient under the circumstances)
- ruled that IEP's failure to specify a particular private day school was a not a FAPE-denying procedural violation for child with ED and that each of the offered alternative placements met the substantive standard for FAPE, thus denying tuition reimbursement for parents' unilateral out-of-state residential placement

S Bougades v. Pine Plains Cent. Sch. Dist., 376 F. App'x 95, 54 IDELR ¶ 181 (2d Cir. 2010)
- upheld substantive appropriateness of IEP for child with SLD in challenged areas of homework assignments and writing, according deference to hearing/review officers [tuition reimbursement case]

S A.H. v. Dep't of Educ. of N.Y.C., 394 F. App'x 718, 55 IDELR ¶ 36 (2d Cir. 2010)
- failure to properly constitute child's IEP team was not prejudicial procedural violation [tuition reimbursement case]

S M.S. v. N.Y.C. Dep't of Educ., 734 F. Supp. 2d 271, 55 IDELR ¶ 40 (E.D.N.Y. 2010)[20]
- upheld substantive appropriateness of IEP for child with autism, including transition provision to return the child from private school and use of shorthand descriptors in BIP [tuition reimbursement case]

S J.W. v. Fresno Unified Free Sch. Dist., 626 F.3d 431, 55 IDELR ¶ 153 (9th Cir. 2010)
- held that mainstreamed placement of child with hearing impairment constituted FAPE in the LRE, using parental participation rationale to conclude that parents' insistence on this placement was not a waiver of their right challenge it, but was relevant to its appropriateness

[19] In R.E. (infra), the Second Circuit subsequently adopted, with limited exceptions, the four-corners rule.

[20] The Second Circuit affirmed this decision after consolidating it with another case, which is listed here under Tuition Reimbursement. M.H. v. N.Y.C. Dep't of Educ., 685 F.3d 217, 59 IDELR ¶ 62 (2d Cir. 2012).

S D.G. v. Cooperstown Cent. Sch. Dist., 746 F. Supp. 2d 435, 55 IDELR ¶ 155 (N.D.N.Y. 2010)
- upheld appropriateness of two successive IEPs that provided for a co-teaching mixed setting with multisensory reading instruction rather than the Wilson program that the parents' unilateral placement utilized [tuition reimbursement case]

S C.G. v. N.Y.C. Dep't of Educ., 752 F. Supp. 2d 355, 55 IDELR ¶ 157 (S.D.N.Y. 2010)
- upheld discontinuation of 15 hours per week of ABA after-school services for child with autism based on substantive appropriateness of the IEP at a private day school without such services [tuition reimbursement case]

S J.D.G. v. Colonial Sch. Dist., 748 F. Supp. 2d 361, 55 IDELR ¶ 197 (D. Del. 2010)
- rejected various challenges to IHO process and upheld substantive appropriateness of IEP for middle school student with intellectual disabilities

S A.M. v. Monrovia Unified Sch. Dist., 627 F.3d 773, 55 IDELR ¶ 215 (9th Cir. 2010)
- rejected, for child with multiple disabilities who transferred from virtual charter school to school district, the parent's various procedural and substantive FAPE challenges, including alleged lack of meaningful opportunity for parental participation and the district's transitional use of the last implemented IEP, not the subsequent one that the charter school and parents had agreed to but had yet to implement

P Marc M. v. Dep't of Educ., 762 F. Supp. 2d 1235, 56 IDELR ¶ 9 (D. Haw. 2010)
- held that failure to revise the IEP during a sufficient period of time before implementation was a denial of FAPE where the IEE that the parent had provided at the end of the IEP meeting without comment included significant information contradicting the IEP's PELs

S E.Z.-L. v. N.Y.C. Dep't of Educ., 763 F. Supp. 2d 584, 56 IDELR ¶ 10 (S.D.N.Y. 2011)[21]
- upheld appropriateness of district's proposed IEP, including placement (which is not "bricks and mortar"), of child with autism, both procedurally (specifically, parental participation and FBA-BIP) and substantively (specifically, omission of parent training/counseling and transition plan, contrary to state law requirement, was not fatal where the district provided such services as needed) [tuition reimbursement case]

S R.P. v. Prescott Unified Sch. Dist., 631 F.3d 1117, 56 IDELR ¶ 31 (9th Cir. 2011)
- rejected claims of parent of child with autism that IEP team lacked autism expert (not required), IEP was cut-and-paste from previous year's with increase (meaningful changes), methods were not PRR (district discretion + parents' expert), goals were subjective (objectively measureable), and child did not make meaningful progress (slow and scattered but significant)

[21] The Second Circuit affirmed this decision upon consolidating it with two other cases. See R.E. v. N.Y.C. Dep't of Educ. (infra).

S W.R. v. Union Beach Bd. of Educ., 414 F. App'x 499, 56 IDELR ¶ 62 (3d Cir. 2011)
- brief ruling denying parents' meaningful participation claim, concluding that the IEP had discussed the proposed methodology (here, multi-sensory reading program utilizing Wilson techniques), albeit with the parents' disagreeing

S R.R. v. Manheim Twp. Sch. Dist., 412 F. App'x 544, 56 IDELR ¶ 63 (3d Cir. 2011)
- upheld procedural and substantive appropriateness of IEP for middle school student with SLD and SLI, rejecting parent's principal claim on appeal that the district failed to provide timely comprehensive language evaluation—no proof that it was needed [tuition reimbursement case]

S J.J. v. D.C., 768 F. Supp. 2d 214, 56 IDELR ¶ 93 (D.D.C. 2011)
- ruled that district's failure to timely convene multidisciplinary team eligibility meeting did not constitute a denial of FAPE where the behavior of the parent and the parent's counsel caused much of the delay

S James M. v. Haw. Dep't of Educ., 803 F. Supp. 2d 1150, 56 IDELR ¶ 100 (D. Haw. 2011)
- ruled that district provided reasonable participation measures for parent who did not attend IEP meeting and that the IEP that reduced the services for the child with dysarthia and hypotonia met the substantive standard for FAPE [tuition reimbursement case]

P/S Long v. D.C., 780 F. Supp. 2d 49, 56 IDELR ¶ 122 (D.D.C. 2011)
- upheld appropriateness of IEP (parental participation) and placement (full-time special education), but ruled that the district earlier denied FAPE by not providing a comprehensive evaluation for three years after being put on notice of IEE (i.e., child find), concluding that child was SLD and also needed an FBA-BIP—remanded to hearing officer for determination of compensatory education under qualitative approach

P Wilson v. District of Columbia, 770 F. Supp. 2d 270, 56 IDELR ¶ 125 (D.D.C. 2011)
- ruled that district denied FAPE by not having transportation ready for eligible student until three weeks after a four-week ESY program

S E.J. v. San Carlos Elementary Sch. Dist., 803 F. Supp. 2d 1024, 56 IDELR ¶ 159 (N.D. Cal. 2011)
- rejected child find claim and upheld appropriateness of non-static IEP for child with Asperger syndrome and anxiety disorder

P Sumter Cnty. Sch. Dist. v. Heffernan, 642 F.3d 478, 56 IDELR ¶ 186 (4th Cir. 2011)
- held that the child's gains and district's rectifying measures were insufficient to avoid the denial of FAPE from the district's failure to implement a material portion of the IEP of a child with autism, which was 15 hours/week of ABA therapy, and that the parent's unilateral home placement was appropriate (with LRE not applying) [tuition reimbursement case]

P C.B. v. Special Sch. Dist. No 1, 636 F.3d 981, 56 IDELR ¶ 187 (8th Cir. 2011)
- district's 4th and 5th grade IEPs for student with SLD in reading did not meet substantive standard for FAPE [tuition reimbursement case]

S S.M. v. Haw. Dep't of Educ., 808 F. Supp. 2d 1269, 56 IDELR ¶ 193 (D. Haw. 2011)
- ruling that IEP for student with autism did not have to specify the qualifications of the service provider or the methodology and that the subsequent changes, including adding an intra-school transition plan and autism consultant teacher services, did not render the original version defective because they promptly resulted from information that the parent disclosed only belatedly [tuition reimbursement case]

S Mahoney v. Carlsbad Unified Sch. Dist., 430 F. App'x 562, 56 IDELR ¶ 217 (9th Cir. 2011)
- rejected various alleged procedural claims as either not violations (e.g., SLI therapist as IEP member who "actually taught" student) or harmless (e.g., not providing parent with initial draft of IEP goals)

P B.H. v. W. Clermont Bd. of Educ., 788 F. Supp. 2d 682, 56 IDELR ¶ 226 (S.D. Ohio 2011)
- ruled that district denied FAPE to child with multiple disabilities, including autism, by 1) failing to consider IEEs for SLT and OT (predetermination, thus violating parent's right of meaningful participation); 2) failing to provide these needed services; and 3) providing ineffective (including punitive and lack of PRR) behavioral services

P Bd. of Educ. v. Schaefer, 923 N.Y.S.2d 579, 56 IDELR ¶ 234 (App. Div. 2011)
- upheld denial of FAPE based on district significantly impeding parents' opportunity to participate in IEP meetings

(*S*) Lorenzen v. Montgomery Cnty. Bd. of Educ., 403 F. App'x 832, 56 IDELR ¶ 245 (4th Cir. 2011)
- vacated and remanded summary judgment, which had been in favor of the parents, concluding that there was a genuine issue of material fact as to whether the school board had changed recommended placement of child with autism based on the child's individual needs [tuition reimbursement case]

S Fort Osage R-1 Sch. Dist. v. Sims, 641 F.3d 996, 56 IDELR ¶ 282 (8th Cir. 2011)
- ruled that district's failure to diagnose the child's autism did not amount to a denial of FAPE where the district's IEP met the substantive standard for FAPE, including addressing his unique needs, and the parents failed to prove their predetermination claim [tuition reimbursement case]

P New Milford Bd. of Educ. v. C.R., 431 F. App'x 157, 56 IDELR ¶ 283 (3d Cir. 2011)
- upheld ruling that district's private school program for child with autism did not provide for a meaningful benefit because he additionally required an after-school ABA program [tuition reimbursement case]

S C.T. v. Croton-Harmon Union Free Sch. Dist., 812 F. Supp. 2d 420, 57 IDELR ¶ 37 (S.D.N.Y. 2011)
- ruled that: 1) absence of private school special education representatives on the IEP team and lack of an FBA were not prejudicial; 2) the mainstreamed IEP met the Rowley substantive standard; and 3) the student, classified as ED, no longer needed the residential placement [tuition reimbursement case]

S K.E. v. Indep. Sch. Dist. No. 15, 647 F.3d 795, 57 IDELR ¶ 61 (8th Cir. 2011)
- upheld, in a 2-to-1 decision, substantive appropriateness of IEP for student with OHI (ADHD and personality disorder) and rejected challenges that: 1) district failed to consider private evaluations (including partial incorporation); 2) district denied parent opportunity for meaningful participation (where parent truncated it); and 3) various alleged procedural IEP deficiencies (in light of child's progress, including cohesive BIP)

S A.L. v. N.Y.C. Dep't of Educ., 812 F. Supp. 2d 492, 57 IDELR ¶ 69 (E.D.N.Y. 2011)
- rejected parent's various procedural and substantive claims of denial of FAPE for student with autism, including parental participation, FBA-BIP and inter-school transition plan [tuition reimbursement case]

S Tindell v. Evansville-Vanderburgh Sch. Corp., 805 F. Supp. 2d 630, 57 IDELR ¶ 71 (S.D. Ind. 2011)
- lack of timely transition plan was not a denial of FAPE where the student, who had pervasive developmental disorder, received appropriate transition (in his residential placement)

S K.C. v. Nazareth Area Sch. Dist., 806 F. Supp. 2d 806, 57 IDELR ¶ 92 (E.D. Pa. 2011)
- upheld both the appropriateness of the postsecondary transition plan and other IEP services for 20-year-old student with Prader Willi Syndrome and the hearing officer's attribution of delay in receipt of IEP services to the parents' conduct

P K.I. v. Montgomery Pub. Sch., 805 F. Supp. 2d 1283, 57 IDELR ¶ 93 (M.D. Ala. 2011)
- rejected proposed IEP and placement of student with rare and severe muscular condition due to failure to evaluate her cognitive functioning and her ability to use assistive technology

S Park Hill Sch. Dist. v. Dass, 655 F.3d 762, 57 IDELR ¶ 121 (8th Cir. 2011)
- ruled that the respective IEPs for twins with autism were substantively appropriate despite the absence of BIP and inter-school transition plan [tuition reimbursement case]

S B.O. v. Cold Spring Harbor Cent. Sch. Dist., 807 F. Supp. 2d 130, 57 IDELR ¶ 130 (E.D.N.Y. 2011)
- upheld procedural and substantive appropriateness of district's proposed IEP for student with SLD, cautioning the IHO that the deference to school authorities that Rowley prescribes only applies at the court level [tuition reimbursement case]

S Rodrigues v. Fort Lee Bd. of Educ., 458 F. App'x 124, 57 IDELR ¶ 152 (3d Cir. 2011)
- rejected procedural violations—lack of measurable objectives and "imperfect" transition plan—as not resulting in loss of educational opportunity

P Moorestown Twp. Bd. of Educ. v. S.D., 811 F. Supp. 2d 1057, 57 IDELR ¶ 158 (D.N.J. 2011); see also I.H. v. Cumberland Valley Sch. Dist., 842 F. Supp. 2d 762, 58 IDELR ¶ 94 (M.D. Pa. 2012) (student enrolled in cyber charter school)[22]
- ruled that district of residence's refusal, upon the parents' request, to evaluate and offer IEP to student whom it knew had a disability based on his enrollment in an out-of-district private school was a denial of FAPE

(*S*) Poway Unified Sch. Dist. v. Cheng, 821 F. Supp. 2d 1197, 57 IDELR ¶ 189 (S.D. Cal. 2011)[23]
- remanded IHO's decision that applied a "potential-maximizing" rather than "some benefit," substantive standard for FAPE in requiring parents' chosen transcription service rather than the IEP's specified transcription service for student with hearing impairment

S D.R. v. Dep't of Educ., Haw., 827 F. Supp. 2d 1161, 57 IDELR ¶ 217 (D. Haw. 2011)
- rejected claim that lack of evaluation for auditory processing disorder, submucous cleft palate and behavior for student with SLI rendered her proposed IEP inappropriate where there was no reason to suspect these issues [tuition reimbursement case]

S C.H. v. Nw. Indep. Sch. Dist., 815 F. Supp. 2d 977, 57 IDELR ¶ 225 (E.D. Tex. 2011)
- discontinuation of dyslexia services (under state law) did not deny FAPE where district provided replacement services and child made reasonable progress in reading

S J.E. v. Boyertown Area Sch. Dist., 452 F. App'x 172**,** 57 IDELR ¶ 273 (3d Cir. 2011)
- ruled that the proposed, 51-page IEP for an in-district placement for the student with Asperger Disorder and SLD was substantively appropriate, rejecting the parents' arguments that the return from the private placement did not sufficiently consider the risk of bullying and the sensitivity to loud noise [tuition reimbursement case]

S G.S. v. Cranbury Twp. Bd. of Educ., 450 F. App'x 197, 57 IDELR ¶ 274 (3d Cir. 2011)
- rejected parents' various pro se challenges—including PRR (deferring to IHO's credibility determination of their expert)—to substantive appropriateness of district's proposed IEP for high school student with multiple disabilities [tuition reimbursement case]

[22] In an unpublished decision, the court remanded to the hearing officer the issue of the appropriateness of the offered IEP, while rejecting the parents' remaining claims. I.H. v. Cumberland Valley Sch. Dist., 59 IDELR ¶ 138 (M.D. Pa. 2012).

[23] For a separate, unpublished decision under ADA Title II, see Poway Unified Sch. Dist. v. K.C., 62 IDELR ¶ 199 (S.D. Cal. 2014).

S K.D. v. Dep't of Educ., Haw., 665 F.3d 1110, 58 IDELR ¶ 2 (9th Cir. 2011), vacated as moot, 469 F. App'x 570, 58 IDELR ¶ 121 (9th Cir. 2012)
- upheld appropriateness of proposed IEP for child with autism, rejecting procedural challenges (specifically, predetermination and holding IEP meetings, after repeated attempts, without parents present) and substantive challenges (e.g., goals, assessment, and—school rather than classroom—"actual placement") [tuition reimbursement case]

P J.S. v. Scarsdale Union Free Sch. Dist., 826 F. Supp. 2d 635, 58 IDELR ¶ 16 (S.D.N.Y. 2011)
- ruled, inter alia, that the district's proposed placement for high school student with ED was not appropriate even though the parties agreed that the IEP was appropriate [tuition reimbursement case]

P/S Madeline P. v. Anchorage Sch. Dist., 265 P.3d 308, 58 IDELR ¶ 17 (Alaska 2011)
- ruled that district's failure to provide written prior notice before 1) temporary move in location of writing instruction for child with SLD from regular to resource room and 2) amending the IEP as to the location of the writing instruction, where parent knew about these changes and where the child continued to progress, did not result in loss of educational opportunity for parental participation, but failure to follow the IEP between the return of the teacher from leave (which was the justification for the temporary move) and the amendment of the IEP was a material failure, not minor discrepancy (citing Van Duyn), thus entitling the child to 15 hours of education

(*S*) Dep't of Educ., Haw. v. M.F., 840 F. Supp. 2d 1214, 58 IDELR ¶ 34 (D. Haw. 2011)
- reversed IHO order for tuition reimbursement and education due to 1) failure to determine whether the procedural violations (not offering IEP to unilaterally placed student) resulted in loss of educational benefit or parental opportunity, and 2) failure to weight equitable factors for each remedy

S J.K. v. Council Rock Sch. Dist., 833 F. Supp. 2d 436, 58 IDELR ¶ 43 (E.D. Pa. 2011)
- ruled that IEP for return of student with SLD from private school to public middle or high school was appropriate [tuition reimbursement case]

S G.J. v. Muscogee Cnty. Sch. Dist., 668 F.3d 1258, 58 IDELR ¶ 61 (11th Cir. 2012)
- upheld the district court's ruling, which was that parents' extensive conditions to their consent for reevaluation of their child with autism and brain injuries amounted to a refusal, and its remedy, which was an order for a reevaluation with specified reasonable conditions—also found that parents failed to prove that the other procedural violations, beyond those intertwined with the parents' rejected reevaluation claim, impacted the substantive side of the child's FAPE

S L.F. v. Hous. Indep. Sch. Dist., 459 F. App'x 358, 58 IDELR ¶ 63 (5th Cir. 2012)[24]
- rejected alleged procedural violations as unproven and upheld substantive appropriateness of IEP for student with ED in self-contained class for all but approximately seven hours per week based on Cypress-Fairbanks four-factor test ("1. the program is individualized on the basis of the student's assessment and performance; 2. the program is administered in the [LRE]; 3. the services are provided in a coordinated and collaborative manner by the key 'stakeholders'; and 4. positive academic and non-academic benefits are demonstrated")

S B.P. v. N.Y.C. Dep't of Educ., 841 F. Supp. 2d 605, 58 IDELR ¶ 74 (E.D.N.Y. 2012)
- upheld procedural and substantive appropriateness of IEP for student with SLD [tuition reimbursement case]

S M.B. v. Hamilton Se. Sch., 668 F.3d 851, 58 IDELR ¶ 92 (7th Cir. 2011)
- upheld rejection of parents' child find and FAPE claim with regard to district's evaluation and proposed IEP, which provided half-day kindergarten and ESY services for a young child with TBI, concluding that the alleged procedural violations were either unproven (e.g., predetermination) or harmless (e.g., absence of kindergarten teacher at the IEP team meeting) and that—based on the snapshot approach—the IEP was "likely to produce progress, not regression or trivial educational advancement"

P/S T.G. v. Midland Sch. Dist., 848 F. Supp. 2d 902, 58 IDELR ¶ 104 (C.D. Ill. 2012), aff'd sub nom. Giosta v. Midland Sch. Dist. No. 7, 542 F. App'x 523, 62 IDELR ¶ 72 (7th Cir. 2013)
- upheld substantive and procedural formulation and the implementation of the IEP for grades 7-9 except for reading/writing and vocational components in grade 9 [compensatory education case]

S Savoy v. D.C., 844 F. Supp. 2d 23, 58 IDELR ¶ 129 (D.D.C. 2012)
- upheld hearing officer's rulings that 1) the district need not consider private placements when it has an appropriate public placement, 2) district's provision of the specified services and structure were not a substantial departure from IEP's specification of separate school, and 3) its provision of 27.6 rather than the specified 28.5 hours did not meet the prevailing "substantial or significant" standard for failure-to-implement claims [compensatory education case]

S Nalu Y. v. Dep't of Educ., Haw., 858 F. Supp. 2d 1127, 58 IDELR ¶ 154 (D. Haw. 2012)
- upheld district's rejection of autism classification for elementary student with SLI/OHI who was afraid of school and the challenges to the PELs and goals of his IEP

[24] The parent failed in bringing a duplicate complaint. L.F. v. Hous. Indep. Sch. Dist., 488 F. App'x 818, 60 IDELR ¶ 182 (5th Cir. 2012).

S Smith v. D.C., 846 F. Supp. 2d 197, 58 IDELR ¶ 155 (D.D.C. 2012)
- upheld hearing officer's ruling that the district met the substantive "floor of opportunity" standard for FAPE based on concrete progress according to testing and teacher (when measured against the child's potential for growth, though generally well less than a year) and extensive although not optimal services—thus, failure to provide laptop and software at home was not denial of FAPE in this case

S G.D. v. Torrance Unified Sch. Dist., 857 F. Supp. 2d 953, 58 IDELR ¶ 156 (C.D. Cal. 2012)
- ruled that IEP that did not have separate behavioral goals/services and that discontinued five weekly hours of home-based behavior services met the substantive standard for FAPE

S D.B. v. Esposito, 675 F.3d 26, 58 IDELR ¶ 181 (1st Cir. 2012)
- upheld appropriateness of child with multiple disabilities, concluding that the meaningful benefit standard may be applied without a determination of the child's potential where this determination is not feasible (e.g., due to severely impaired capacity for communication)

S J.W. v. Governing Bd. of E. Whittier City Sch. Dist., 473 F. App'x 531, 58 IDELR ¶ 211 (9th Cir. 2012)
- upheld substantive appropriateness of the IEP and the IHO's determination that special ed director's brief conversation with speech provider for minor revision of one of the IEP goals was not procedural violation that deprived parents of meaningful opportunity for participation

S M.D. v. Haw. Dep't of Educ., 864 F. Supp. 2d 993, 58 IDELR ¶ 221 (D. Haw. 2012)
- upheld substantive appropriateness (including implementation) and procedural appropriateness (parent participation) of district's proposed IEP for fourth-grade child with autism [tuition reimbursement case]

S D.P. v. Council Rock Sch. Dist., 482 F. App'x 669, 58 IDELR ¶ 243 (3d Cir. 2012)
- upheld determination that the IEP for a student with autism was appropriate for the second half of the 2008-09 school year (with the appropriateness of the first half of the year unchallenged upon appeal), ruling that district was not obligated to update the IEP in the absence of parental notification of possible re-enrollment [tuition reimbursement case]

S Ridley Sch. Dist. v. M.R., 680 F.3d 260, 58 IDELR ¶ 271 (3d Cir. 2012)[25]
- rejected child find claim, concluding that district should have "reasonable time" to reevaluate the student in grade 1 after evaluation determined that she was ineligible at the end of kindergarten and upheld the IEP, after the district's reevaluation determined that the child was eligible as SLD—procedural violations (e.g., absence of statement of special education in the IEP) are not actionable in the absence of resulting educational loss, and the standard for PRR is reasonable, not optimal [education and tuition reimbursement]

S Stamps v. Gwinnett Cnty. Sch. Dist., 481 F. App'x 470, 59 IDELR ¶ 1 (11th Cir. 2012)
- ruled that proposed in-school placement, rather than homebound instruction, for three siblings with genetic neurological disorders met substantive standard for FAPE in the LRE

S I.M. v. Northampton Pub. Sch., 869 F. Supp. 2d 174, 59 IDELR ¶ 38 (D. Mass. 2012)
- upheld placement of student with multiple disabilities in residential school for the blind

P Carrie I. v. Dep't of Educ., Haw., 869 F. Supp. 2d 1225, 59 IDELR ¶ 46 (D. Haw. 2012)
- ruled that procedural violations, including failure to provide transition assessments and services for 18-year-old with autism, resulted in loss of educational opportunities

S Sebastian M. v. King Philip Reg'l Sch. Dist., 685 F.3d 79, 59 IDELR ¶ 61 (1st Cir. 2012)
- upheld appropriateness of district's program for student with multiple disabilities despite lack of transition plan in IEP where district provided transition planning, transition content in IEP and actual transition services [tuition reimbursement case]

P/S E.S. v. Katonah-Lewisboro Sch. Dist., 742 F. Supp. 2d 417, 55 IDELR ¶ 130 (S.D.N.Y. 2010), aff'd, 487 F. App'x 619, 59 IDELR ¶ 63 (2d Cir. 2012)
- upheld appropriateness of first, but not second, of two successive IEPs for student with schizoaffective disorder and borderline intellectual functioning, concluding that the second IEP did not sufficiently take into account the progress data from the first year of the child's unilateral placement [tuition reimbursement case]

[25] For a subsequent decision where the Third Circuit reluctantly required the district to provide tuition for the parents' unilateral placement based on stay-put of the IHO's ruling in their favor regarding the child's IEP, see M.R. v. Ridley Sch. Dist., 744 F.3d 112, 62 IDELR ¶ 251 (3d Cir. 2014).

P Woods v. Northport Pub. Sch., 487 F. App'x 968, 59 IDELR ¶ 64 (6th Cir. 2012)
- after a 32-day IHO proceedings with more than 7,000 pages of testimony concerning the IEPs in grades 1-3 for a child with autism and cerebral palsy, upheld the rulings that 1) the second-grade IEP amounted to a substantive denial of FAPE due to substantial lack of implementation plus lack of meaningful benefit in relation to child's potential; 2) the third-grade IEP represented procedural denial of meaningful parental participation due to a) failure to provide access to test protocols to parents' expert and b) development of goals/objectives outside of parents' presence plus substantive denial of FAPE due to reduction of services resulting in lack of meaningful benefit

S L.G. v. Fair Lawn Bd. of Educ., 486 F. App'x 967, 59 IDELR ¶ 65 (3d Cir. 2012)
- rejected parents' claim that meeting of district personnel without them prior to the IEP meeting constituted predetermination where they had opportunity for meaningful participation at the IEP meeting for preschool child with autism [tuition reimbursement case]

S S.H. v. Fairfax Cnty. Bd. of Educ., 875 F. Supp. 2d 633, 59 IDELR ¶ 73 (E.D. Va. 2012)
- ruled that increasingly intensive services student with SLD in grades 5-8 constituted FAPE in the LRE [tuition reimbursement case]

P Ravenswood City Sch. Dist. v. J.S., 870 F. Supp. 2d 780, 59 IDELR ¶ 77 (N.D. Cal. 2012)
- upheld, with deference to her thorough and careful decision, the IHO's ruling that the limitations period extended to three years due to misrepresentation and that the three years of IEPs were procedurally and substantively inappropriate [compensatory education case]

P Anchorage Sch. Dist. v. M.P., 689 F.3d 1047, 59 IDELR ¶ 91 (9th Cir. 2012)
- ruled that district failed to meet the substantive standard for FAPE for third grader with autism "by relying on an outdated IEP to measure [the child's] academic and functional performance and provide educational benefits to [the child]" and that the parents' active dissidence did not excuse the district from its affirmative obligation to provide FAPE [tuition reimbursement case]

P D.B. v. Gloucester Twp. Sch. Dist., 751 F. Supp. 2d 764, 55 IDELR ¶ 224 (D.N.J. 2010), aff'd, 489 F. App'x 564, 59 IDELR ¶ 92 (3d Cir. 2012)
- ruled that the district denied FAPE via predetermination (i.e., arrived at "definitive conclusions on [the child's] placement without parental input, failed to incorporate any suggestions of the parents or discuss with the parents the prospective placements, and in some instances even failed to listen to the concerns of the parents"), thereby depriving the parents of an opportunity for meaningful participation in the IEP process (per se approach?)

S C.C. v. Fairfax Cnty. Bd. of Educ., 879 F. Supp. 2d 512, 59 IDELR ¶ 95 (E.D. Va. 2012)
- upheld district's proposed placement for student with multiple disabilities in small self-contained class for core academic classes met substantive standard for FAPE [tuition reimbursement case]

S Johnson v. District of Columbia, 873 F. Supp. 2d 382, 59 IDELR ¶ 101 (D.D.C. 2012)
- ruled that failure to provide the student with ESY was not substantive denial of FAPE and parent's failure to participate in one of two IEP meetings for this determination was not a procedural denial of FAPE—plus not failure to implement material part of IEP

S Klein Indep. Sch. Dist. v. Hovem, 690 F.3d 390, 59 IDELR ¶ 121 (5th Cir. 2012)
- ruled that IEP for gifted child with ADHD and SLD in written expression met the substantive standard for FAPE despite particular NCLB and other standardized test results—Rowley benefit standard applies to educational benefit holistically, not specifically related to the child's disability [tuition reimbursement case]

S E.W.K. v. Bd. of Educ., 884 F. Supp. 2d 39, 59 IDELR ¶ 166 (S.D.N.Y. 2012)
- upheld substantive appropriateness of IEPs for middle-school student with SLD based on evidence of progress despite lack of specialized reading program, refusing to speculate on the impact of private tutoring in reading in the absence of more specific factual foundation [tuition reimbursement case]

P/S S.H. v. Plano Indep Sch. Dist., 487 F. App'x 850, 59 IDELR ¶ 183 (5th Cir. 2012)
- ruled that IEP for child with autism met Rowley reasonably-calculated standard without actual progress and that procedural violation in terms of lack of general education teacher on IEP team did not result in educational loss, but concluded that parent was entitled to reimbursement for ESY based on reasonable expectation of regression that cannot be recouped within a reasonable period of time (per Texas regulations)

S Y.B. v. Bd. of Educ. of Prince George's Cnty., 895 F. Supp. 2d 689, 59 IDELR ¶ 222 (D. Md. 2012)
- ruled that IEP and proposed day (rather than residential) placement of high school student with ED was substantively appropriate [tuition reimbursement case]

P/S R.E. v. N.Y.C. Dep't of Educ., 694 F.3d 167, 59 IDELR ¶ 241 (2d Cir. 2012)
- adopting the snapshot approach but with modified, rather than strict, four-corners rule and differentiating between serious (FBA) and minor (parent counseling) procedural violations based on state standards for FAPE analysis, reached mixed outcomes in three consolidated cases concerning students with autism (two for district and one in favor of the parent, including tuition reimbursement)

S S.A. v. Weast, 898 F. Supp. 2d 869, 59 IDELR ¶ 243 (D. Md. 2012)
- ruled, with high deference to IHO, that IEPs for student with SLD (dyslexia and ADHD) were procedurally and substantively appropriate [tuition reimbursement case]

P/(S) Aaron P. v. Haw., Dep't of Educ., 897 F. Supp. 2d 1004, 59 IDELR ¶ 256 (D. Haw. 2012)
- ruled that first of two IEPs was not appropriate for child with autism but remanded the appropriateness of the second IEP's appropriateness (in terms of placement and implementation) for application of the proper standard

P Coventry Pub. Sch. v. Rachel J., 893 F. Supp. 2d 322, 59 IDELR ¶ 277 (D.R.I. 2012)
- ruled that IEP for student with emotional and learning disabilities was not substantively appropriate due to failure to address his behavioral needs [tuition reimbursement case]

(P)/S Nickerson-Reti v. Lexington Pub. Sch., 893 F. Supp. 2d 276, 59 IDELR ¶ 282 (D. Mass. 2012)
- upheld procedural and substantive appropriateness of district's private day-school placement of high school student with multiple disabilities but reversed dismissal with prejudice for failure to prosecute prior claims

S H.D. v. Cent. Bucks Sch. Dist., 902 F. Supp. 2d 614, 59 IDELR ¶ 275 (E.D. Pa. 2012)
- ruled that IEP that increased the behavioral aspect and that changed the child's itinerant emotional support class in another district school amounted to substantive FAPE in the LRE

S A.B. v. Franklin Twp. Cmty. Sch. Corp., 898 F. Supp. 2d 1067, 59 IDELR ¶ 278 (S.D. Ind. 2012)
- ruled that other IEP team members' statements prior to the meeting that the child with autism could be educated satisfactorily in a district school did not amount to predetermination [tuition reimbursement case]

S Red Clay Consol. Sch. Dist. v. T.S., 893 F. Supp. 2d 643, 59 IDELR ¶ 287 (D. Del. 2012)
- ruled that actual progress is not the standard for FAPE under the snapshot approach and that the IEP for this seventh grader with multiple disabilities was FAPE in the LRE despite the IEP's lack of baseline historical data, an FBA/BIP, and full integration of his voice output device

S R.C. v. Byram Hills Sch. Dist., 906 F. Supp. 2d 256, 60 IDELR ¶ 35 (S.D.N.Y. 2012)
- upheld appropriateness of proposed consecutive one-year IEPs, which initially provided 8:1:1 for math and language arts, one period of resource room, and a 3:1 aide for general education in addition to various related services and which increased the special education class size to 12:1 and removed the aide during the second year, for 14-year-old student with SLD—no prejudicial procedural violations (e.g., lack of BIP and, in light of LRE preference, class size); failure to implement resource room in year one every sixth day and providing 45-minute rather than 60-minute resource room periods each was de minimis (i.e., not material failure); and substantively at the requisite non-ideal level [tuition reimbursement case]

S R.P. v. Alamo Heights Indep. Sch. Dist., 703 F.3d 801, 60 IDELR ¶ 60 (5th Cir. 2012)
- ruled that district did not deny FAPE for fourth grader with autism and other disabilities both procedurally (specifically, early end of some IEP meetings due to parent's behavior and other such actions did not deny meaningful parental participation) and substantively (Cypress-Fairbanks four-factor test)

S Hupp v. Switzerland of Ohio Local Sch. Dist., 912 F. Supp. 2d 572, 60 IDELR ¶ 63 (S.D. Ohio. 2012)
- rejected parents' child find claim for period prior to home-schooling and their procedural, and substantive FAPE challenges to IEP for the period after the parents' reenrolled the child with Asperger disorder and ADHD for third grade, including claims that district had coerced revocation consent and engaged in retaliatory animus

S M.M. v. Dist. 0001 Lancaster Cnty. Sch., 702 F.3d 479, 60 IDELR ¶ 92 (8th Cir. 2012)
- ruled that proposed IEP for fourth grader with autism, which included "calming room" in the BIP, amounted to substantive FAPE in the LRE and also rejected the parents' predetermination claim [tuition reimbursement case]

P B.R. v. N.Y.C. Dep't of Educ., 910 F. Supp. 2d 670, 60 IDELR ¶ 102 (S.D.N.Y. 2012)
- ruled that the proposed placement was not appropriate because it would not provide the student, a nine-year old with autism, with her IEP-specified 1:1 OT services (thus not reaching the parent's alternate arguments re the lack of a sensory gym or highly qualified special education teacher)—snapshot approach (which IHO and RO had not followed) [tuition reimbursement case]

S S.W. v. Governing Bd. of E. Whittier Sch. Dist., 504 F. App'x 571, 60 IDELR ¶ 124 (9th Cir. 2013)
- summarily ruling that IEP was not substantively deficient due to insufficient PELs or lack of appropriate goals

P/S Reg'l Sch. Unit 51 v. Doe, 920 F. Supp. 2d 168, 60 IDELR ¶¶ 163 and 197 (D. Me. 2013)
- ruled that district violated child find by providing student with a 504 plan, not an IEP, but upheld the substantive appropriateness of the IEP that the district provided after two years [tuition reimbursement as compensatory education case]

P G.G. v. District of Columbia, 924 F. Supp. 2d 273, 60 IDELR ¶ 183 (D.D.C. 2013)
- ruled that district's child-find failure to evaluate the child within the prescribed period constituted a denial of FAPE, awarding reimbursement until the completion of the IEP [tuition reimbursement case]

S Pass v. Rollinsford Sch. Dist., 928 F. Supp. 2d 349, 60 IDELR ¶ 214 (D.N.H. 2013)
- upheld substantive appropriateness of IEP, based on snapshot standard, for high school student with SLD in terms of both academic and social needs

S T.B. v. Haverstraw-Stony Point Cent. Sch. Dist., 933 F. Supp. 2d 554, 60 IDELR ¶ 279 (S.D.N.Y. 2013)
- ruled that IEP for second grader with ADHD, ODD and PDD diagnoses was substantively appropriate based on careful review of the record in accordance with Second Circuit's decision in M.H., thereby agreeing with review officer's, not hearing officer's, decision [tuition reimbursement case]

S Torda v. Fairfax Cnty. Sch. Bd., 517 F. App'x 162, 61 IDELR ¶ 4 (4th Cir. 2013)
- rejected claim that failure to evaluate auditory processing disorder (APD) of child with intellectual disabilities (ID) amounted to denial of FAPE where 1) failure to prove that child has APD separable from his ID; 2) parent prevented the challenged reevaluation; and 3) district properly accommodated and remediated any auditory processing deficits [compensatory education case]

P Dep't of Educ. v. S.C., 938 F. Supp. 2d 1023, 61 IDELR ¶ 18 (D. Haw. 2013)
- ruled that IEP was not sufficiently individualized and was not the LRE for child with autism [tuition reimbursement case]

S A.M. v. District of Columbia, 933 F. Supp. 2d 193, 61 IDELR ¶ 21 (D.D.C. 2013)
- rejected parent's predetermination claim and ruled that IEP for student with SLD met substantive standard for FAPE [tuition reimbursement case]

S D.W. v. Milwaukee Pub. Sch., 526 F. App'x 672, 61 IDELR ¶ 32 (7th Cir. 2013)
- upheld substantive appropriateness of IEP of ninth-grade student with intellectual disabilities despite student's low grades, which were based on objective criteria for all ninth graders

S J.T. v. Dumont Pub. Sch., 533 F. App'x 44, 61 IDELR ¶ 33 (3d Cir. 2013)
- upheld procedural and substantive appropriateness of placement of student with autism in inclusionary kindergarten in non-neighborhood school (and same outcome under § 504)[26]

[26] Moreover, in a separate state court action, the New Jersey intermediate, appellate court rejected the plaintiffs' claim under the state law that parallels § 504. J.T. v. Dumont Pub. Sch., 103 A.3d 269, 64 IDELR ¶ 248 (N.J. Super. Ct. App. Div. 2014).

P Deer Valley Unified Sch. Dist. v. L.P., 942 F. Supp. 2d 880, 61 IDELR ¶ 48 (D. Ariz. 2013)
- ruled that district's proposed placement of high-functioning student with autism in "special school" did not meet substantive standard for FAPE because the lack of interaction with peers at the same or higher level of verbal skills prevented meeting his IEP socialization goals, but rejected the parents' procedural, predetermination claim based on the designated IEP location [tuition reimbursement case]

P Doug C. v. Haw. Dep't of Educ., 720 F.3d 1038, 61 IDELR ¶ 91 (9th Cir. 2013)
- held that district denied FAPE to student with autism where it held IEP meeting w/o parent even though parent actively sought to reschedule the meeting for a time soon after the deadline and, though apparently not essential, the parent's absence resulted in the strong likelihood that the private placement was not sufficiently considered [tuition reimbursement case]

S R.G. v. Downingtown Area Sch. Dist., 528 F. App'x 153, 61 IDELR ¶ 93 (3d Cir. 2013)
- upheld substantive appropriateness of proposed IEP for second grader with rare neurological disorder based on testimony of SL therapist that her IEP services would be individualized [tuition reimbursement case]

S W.K. v. Harrison Sch. Dist., 509 F. App'x 565, 61 IDELR ¶ 123 (8th Cir. 2013)
- rejected procedural challenge to IEP, concluding that parents' knowledge of child's aggressive behaviors mitigated failure to provide proper notice for safety-related IEP meeting [tuition reimbursement case]

S James v. District of Columbia, 949 F. Supp. 2d 134, 61 IDELR ¶ 141 (D.D.C. 2013)
- ruled that the district's proposed reassignment of student to "substantially and materially similar placement" did not require parental participation and that this placement met the appropriateness standard—"one which can implement a student's IEP and meet his specialized educational and behavioral needs" [tuition reimbursement case]

P D.C. v. N.Y.C. Dep't of Educ., 950 F. Supp. 2d 494, 61 IDELR ¶ 25 (S.D.N.Y. 2013)
- ruled that district's proposed placement was not substantively appropriate (in terms of capacity to implement) where the evidence that it would provide a seafood-free environment to 10-year-old with autism and seafood allergy were R.E.-excluded statements of school officials after the parent's unilateral placement decision [tuition reimbursement case]

S Horen v. Bd. of Educ., 948 F. Supp. 2d 793, 61 IDELR ¶ 103 (N.D. Ohio 2013)
- ruled, in longstanding line of litigation with pro se parents of child with multiple disabilities, that 1) the parents failed to fulfill their duty to participate in the IEP process, thereby impeding the process "irredeemably" and accounting for lack of IEP, 2) they were responsible for their child's attendance, and 3) district's offered placement in self-contained special education class as appropriate and the LRE

S H.C. v. Katonah-Lewisboro Union Free Sch. Dist.**,** 528 F. App'x 64, 61 IDELR ¶ 121 (2d Cir. 2012)
- upholding substantive appropriateness of IEP for second-grade student with SLD despite growing gap from peers' achievement and lack of parents' preferred assistive technology [tuition reimbursement case]

P Turner v. District of Columbia, 952 F. Supp. 2d 31, 61 IDELR ¶ 126 (D.D.C. 2013)
- rejected FAPE challenges based on lack of special education teacher on IEP team (nonprejudicial) and transition plan (moot) but ruled denial of FAPE based on total lack of implementation of special education services in general education classroom (based on Van Duyn), remanding for compensatory education

S W.H. v. Schuykill Valley Sch. Dist., 954 F. Supp. 2d 315, 61 IDELR ¶ 133 (E.D. Pa. 2013)
- ruled that IEPs for child with speech/language and behavioral issues was substantively appropriate and that district did not significantly impede parental opportunity of participation

S V.M. v. N. Colonie Cent. Sch. Dist., 954 F. Supp. 2d 102, 61 IDELR ¶ 134 (N.D.N.Y. 2013)
- rejected challenges of parent of student with Down Syndrome to successive IEPs due to parent's repeated refusal to consent to reevaluation and, in any event, to insufficient proof of material non-implementation and of harm from lack of FBA [compensatory education case]

S M.W. v. N.Y.C. Dep't of Educ., 725 F.3d 131, 61 IDELR ¶ 151 (2d Cir. 2013)
- upheld procedural and substantive appropriateness of district's proposed IEP for nine-year-old with autism, ADHD, and Tourette syndrome, including lack of FBA and parental counseling in violation of state law [tuition reimbursement case]

S Munir v. Pottsville Sch. Dist., 723 F.3d 423, 61 IDELR ¶ 152 (3d Cir. 2013)
- ruled that the district's proposed IEP for high school student with ED was substantively appropriate, where it incorporated most of the recommendations of the private school's evaluation and where smaller classes and more emotional support were not necessary for meaningful benefits

S K.L. v. N.Y.C. Dep't of Educ., 530 F. App'x 81, 61 IDELR ¶ 184 (2d Cir. 2013)
- upheld substantive appropriateness of proposed IEP for child with autism, concluding that consideration of testimony about additional services the district "would have" provided does not invalidate an adjudicative decision under the IDEA where permissible evidence supports the IHO's or court's ruling [tuition reimbursement case]

S A.M. v. N.Y.C. Dep't of Educ., 964 F. Supp. 2d 270, 61 IDELR ¶ 214 (S.D.N.Y. 2013)
- rejected procedural challenges (e.g., lack of special education teacher on IEP team as nonprejudicial and predetermination unproven) and substantive challenges to proposed IEP for child with intellectual and learning disabilities, including application of "opening the door" and "on its face" evidentiary rules [tuition reimbursement case]

P/S Tyler W. Upper Perkiomen Sch. Dist., 963 F. Supp. 2d 427, 61 IDELR ¶ 218 (E.D. Pa. 2013)
- ruled that 1) evaluation was appropriate because, although it omitted some of his numerous diagnoses, it identified the child's individual needs; 2) the child's placement in a therapeutic day school was substantively appropriate and the LRE; but 3) the lack of implementation of the IEP while the child was in partial hospitalization was a denial of FAPE [compensatory education case]

S R.C. v. Keller Indep. Sch. Dist., 958 F. Supp. 2d 718, 61 IDELR ¶ 221 (N.D. Tex. 2013)
- ruled that IEP was substantively appropriate based on ED where additional classification of autism was not clear or necessary [tuition reimbursement case]

S D.B. v. N.Y.C. Dep't of Educ., 966 F. Supp. 2d 315, 61 IDELR ¶ 245 (S.D.N.Y. 2013)
- ruled that district's failure to conduct triennial reevaluation was not fatal procedural violation where the district had adequate evaluative data from other sources and that the proposed IEP was also substantively appropriate for the 12-year-old with autism [tuition reimbursement case]

S N.K. v. N.Y.C. Dep't of Educ., 961 F. Supp. 2d 577, 61 IDELR ¶ 252 (S.D.N.Y. 2013)
- rejected claims of procedural inappropriateness (e.g., lack of parent counseling/training per state law) and substantive inappropriateness (e.g., teacher-student ratio) of proposed IEP for student with multiple disabilities [tuition reimbursement case]

(***P)/S*** P.G. v. N.Y.C. Dep't of Educ., 959 F. Supp. 2d 499, 61 IDELR ¶ 258 (S.D.N.Y. 2013)
- upheld the procedural appropriateness of proposed IEP and its substantive appropriateness except remanded to determine whether the teacher-student ratio, which the district raised in its opening statement and evidence, was appropriate [tuition reimbursement case]

S Patterson v. District of Columbia, 965 F. Supp. 2d 126, 61 IDELR ¶ 278 (D.D.C. 2013)
- ruled that temporary imposition of inadequate transition plan was not prejudicial procedural violation where district cured it with appropriate transition services

S Johnson v. District of Columbia, 962 F. Supp. 2d 263, 61 IDELR ¶ 286 (D.D.C. 2013)
- upheld substantive appropriateness of district's proposed program for student with ED [tuition reimbursement case]

S K.S. v. District of Columbia, 962 F. Supp. 2d 216, 61 IDELR ¶ 291 (D.D.C. 2013)
- upheld substantive appropriateness of IEPs in grades 5 and 6 for student with SLD [tuition reimbursement case]

P/S District of Columbia v. Vinyard, 971 F. Supp. 2d 103, 62 IDELR ¶ 13 (D.D.C. 2013); see also District of Columbia v. Wolfire, 10 F. Supp. 3d 89, 62 IDELR ¶ 198 (D.D.C. 2014)
- ruled that district of residence was obligated to prepare an appropriate IEP for a parentally placed private school child upon notice of the parent's interest in enrolling the child but that the obligation extinguishes upon the parent's communicated decision to keep the child in the private placement

S Jalloh v. District of Columbia, 968 F. Supp. 2d 203, 62 IDELR ¶ 18 (D.D.C. 2013)
- ruled that district's notice to both grandparents and mother of transfer of child with ED and ADHD due to school closing was proper; the IEP meeting with only the grandfather was not a denial of FAPE after due notice of the meeting to the grandmother and mother and upon no change in the IEP except the school; and that the new school was able to implement the IEP appropriately [tuition reimbursement case]

S T.G. v. N.Y.C. Dep't of Educ., 973 F. Supp. 2d 320, 62 IDELR ¶ 20 (S.D.N.Y. 2013)
- rejected claims of procedural inappropriateness (e.g., lack of FBA per state law and failure to discuss nonpublic placements) and substantive inappropriateness (e.g., teacher-student ratio) of proposed IEP for student with autism [tuition reimbursement case]

P F.O. v. N.Y.C. Dep't of Educ., 976 F. Supp. 2d 499, 62 IDELR ¶ 51 (S.D.N.Y. 2013)
- ruled that proposed IEP for child with autism and other disabilities was not reasonably calculated for benefit—insufficient attention to physician's testimony that autism was the child's primary area of need [tuition reimbursement case]

S L.Y. v. Bayonne Bd. of Educ., 542 F. App'x 139, 62 IDELR ¶ 71 (3d Cir. 2013)
- upheld resident district's proposed IEP and its right to file for an impartial hearing to challenge the charter school's placement of the child, upon its conclusion that it could no longer meet his special education needs appropriately, in an out-of-district private school

P R.G. v. N.Y.C. Dep't of Educ., 980 F. Supp. 2d 345, 62 IDELR ¶ 84 (E.D.N.Y. 2013)
- ruled that absence of regular ed teacher on IEP team constituted a denial of FAPE for the lack of fair consideration of a mainstreamed placement for child with developmental delays, limiting the remedy to re-doing the program/placement process properly [tuition reimbursement case—IHO found private placement inappropriate but district had paid the tuition in the interim]

S K.A. v. Fulton Cnty. Sch. Dist., 741 F.3d 1195, 62 IDELR ¶ 161 (11th Cir. 2013)
- ruled that district may amend the IEP at duly conducted IEP meeting even if the parent objects (and even with a deficient notice if not prejudicial to the parents)

S Jenn-Ching Luo v. Baldwin Union Free Sch. Dist., 556 F. App'x 1, 62 IDELR ¶ 162 (2d Cir. 2013); see also Luo v. Baldwin Union Free Sch. Dist., 677 F. App'x 719 (2d Cir. 2017) (upholding summary judgment for defendants)
- brief ruling that affirmed dismissal of alleged procedural violations where they did not deny the child with autism "the right to a [FAPE], deprive [him] of educational benefits, or unlawfully preclude [the parent] from participating in the decision-making process concerning his son's education"

(P) Lofton v. District of Columbia, 7 F. Supp. 3d 117, 62 IDELR ¶ 175 (D.D.C. 2013)
- granted preliminary injunction to reinstate student in private placement per prior IEP because, in addition to significantly impeding the parent's participation, the public school placement could not implement the OT provision of the new IEP

S F.L. v. N.Y.C. Dep't of Educ., 553 F. App'x 2, 62 IDELR ¶ 191 (2d Cir. 2014)
- upheld substantive and procedural appropriateness of proposed IEP for student with autism, including use of retrospective testimony (i.e., not stated in the IEP) to explain, not add to, the IEP [tuition reimbursement case]

P Caldwell Indep. Sch. Dist. v. L.P., 994 F. Supp. 2d 811, 62 IDELR ¶ 192 (W.D. Tex. 2014), aff'd mem., 551 F. App'x 140 (5th Cir. 2014)
- ruled that district denied FAPE to student with multiple disabilities both via both obstructing parental participation (and "circling the wagons" in the employees' subsequent testimony) and not providing substantive FAPE in the LRE

S S.M. v. Taconic Hills Cent. Sch. Dist., 553 F. App'x 65, 62 IDELR ¶ 223 (2d Cir. 2014)
- short opinion that district's procedural violations in the proposed placement of student with autism at specialized day school did not result in denial of FAPE (e.g., district's "pendency" plan to provide IEP services after parent filed for hearing to challenge lack of openings at the proposed private school)

P C.L. v. N.Y.C. Dep't of Educ., 552 F. App'x 81, 62 IDELR ¶ 224 (2d Cir. 2014)
- short opinion deferring to IHO's—more well-reasoned than the SRO's—conclusion that district did not meet its burden to prove that the proposed 6:1:1 program for child with autism would enable the child to learn new material [tuition reimbursement case—appropriateness of $125k private placement not at issue]

P K.E. v. District of Columbia, 19 F. Supp. 3d 140, 62 IDELR ¶ 236 (D.D.C. 2014)
- ruled that district's failure to have completed IEP available on the first day of the school year was prejudicial procedural violation in the circumstances of this case, which included a "premature" but not unreasonable unilateral placement [tuition reimbursement case]

S N.M. v. Cent. Bucks Sch. Dist., 992 F. Supp. 2d 452, 62 IDELR ¶ 237 (E.D. Pa. 2014)
- upheld substantive appropriateness of successive IEPs for student with SLD and OHI (PTSD and anxiety disorder), including reliance on teachers' progress reports when the student's test scores were mixed and response to bullying was reasonable though not optimal [tuition reimbursement case]

S A.K. v. Gwinnett Cnty. Sch. Dist., 556 F. App'x 790, 62 IDELR ¶ 253 (11th Cir. 2014)
- rejected pro se parent's proposed placement of student with severe autism in the home rather than in a specialized classroom based on the statutory preference for integration, including social benefits, and the district's ability to provide the special nonprescription diet for the child

S G.W. v. Rye City Sch. Dist., 554 F. App'x 56, 62 IDELR ¶ 254 (2d Cir. 2014)
- brief ruling that district's proposed IEP for first grader with SLI/SLD was substantively appropriate and district had not engaged in spoliation of e-mail evidence [tuition reimbursement case]

S Porter v. Ill. State Bd. of Educ., 6 N.E.3d 424, 62 IDELR ¶ 267 (Ill. Ct. App. 2014)
- affirmed IHO's decision that the district's modified IEP for the elementary student with SLD, which provided for 25% time in a special education class and multi-sensory instruction, was appropriate rather than parent's proposed placement in a therapeutic day school, rejecting the predetermination claim and upholding the LRE rationale

P C.F. v. N.Y.C. Dep't of Educ., 746 F.3d 68, 62 IDELR ¶ 281 (2d Cir. 2014)
- ruled that that the procedural violations in the proposed IEP, based on state law, of failing to provide for parent training and counseling and in producing an inappropriately vague BIP in the absence of an FBA combined with its substantive inadequacy of providing for a 6:1 student/teacher ratio, where child with autism clearly needed a 1:1 ratio, amounted to a denial of FAPE [tuition reimbursement case]

S M.S. v. N.Y.C. Dep't of Educ., 2 F. Supp. 3d 311, 62 IDELR ¶ 297 (E.D.N.Y. 2013)
- rejected procedural, substantive, and implementation challenges to proposed IEP for child with autism and found no fatal reliance on retrospective testimony [tuition reimbursement case]

S A.G. v. Paso Robles Joint Unified Sch. Dist., 561 F. App'x 642, 63 IDELR ¶ 2 (9th Cir. 2014)
- ruled that lack of general education teacher at IEP meeting, lack of FBA-BIP per state law, and lack of quantifiable present educational levels were harmless procedural violations in light of progress of student with SLD

P/S T.M. v. Cornwall Cent. Sch. Dist., 752 F.3d 145, 63 IDELR ¶ 31 (2d Cir. 2014). But cf. A.L. v. Jackson Cnty. Sch. Bd. (supra) (parent did not prove that alternative school was not the LRE, if it applies to ESY)
- ruled the IDEA's LRE requirement applies to ESY placements just as it does to school-year placements, but that the lack of an FBA-BIP and parent counseling training (both per state law) for child with autism were procedural violations that did not result in a substantive loss of education [tuition reimbursement case]

P Scott v. N.Y.C. Dep't of Educ., 6 F. Supp. 3d 424, 63 IDELR ¶ 43 (S.D.N.Y. 2014)
- ruled that the various procedural violations (e.g., failure to conform to state law standard for SLT for students with autism) did not individually or cumulatively result in substantive denial of FAPE but—disagreeing with the second tier for various evidentiary shortcomings—that the placement was not substantively appropriate [tuition reimbursement case]

S B.K. v. N.Y.C. Dep't of Educ., 12 F. Supp. 2d 343, 63 IDELR ¶ 68 (E.D.N.Y. 2014)
- ruled that the proposed IEP for eight-year old with autism substantively appropriate and rejected the various procedural challenges as either unproven (e.g., predetermination and FBA/BIP) or nonprejudicial (lack of parent counseling/training [tuition reimbursement case]

S L.M. v. E. Meadow Sch. Dist., 11 F. Supp. 2d 306, 63 IDELR ¶ 71 (E.D.N.Y. 2014)
- ruled that the IEP for the five-year old with autism was substantively appropriate, resulting in progress when the parents pulled him out at noon each day and where their challenge was to the reasonableness of the IEP's feeding provision [tuition reimbursement case]

S C.B. v. Garden Grove Unified Sch. Dist., 575 F. App'x 796, 63 IDELR ¶ 122 (9th Cir. 2014)
- rejected procedural challenges to IEP (e.g., absence of certain goals and of accommodations section) and upheld substantive appropriateness of interim small-group placement of child with autism who previously received 1:1 services

P C.U. v. N.Y.C. Dep't of Educ., 23 F. Supp. 3d 210, 63 IDELR ¶ 126 (S.D.N.Y. 2014)
- ruled that district's failure to provide parents of 15-year-old with autism with meaningful opportunity for participation by not them with 1) copy of IEP in timely manner and 2) relevant information (e.g., resources adequate to implement the IEP) about the school placement (i.e., process, not necessarily site, of school selection), although rejecting other procedural challenges and substantive challenge [tuition reimbursement case]

S McAllister v. District of Columbia, 45 F. Supp. 3d 72, 63 IDELR ¶ 130 (D.D.C. 2014)
- upheld IHO's rejection of parent's FAPE separate claims based respectively on 1) IHO's broad discretion in weighing of the testimony and 2) complaint's failure to put district on reasonable notice

P V.S. v. N.Y.C. Dep't of Educ., 25 F. Supp. 3d 295, 63 IDELR ¶ 162 (S.D.N.Y. 2014)
- ruled that district's "bait and switch" re proposed site for IEP for student with autism was a denial of FAPE in terms of parental opportunity for meaningful participation [tuition reimbursement case]

(*P*) E.M. v. N.Y.C. Dep't of Educ., 758 F.3d 442, 63 IDELR ¶ 181 (2d Cir. 2014)
- remanded case where lower adjudications relied on extrinsic evidence, i.e., information not provided in the IEP, in determining that the proposed IEP for child with autism was appropriate [tuition reimbursement case]

P R.L. v. Miami Dade Cnty. Sch. Bd., 757 F.3d 1173, 63 IDELR ¶ 182 (11th Cir. 2014)
- ruled that district denied FAPE for high school student with developmental and digestive disorders not only substantively (e.g., IEP shortcomings for stress management and reading comprehension) but also procedurally (specifically, predetermination for not evidencing open mind receptive and responsive to parents' position) [tuition reimbursement and compensatory education case]

P Reyes v. N.Y.C. Dep't of Educ., 760 F.3d 211, 63 IDELR ¶ 244 (2d Cir. 2014)
- ruled that IEP for child with autism did not meet substantive standard for FAPE w/o additional services and that review officer's reliance on testimony about modifying the IEP to provide these services mid-year was improper (based on Second Circuit's modified four-corners rule) [tuition reimbursement case—remanded for remaining steps]

P Blount Cnty. Bd. of Educ. v. Bowens, 762 F.3d 1242, 63 IDELR ¶ 243 (11th Cir. 2014)
- upheld ruling, in case of child with autism upon transitioning from Part C (early intervention), that district offered "inadequate option[s] and [attempted to] wash its hands of its obligations" by acquiescing to the private placement [tuition reimbursement case]

(P)/S Marcus I. v. Dep't of Educ., 583 F. App'x 753, 63 IDELR ¶ 245 (9th Cir. 2014)
- upheld rulings that any procedural violation with regard to notice of the proposed placement for student with autism was harmless in this case and that the proposed placement could have implemented the IEP, but remanded for consideration of reimbursement claim for housing expenses

S A.S. v. N.Y.C. Dep't of Educ., 573 F. App'x 63, 63 IDELR ¶ 246 (2d Cir. 2014)
- upheld procedural and substantive appropriateness of proposed IEP, including the TEACCH methodology, for child with autism despite parents' preference for ABA-based program [tuition reimbursement case]

P M.M. v. Lafayette Sch. Dist., 767 F.3d 842, 64 IDELR ¶ 31 (9th Cir. 2014)[27]
- ruled that the district, which used RTI to corroborate the severe-discrepancy SLD evaluation, violated the IDEA's procedural requirements by failing to have the IEP team document and carefully consider the RTI data and to provide the data to the parents, preventing parents from meaningful participation in the IEP process

S Coleman v. Pottstown Sch. Dist., 581 F. App'x 141, 64 IDELR ¶ 33 (3d Cir. 2014)[28]
- upheld appropriateness of IEP for high school student with ED, both substantively (e.g., sufficient 1:1 instruction) and procedurally (e.g., lack of FBA and progress monitoring) [compensatory education and tuition reimbursement case]

[27] In an unpublished decision on remand, the lower court ruled that the parents were entitled to reimbursement of their requested expenses of $16.5K for Lindamood-Bell services, evaluations and Tomatis therapy, and transportation. M.M. v. Lafayette Sch. Dist., 68 IDELR ¶ 72 (N.D. Cal. 2016).

[28] The appellate court ended its analysis with this statement: "Were our inquiry limited to rewarding the generosity of a loving family, we would almost certainly reach a different result. We are obliged, however, to apply the governing law, which requires that we affirm."

P Jefferson Cnty. Bd. of Educ. v. Lolita S., 581 F. App'x 760, 64 IDELR ¶ 34 (11th Cir. 2014)
- ruled that IEP for teenager with SLD was not substantively appropriate in terms of reading (including stock goals) and transition skills [compensatory education case]

S R.K. v. Clifton Bd. of Educ., 587 F. App'x 17, 64 IDELR ¶ 96 (3d Cir. 2014)
- ruled that even if the district's refusal to provide parents with copy of consultant's report evaluating the system's ABA program and to allow their expert to observe the child's class were procedural violations, neither refusal deprived them of their opportunity for meaningful participation in the IEP and IHO process

S S.S. v. District of Columbia, 68 F. Supp. 3d 1, 64 IDELR ¶ 72 (D.D.C. 2014)
- while recognizing lack of uniform specific standard, rejected denial of FAPE claim based on bullying because the bullying was not of sufficient severity to deny the child access and the child's lack of progress was due to absenteeism, not school avoidance due to bullying

P P.L. v. N.Y.C. Dep't of Educ., 56 F. Supp. 3d 147, 64 IDELR ¶ 100 (E.D.N.Y. 2014)
- ruled that lack of vocational assessment, FBA, and parent counseling/training per state law did not rise to the level of denial of FAPE for child with autism, but the proposed 6:1:1 placement was not reasonably calculated to provide benefit due to the child's proven needs for 1:1 instruction [tuition reimbursement case]

S R.B. v. N.Y.C. Dep't of Educ., 589 F. App'x 572, 64 IDELR ¶ 126 (2d Cir. 2014)
- rejected procedural challenge (less than full reevaluation after one year), mixed procedural-substantive challenge (omission of parents' choice of methodology) challenges to the proposed IEP and upheld substantive appropriateness of 6:1:1 placement to return middle school child with autism from specialized private school [tuition reimbursement case]

S L.O. v. E. Allen Sch. Corp., 58 F. Supp. 3d 882, 64 IDELR ¶ 147 (N.D. Ind. 2014)
- rejected child find and other IHO FAPE-related orders for lack of sufficient factual foundation or legal violations

S E.L. v. Chapel Hill-Carrboro Bd. of Educ., 773 F.3d 509, 64 IDELR ¶ 192 (4th Cir. 2014)
- ruled that district's embedded implementation, including supervised SLT interns, rather than the one-on-one approach that was the preference of the resigned SL therapist and that was the parents' interpretation, fulfilled IEP provision for four hours per week of SLT in the "total school environment" of eight-year-old with autism

S F.K. v. Dep't of Educ., Haw., 585 F. App'x 710, 64 IDELR ¶ 194 (9th Cir. 2014)
- ruled that the district's placement for middle-school student with autism met the substantive and implementation standards for appropriateness

S M.A. v. Jersey City Bd. of Educ., 592 F. App'x 124, 64 IDELR ¶ 196 (3d Cir. 2014)
- upheld changed placement of child with autism from private ABA school to less intensive ABA program within the district based on the child's progress, ruling that the failure of the notice to specify the school did not deny the parents' meaningful opportunity for participation in this case

S T.M. v. District of Columbia, 75 F. Supp. 3d 233, 64 IDELR ¶ 197 (D.D.C. 2014)
- rejected various challenges to IEP, including lack of speech and language services (snapshot approach), incomplete implementation (de minimis misses attributable to staff compared to student), refusal for parental/attorney observations (no right upon request), and delay in revising FBA-BIP (reasonable time) [compensatory education case]

S G.M. v. Dry Creek Joint Elementary Sch. Dist., 595 F. App'x 698, 64 IDELR ¶ 231 (9th Cir. 2014)
- rejected parents' various procedural and substantive (including gap-closing) challenges to IEP for student with SLD (dyslexia) who had experienced disability-based bullying[29]

P/S Cupertino Union Sch. Dist. v. K.A., 75 F. Supp. 3d 1088, 64 IDELR ¶ 200 (N.D. Cal. 2014)
- reversed the IHO's ruling that the district had engaged in predetermination for IEP of child with autism and seizure disorder, concluding instead that—distinguishable from Doug C.—the continuation of the IEP meeting without the parent did not violate the opportunity for meaningful participation in the specific circumstances of this case, but upheld the IHOs ruling that the district failed to implement the IEP at a material level for three-month period [compensatory education case]

S Lainey C. v. Dep't of Educ., Haw., 594 F. App'x 441, 65 IDELR ¶ 32 (9th Cir. 2015)
- upheld procedural (specifically, parental participation) and substantive appropriateness (specifically, socialization needs) of most recent IEP for 12-year-old with autism (after parent won tuition reimbursement in un-appealed decision concerning the child's previous IEP)—also, briefly, that it met the multi-factor LRE test

S R.B. v. N.Y.C. Dep't of Educ., 603 F. App'x 36, 65 IDELR ¶ 62 (2d Cir. 2015)[30]
- affirmed ruling that procedural blemishes (e.g., lack of vocational assessment, parent training/counseling, and measurable goals) were not a denial of FAPE in individual circumstances of this case and the 6:1:1 placement for this child with autism was substantively appropriate [tuition reimbursement case]

[29] For the unpublished district court decision subject to this brief affirmance, see G.M. v. Drycreek Joint Elementary Sch. Dist., 59 IDELR ¶ 223 (E.D. Cal. 2012).

[30] This case concerns the IEP for the year after the one ultimately addressed in the Second Circuit appeal supra.

S W.D. v. Watchung Hills Reg'l High Sch. Bd. of Educ., 602 F. App'x 563, 65 IDELR ¶ 63 (3d Cir. 2015)
- ruled that district's failure to provide more information about its proposed methodology beyond it being research-based and its teacher beyond being duly certified did not deny the opportunity for meaningful participation of parent of child with dyslexia [tuition reimbursement case]

S Dixon v. District of Columbia, 83 F. Supp. 3d 223, 65 IDELR ¶ 67 (D.D.C. 2015)
- ruled that parent failed to prove that significantly reduced level of special ed services (27.5 to 15 hours per week) for high school student with OHI (epilepsy+) did not meet the substantive standard of conferring benefit and that the alleged procedural violation of not changing the IEP goals upon this reduction "affected the student's substantive rights"

S S.W. v. N.Y.C. Dep't of Educ., 92 F. Supp. 3d 143, 65 IDELR ¶ 70 (S.D.N.Y. 2015)
- rejected procedural challenges—here, predetermination (not proven), failure to consider IEE (unproven), and absence of additional parental member on IEP team per state law (not prejudicial)—and upheld substantive appropriateness of the proposed IEP for high school student with SLD, including LRE consideration and failure to prove narrow "factually incapable" exception for implementation of the IEP [tuition reimbursement case]

S J.W. v. N.Y.C. Dep't of Educ., 95 F. Supp. 3d 592, 65 IDELR ¶ 94 (S.D.N.Y. 2015)
- ruled that parents of child with autism sufficiently had raised methodology issue in their complaint but, even assuming arguendo that the ABA methodology was inconsistent with the success of the child's IEP, they failed to prove that the school was incapable of implementing the IEP [tuition reimbursement case]

(*P*) Stanek v. St. Charles Cmty. Unit Sch. Dist. No. 303, 783 F.3d 634, 65 IDELR ¶ 122 (7th Cir. 2015)
- denied district's motion to dismiss FAPE implementation claim of graduated 19-year-old student with autism and, based on his delegation-of-rights upon turning 18, of his parents

(*P*) E.H. v. N.Y.C. Dep't of Educ., 611 F. App'x 728, 65 IDELR ¶ 162 (2d Cir. 2015)
- rejected parent's procedural and substantive challenges to the BIP for their child with autism and their claim regarding the proposed classroom capacity, but remanded for determination of whether the IEP's adoption of the private school's goals without its DIR/Floortime method resulted in a substantive denial of FAPE [tuition reimbursement case]

P K.R. v. N.Y.C. Dep't of Educ., 107 F. Supp. 3d 295, 65 IDELR ¶ 173 (S.D.N.Y. 2015)
- ruled that exclusion of parents from the IEP process and, separately, inability of the proposed district placement to meet the child's sensory needs constituted a denial of FAPE [tuition reimbursement case]

P J.G. v. Baldwin Park Unified Sch. Dist., 78 F. Supp. 3d 1268, 65 IDELR ¶ 177 (C.D. Cal. 2015)
- ruled that district's refusal, based on stay-put, to discuss parent's request for a possible referral to specialized placement for student with hearing impairment as well as its failure to share information that the parent needed to participate meaningfully as a member of the IEP team amounted to a denial of FAPE (resulting in remedy of ordering IEP team to consider said placement)

S Jalen Z. v. Sch. Dist. of Phila., 104 F. Supp. 3d 660, 65 IDELR ¶ 198 (E.D. Pa. 2015)
- upheld IHO's ruling that the various alleged procedural violations (e.g., lack of teacher on IEP team and insufficient info for parent) were either unproven or not prejudicial and that the alleged substantive inadequacies (in the related services, transition plan, and BIP) did not fall below the Rowley reasonably-calculated standard in proposed IEP for changing placement from early intervention to district-based program for child with autism—accepted extrinsic evidence under R.E. standard

S J.S. v. N.Y.C. Dep't of Educ., 104 F. Supp. 3d 392, 65 IDELR ¶ 201 (S.D.N.Y. 2015), aff'd, 648 F. App'x 96, 67 IDELR ¶ 197 (2d Cir. 2016)
- rejected parents' procedural challenges (e.g., FBA) and upheld substantive appropriateness of proposed placement, with co-teaching model, for high school student with Tourette syndrome and anxiety issues [tuition reimbursement case]

P D.B. v. Santa Monica-Malibu Unified Sch. Dist., 606 F. App'x 359, 65 IDELR ¶ 224 (9th Cir. 2015)
- ruled, in brief opinion, that holding IEP meeting w/o parents based on employee-members' scheduling unavailability was a denial of FAPE in terms of interference with parental participation [tuition reimbursement case]

P Leggett v. District of Columbia, 793 F.3d 59, 65 IDELR ¶ 251 (D.C. Cir. 2015)
- ruled that district's failure to have the initial IEP for the eligible child available at the start of the school year, when the parent was cooperative rather than an impediment (distinguishing C.H. v. Henlopen), amounted to a prejudicial procedural violation in relation to the student and, thus, a denial of FAPE [tuition reimbursement case]

S/P Doe v. E. Lyme Bd. of Educ., 790 F.3d 440, 65 IDELR ¶ 255 (2d Cir. 2015) (Doe I)
- ruled that issuance of the IEP after the meeting was not a denial of the parents' participation right and that the proposed IEP for this child with autism met the substantive standard, but the failure to offer IEPs during the subsequent years of the out-of-district unilateral placement was a denial of FAPE [tuition reimbursement case]

P S.B. v. N.Y.C. Dep't of Educ., 117 F. Supp. 3d 355, 65 IDELR ¶ 264 (S.D.N.Y. 2015)
- ruled that district's failure to include parent in drafting of IEP goals was a procedural violation that did not result in denial of FAPE but its use of measurement methods in the goals was a prejudicial procedural violation; the proposed 15:1 placement did not meet the individual needs of this child with SLD and CAPD; and its proposed location was not appropriate (narrowly interpreting R.E. in terms of this prospective issue) [tuition reimbursement case]

S District of Columbia v. Walker, 109 F. Supp. 3d 58, 65 IDELR ¶ 271 (D.D.C. 2015)
- ruled, based on snapshot standard, that proposed in-district placement for student with ED was substantively appropriate despite subsequent evidence, including psychiatric hospitalizations, that she needed residential placement [tuition reimbursement case]

S S.E. v. N.Y.C. Dep't of Educ., 113 F. Supp. 3d 695, 65 IDELR ¶ 295 (S.D.N.Y. 2015)
- ruled that parent of child with autism failed to prove that this case was one of the "few circumstances" in which the proposed placement is unable to implement an appropriate (or here unchallenged) IEP when the child never attended the school [tuition reimbursement case]

S M.O. v. N.Y.C. Dep't of Educ., 793 F.3d 236, 65 IDELR ¶ 283 (2d Cir. 2015)
- ruled that the modified four-corners approach of R.E. applies to challenges to the substantive appropriateness of the IEP but not to the proposed school's capacity to implement the IEP—thereby affirming the lower court's decision in favor of the district because the parent's challenges were substantive attacks on the IEP that were couched as challenges to the adequacy of the assigned school reimbursement case]

S Sneitzer v. Iowa Dep't of Educ., 796 F.3d 942, 66 IDELR ¶ 1 (8th Cir. 2015)
- ruled that district's IEP for twice-exceptional student was reasonably calculated for educational benefit (after off-campus rape) [tuition reimbursement case]

P Pointe Educ. Serv. v. A.T., 601 F. App'x 702, 66 IDELR ¶ 4 (9th Cir. 2015)
- ruled, with short opinion in "close case," that the district's proposed placement for eight-year-old with autism was not substantively appropriate based on IHO's thorough and careful findings of excessive transitions between classes, inclusion of significantly older students in academic classes, and exposure to a student population with more severe behavioral issues than the student's

S Endrew F. v. Douglas Cnty. Sch. Dist. RE-1, 798 F.3d 1329, 66 IDELR ¶ 31 (10th Cir. 2015)[31]
- ruled that gaps in progress reporting and lack of FBA/BIP constituted harmless procedural error in IEP for child with autism [tuition reimbursement case]

[31] For the Supreme Court's decision, on further proceedings in this case, see infra.

S Ruby v. Jefferson Cnty. Bd. of Educ., 122 F. Supp. 3d 1288, 66 IDELR ¶ 38 (N.D. Ala. 2015)
- ruled that IEP for child with physical disabilities who moved from another state was procedurally and substantively appropriate [compensatory education and reimbursement case]

P FB v. N.Y.C. Dep't of Educ., 132 F. Supp. 3d 522, 66 IDELR ¶ 94 (S.D.N.Y. 2015)
- ruled that although district did not engage in predetermination in IEP process for child with autism, 1) it violated parents' right to obtain relevant and timely information as to the proposed school so to be able to meaningfully participate in and beyond the IEP process and 2) the proposed school was incapable of implementing the IEP [tuition reimbursement case]

(*P*) Lague v. District of Columbia, 130 F. Supp. 3d 305, 66 IDELR ¶ 101 (D.D.C. 2015)
- ruled that the district of residence's obligation for evaluation and the offer of FAPE is not extinguished upon the parents' unilateral placement of the child even when the parent has not expressed an interest in returning the child to the district [tuition reimbursement case]

P Sch. Bd. of Suffolk v. Rose, 133 F. Supp. 3d 803, 66 IDELR ¶ 137 (E.D. Va. 2015)
- ruled that identification of student, who undisputedly was also OHI (based on ADHD) and SLD (in written expression), as ED rather than primarily qualifying with autism, and the failure to address autism in his IEP was a substantive denial of FAPE [tuition reimbursement case]

S O.S. v. Fairfax Cnty. Sch. Bd., 804 F.3d 354, 66 IDELR ¶ 151 (4th Cir. 2015)
- upheld substantive appropriateness of IEPs in kindergarten and gr. 1 for child with OHI due to various medical conditions, ruling that the outcomes focus of IDEA 2004 did not heighten the Rowley standard of "some" benefit (in the Fourth Circuit)

S Wood v. Katy Indep. Sch. Dist., 163 F. Supp. 3d 396, 66 IDELR ¶ 158 (S.D. Tex. 2015)
- upheld procedural and substantive appropriateness of proposed IEP for high school student with dyslexia [tuition reimbursement case]

P Phyllene W. v. Huntsville City Sch. Bd., 630 F. App'x 917, 66 IDELR ¶ 179 (11th Cir. 2015)
- ruled that district's failure to reevaluate hearing impairment of student with SLD (dyslexia) upon reasonably suspecting hearing loss, based on recent surgeries and parent's statements beyond statute of limitations, was a prejudicial procedural violation that denied the child FAPE

S D.A.B. v. N.Y.C. Dep't of Educ., 630 F. App'x 73, 66 IDELR ¶ 211 (2d Cir. 2015)
- rejected claims of procedural inappropriateness (e.g., goals that were insufficiently measurable) and substantive inappropriateness (e.g., teacher-student ratio) of proposed IEP for student with autism [tuition reimbursement case]

S Z.R. v. Oak Park Unified Sch. Dist., 622 F. App'x 630, 66 IDELR ¶ 213 (9th Cir. 2015)
- summarily affirmed decision ruling that proposed IEP of student with autism was appropriate, rejecting procedural challenges based on the goals and the IEP team composition (specifically, assistant principal who taught one course qualified as regular education teacher member) [tuition reimbursement case]

P GB v. N.Y.C. Dep't of Educ., 145 F. Supp. 3d 230, 66 IDELR ¶ 223 (S.D.N.Y. 2015)
- ruled that district denied FAPE for child with autism by failing to sufficiently address his medical needs in his IEP, although rejecting various FAPE procedural claims (e.g., predetermination) and "substantive" claims (e.g., present levels, goals, and sensory needs) [tuition reimbursement case]

S C.W.L. v. Pelham Union Free Sch. Dist., 149 F. Supp. 3d 451, 66 IDELR ¶ 241 (S.D.N.Y. 2015)
- ruled that 1) the proposed therapeutic in-district placement for student with ED was substantively appropriate, with due consideration to private psychologist's recommendation, and 2) the various procedural violations were harmless [tuition reimbursement case]

S A.R. v. Santa Monica Malibu Sch. Dist., 636 F. 385, 66 IDELR ¶ 269 (9th Cir. 2016)
- upheld, in brief opinion, that proposed collaborative preschool classroom was FAPE in the LRE for preschool child with autism [tuition reimbursement case]

S S.T. v. Howard Cnty. Pub. Sch. Sys., 627 F. App'x 255, 66 IDELR ¶ 270 (4th Cir. 2016)
- ruled that admission of "retrospective evidence" was either not error because it concerned the ability of the placement to provide the appropriate services or harmless error because the placement would provide all of the necessary services for the child with autism

S A.L. v. Jackson Cnty. Sch. Bd., 635 F. App'x 774, 66 IDELR ¶ 271 (11th Cir. 2015)
- ruled that parent's absence from the IEP process resulted from her own actions—district had provided multiple attempts to include her and proceeded due to concern for student with TBI, not due to convenience of other such administrative concerns (distinguishing Doug C., which is not binding here)

S B.P. v. N.Y.C. Dep't of Educ., 634 F. App'x 845, 66 IDELR ¶ 272 (2d Cir. 2015)
- ruled that district's evidence was sufficient to prove that despite its social worker's misstatement, the proposed placement was able to implement the IEP of the child with autism [tuition reimbursement case]

P T.K. v. N.Y.C. Dep't of Educ., 810 F.3d 869, 67 IDELR ¶ 1 (2d Cir. 2016)[32]
- ruled that district's refusal to discuss bullying upon parents' reasonable belief that it interfered with the student's ability to receive meaningful educational benefits significantly impeded their right to participate in the development of the IEP, thus constituting a procedural denial of FAPE -- "not only potentially impaired the substance of the IEP but also prevented them from assessing the adequacy of their child's IEP" [tuition reimbursement case]

P Norristown Area Sch. Dist. v. F.C., 636 F. App'x 857, 67 IDELR ¶ 3 (3d Cir. 2016)
- upheld ruling that district's second-grade IEP and, after unilateral placement, third-grade proposed IEP for student with autism were both not substantively appropriate due to lack of 1:1 aide [compensatory education and tuition reimbursement case]

P/S Miller v. Monroe Sch. Dist., 131 F. Supp. 3d 1107, 67 IDELR ¶ 32 (W.D. Wash. 2016)
- ruled that delay in issuing hearing officer decision denied FAPE in this case at original placement, but in the transferred placement the district did not deny FAPE in response to claims of parents of student with autism of lack of meaningful participation and alleged IEP violations re seclusion and restraint [tuition reimbursement case]

P Holman v. District of Columbia 153 F. Supp. 3d 386, 67 IDELR ¶ 39 (D.D.C. 2016)
- ruled that district's 83% implementation of IEP violated Van Duyn "material" failure standard (regardless of harm—here, the child had graduated)

P E.H. v. N.Y.C. Dep't of Educ., 164 F. Supp. 3d 539, 67 IDELR ¶ 61 (S.D.N.Y. 2016)
- ruled that district failed to provide 1) reasonable notice of the proposed placement (only one business day), 2) an appropriate BIP, and 3) an open mind (i.e., engaged in predetermination), resulting in denial of meaningful parental participation and—via inappropriate goals—lack of the requisite "likely to produce progress" for child with autism [tuition reimbursement case]

P W.W. v. N.Y.C. Dep't of Educ., 160 F. Supp. 3d 618, 67 IDELR ¶ 66 (S.D.N.Y. 2016)
- ruled, in this "expanding, but still opaque, subject-matter area," that parents may prospectively challenge a proposed placement school's capacity to implement an IEP w/o first enrolling their child in that school and in this case the district failed to fulfill the burden (under NY law) to prove this capacity [tuition reimbursement case]

S M.T. v. N.Y.C. Dep't of Educ., 165 F. Supp. 3d 106, 67 IDELR ¶ 92 (S.D.N.Y. 2016)
- rejected parents' procedural claims of insufficient evaluative materials and lack of opportunity for meaningful participation and upheld substantive appropriateness of proposed placement for student with multiple disabilities, including lack of ABA methodology (because IEP only mentioned it as one of previous successful methods for the student) [tuition reimbursement case]

[32] The Second Circuit did not find it necessary to reach the substantive bullying issue, thus leaving in limbo the district court's successive rulings that provided standards for denial of FAPE based on bulling. T.K. v. N.Y.C. Dep't of Educ., 779 F. Supp. 2d 289, 56 IDELR ¶ 228 (S.D.N.Y. 2011), further proceedings, 32 F. Supp. 3d 405, 63 IDELR ¶ 256 (S.D.N.Y. 2014).

S J.C. v. N.Y.C. Dep't of Educ., 643 F. App'x 31, 67 IDELR ¶ 109 (2d Cir. 2016)
- ruled that procedural violations (lack of parent counseling and FBA-BIP) was not prejudicial and that the proposed IEP met the substantive standard for the child with autism, also rejecting speculative inability of the school to implement the IEP [tuition reimbursement case]

S C.L. v. Lucia Mar Unified Sch. Dist., 646 F. App'x 524, 67 IDELR ¶ 136 (9th Cir. 2016)
- short opinion rejecting parents' implementation claim (Van Duyn), including lack of IEP provisions for home instruction and "fading," for child with autism, and added that the appropriateness of subsequent IEP was moot due to parents' consent to it

S S.M. v. Gwinnett Cnty. Sch. Dist., 646 F. App'x 763, 67 IDELR ¶ 137 (11th Cir. 2016)
- briefly rejected predetermination and change-in-placement claims

P/S S.B. v. N.Y.C. Dep't of Educ., 174 F. Supp. 3d 798, 67 IDELR ¶ 140 (S.D.N.Y. 2016)
- ruled that proposed 6:1:1 placement for student was substantively inappropriate due to his need for 1:1 instruction although the various alleged procedural violations were either not required (ABA instruction), not proven (parental participation) or not prejudicial (e.g., lack of FBA-BIP) [tuition reimbursement case]

S Jason O. v. Manhattan Sch. Dist. No. 41, 173 F. Supp. 3d 744, 67 IDELR ¶ 142 (N.D. Ill. 2016)
- rejected parents' various procedural claims as unproven or harmless, including predetermination and those directed at IHO, and ruled that the district's IEPs for child with continuing behavioral problems met the substantive standard for FAPE

S J.M. v. N.Y.C. Dep't of Educ., 171 F. Supp. 3d 236, 67 IDELR ¶ 153 (S.D.N.Y. 2016)
- rejected procedural challenge (specifically, lack of complete transition plan) as not prejudicial and substantive challenge to capability of the proposed placement of student with autism (e.g., size and noise) as impermissibly speculative based on R.E. [tuition reimbursement case]

S M.H. v. Pelham Union Free Sch. Dist., 168 F. Supp. 3d 667, 67 IDELR ¶ 154 (S.D.N.Y. 2016)
- ruled that IEP for child with developmental disability and ADHD was substantively and procedurally adequate. [tuition reimbursement case]

S M.M. v. Foose, 165 F. Supp. 3d 365, 67 IDELR ¶ 155 (D. Md. 2015)
- ruled that proposed partially mainstreamed placement for student with autism met substantive standard for FAPE [tuition reimbursement case]

P Brown v. District of Columbia, 179 F. Supp. 3d 15, 67 IDELR ¶ 169 (D.D.C. 2016)
- ruled that IEP team's failure to discuss the LRE for and the disability effects of the recent multiple gunshot wounds of a high school student each constituted a denial of FAPE in terms of parental participation and student progress, respectively

P S.C. v. Katonah-Lewisboro Cent. Sch. Dist., 175 F. Supp. 3d 237, 67 IDELR ¶ 184 (S.D.N.Y. 2016)
- ruled that proposed 12:2 class placement for student with multiple disabilities was not reasonably calculated to yield benefit [tuition reimbursement case]

S C.W. v. City Sch. Dist. of N.Y., 171 F. Supp. 3d 126, 67 IDELR ¶ 186 (S.D.N.Y. 2016)
- ruled that procedural violations (e.g., failure to invite student to participate in IEP meeting for transition plan and insufficient transition plan goals) were not prejudicial and the proposed segregated 15:1 placement for student with ID and speech/language impairment was substantively appropriate IEP [tuition reimbursement case]

S Moradnejad v. District of Columbia, 177 F. Supp. 3d 260, 67 IDELR ¶ 261 (D.D.C. 2016)
- ruled that IEPs for first grader with autism that moved from self-contained to partially mainstreamed placement met the substantive standard for FAPE, with due deference to the IHO and to the LRE presumption

S R.E. v. Brewster Cent. Sch. Dist. (supra)
- upheld two successive IEPs for sixth grader with autism with regard to implementation and substantive appropriateness, respectively [tuition reimbursement case]

P L.O. v. N.Y.C. Dep't of Educ., 822 F.3d 95, 67 IDELR ¶ 225 (2d Cir. 2016)
- ruled that combination of serious procedural violations—failure to consider recent evaluative data, lack of FBAs-BIPs (under state law), insufficient S/L services (under state law for students with autism)—along with more minor procedural violations (e.g., parent counseling/training per same state autism law) amounted to denial of FAPE for three successive IEPs, remanding for compensatory education

S M.K. v. Starr, 185 F. Supp. 3d 679 (D. Md. 2016)
- ruled that (a) the district's two consecutive proposed IEPs met the substantive standard for FAPE, (b) any procedural delay in the IEP process was harmless, and (c) the proposed placement was capable of providing the IEP, despite subsequent IEP proposal that added more services [tuition reimbursement case]

P Timothy O. v. Paso Robles Unified Sch. Dist., 822 F.3d 1105, 67 IDELR ¶ 227 (9th Cir. 2016)
- ruled that failure to evaluate preschool child with SLI for autism was procedural violation that deprived him of critical educational opportunities and substantially impairing his parents' ability to fully participate in the collaborative IEP process—district's informal observation does not trump clear notice from IEE and student's behavior

P W.S. v. City Sch. Dist. of N.Y.C., 188 F. Supp. 3d 293, 67 IDELR ¶ 242 (S.D.N.Y. 2016)
- ruled that proposed 6:1:1 placement for child with autism was not individualized in terms of the child's needs and did not address her documented necessity for 1:1 ABA therapy [tuition reimbursement case]

P Damarcus S. v. District of Columbia, 190 F. Supp. 3d 35, 67 IDELR ¶ 239 (D.D.C. 2016)
- ruled that two consecutive IEPs of child with ID were not substantively appropriate, primarily in not only the goals' and PELs' failure to respond to his demonstrated lack of progress in certain areas but also their harmful results with regard to his speech-language pathology

S Baquerizo v. Garden Grove Unified Sch. Dist., 826 F.3d 1179, 68 IDELR ¶ 2 (9th Cir. 2016)
- upheld the substantive appropriateness of the proposed IEP of a high school student with autism in a self-contained class, also rejecting the "laundry list" of procedural violations and the LRE claim of a guardian who had challenged several consecutive prior IEPs [tuition reimbursement case]

S Dervishi v. Stamford Bd. of Educ., 653 F. App'x 55, 68 IDELR ¶ 3 (2d Cir. 2016)[33]
- ruled, in brief opinion, that proposed IEP for child with autism was substantively appropriate and the absence of the parents at one of the IEP meetings, after the parents repeatedly tried to schedule it to fit their schedule, did not deny them meaningful participation [tuition reimbursement case]

P James v. District of Columbia, 194 F. Supp. 3d 131, 68 IDELR ¶ 11 (D.D.C. 2016)
- ruled that school, which did not have this capability, completely failed to implement the IEP of a student with ID and also violated the foundational FAPE requirement of a timely and comprehensive reevaluation [compensatory education case]

P L.R. v. City Sch. Dist. of N.Y.C., 193 F. Supp. 3d 209, 68 IDELR ¶ 13 (S.D.N.Y. 2016)
- ruled that proposed 15:1 placement for secondary student with SLD was not reasonably calculated to yield educational benefits [tuition reimbursement case]

S/(P) Ms. S. v. Reg'l Sch. Unit 72, 829 F.3d 95, 68 IDELR ¶ 31 (1st Cir. 2016)
- upheld substantive appropriateness of IEP and, after expulsion, alternative school placement of student with autism for grades 11–12, although remanding for determination of statute of limitations in light of state law [tuition reimbursement case]

S M.M. v. N.Y.C. Dep't of Educ., 655 F. App'x 868, 68 IDELR ¶ 32 (2d Cir. 2016)
- assuming that the omission of the classroom location and the proportion of time for vocational and academic instruction were procedural violations, ruled that these defects did not result in the requisite loss to the student with autism or the parents [tuition reimbursement case]

[33] For enforcement of the settlement agreement for stay-put relief, see Dervishi v. Dep't of Special Education, 846 F. App'x 10 (2d Cir. 2021).

P Gibson v. Forest Hills Local Sch. Dist. Bd. of Educ., 655 F. App'x 423, 68 IDELR ¶ 33 (6th Cir. 2016)
- upheld ruling that two of three cumulative procedural violations with regard to transition services for student with multiple disabilities—failure to take meaningful steps to ascertain the student's transition-related preference and to provide her with measurable postsecondary goals based on age-appropriate transition assessments—resulted in a denial of FAPE [compensatory education case]

S M.T. v. N.Y.C. Dep't of Educ., 200 F. Supp. 3d 447, 68 IDELR ¶ 65 (S.D.N.Y. 2016)
- ruled that proposed IEP for student with ADHD and Asperger Disorder that provided 12:1:1 classroom with related services and transitional aide for four months was reasonably calculated for educational benefit [tuition reimbursement case]

S Y.F. v. N.Y.C. Dep't of Educ., 659 F. App'x 3, 68 IDELR ¶ 92 (2d Cir. 2016)
- upheld, in brief opinion, rejection of parent's challenge to the capability of the school to implement the IEP for a child with ID as being too speculative (per M.O.) [tuition reimbursement case

P L.J. v. Pittsburg Unified Sch. Dist. (supra)
- failure to provide parent, upon her request, with child's records from district's counseling center and to conduct health assessment upon receiving diagnosis of chronic psychiatric illness were prejudicial procedural violations in terms of parent's right to informed consent and participation and the child's substantive right to FAPE, respectively

P/S Beckwith v. District of Columbia, 208 F. Supp. 3d 34, 68 IDELR ¶ 155 (D.D.C. 2016)
- ruled that district's failure to follow its own guidelines re notification and IEP membership in the wake of restraint significantly impeded parent's opportunity for participation and its failure to implement approx. 20% of the IEP's specialized instruction was sufficiently significant or substantial in this case, but that the placement was appropriate in terms of both capability and LRE and the IEP w/o a BIP was substantively appropriate

S D.M. v. Seattle Sch. Dist., 170 F. Supp. 3d 1328, 68 IDELR ¶ 165 (W.D. Wash. 2016)
- upheld procedural appropriateness, including lack of preteaching and BCBA, and substantive appropriateness, under snapshot rule, of IEP for child with autism [tuition reimbursement case]

P T.Y. v. N.Y.C. Dep't of Educ., 213 F. Supp. 3d 446, 68 IDELR ¶ 182 (S.D.N.Y. 2016)
- ruled that, despite nonprejudicial procedural violations for FBA-BIP and parent training/counseling, the proposed IEP was substantially deficient in terms of the need for the child with autism for a relationship-based (DIR Floortime) methodology and additional SLT [tuition reimbursement case]

P E.M. v. N.Y.C. Dep't of Educ., 213 F. Supp. 3d 607, 68 IDELR ¶ 184 (S.D.N.Y. 2016)
- ruled that proposed IEPs for high school student with cerebral palsy was both procedurally and substantively inappropriate based on predetermined 15:1 student-teacher ratio (because it was all that was available at the high school level), even though the student continued to need a 12:1 ratio

S Garris v. District of Columbia, 210 F. Supp. 3d 187, 68 IDELR ¶ 194 (D.D.C. 2016)
- upheld IHO's conclusion that the 15 additional hours of specialized instruction, with parent's expert recommended, would not have made a difference in light of student's truancy and, similarly, the deficiency in the transition plan would not have made a difference where IEP had ample provisions addressing student's truancy

S C.R. v. N.Y.C. Dep't of Educ., 211 F. Supp. 3d 583, 68 IDELR ¶ 225 (S.D.N.Y. 2016)
- upheld substantive appropriateness of IEP, including PELs and goals, for elementary school student with autism, and ruled that procedural violation (lack of special education teacher on IEP team) did not violate student's or parents' rights [tuition reimbursement case]

P S.Y. v. N.Y.C. Dep't of Educ., 210 F. Supp. 3d 556, 68 IDELR ¶ 230 (S.D.N.Y. 2016)
- ruled that lack of prior written notice and the cumulative, although not single, effect of eight other procedural violations as a "pattern of indifference" (citing L.O.) significantly impeded the parents' opportunity for participation – student with autism was in private school and district proposed in-district placement. [tuition reimbursement case]

(*P*) H.G. v. Dep't of Educ., Haw., 670 F. App'x 503, 68 IDELR ¶ 269 (9th Cir. 2016)
- brief ruling remanding to district court to reconsider whether the district's IEP in 2010 was substantively appropriate for child with autism after giving "substantial weight" to the IHO's ruling that it was not in light of child's need for 1:1 instruction

(P)/S McNeil v. District of Columbia, 217 F. Supp. 3d 107, 68 IDELR ¶ 271 (D.D.C. 2016)
- upheld ruling that parent failed to prove her actual and able-to implementation claims on behalf of child with major behavioral problems (including incarcerations) but remanded to IHO to determine separable sufficiency (i.e., substantive) FAPE claim

S Forest Grove Sch. Dist. v. Student, 665 F. App'x 612, 69 IDELR ¶ 27 (9th Cir. 2016)
- affirmed lower court judgment that largely upheld, with limited exceptions not on appeal (by parents), appropriateness of successive IEPs for high school student with ADHD and autism, including failure to incorporate parent's preferred methodology, which was based on English teacher's instructional approach

S J.M. v. Dep't of Educ., Haw., 224 F. Supp. 3d 1071, 69 IDELR ¶ 31 (D. Haw. 2016), aff'd sub nom. J.M. v. Matayoshi, 729 F. App'x 585 (9th Cir. 2018)
- upheld substantive appropriateness of IEP for student with autism, including 1:1 aide, counseling, and crisis plan, in relation to bullying for which he was a victim—regarding OCR's Dear Colleague Letter (2014) as "merely aspirational" [tuition reimbursement case]

P Meares v. Rim of the World Unified Sch. Dist., 269 F. Supp. 3d 1041, 69 IDELR ¶ 38 (C.D. Cal. 2016)
- ruled that male student with autism was entitled to male, in lieu of female, 1:1 aide for FAPE and a competent mountain biking aide for extracurricular team participation based on the equal opportunity IDEA regulation for nonacademic activities

S Genn v. New Haven Bd. of Educ., 219 F. Supp. 3d 296, 69 IDELR ¶ 35 (D. Conn. 2016)
- ruled that 20-member IEP team, compared with notice for 10 members, did not impede the parents' opportunity for meaningful participation in this case and that the IEP was substantively appropriate, including the reading method, for this student with multiple disabilities, which included dyslexia

P A.M. v. N.Y.C. Dep't of Educ., 845 F.3d 523, 69 IDELR ¶ 51 (2d Cir. 2017)
- rejected procedural FAPE challenges (e.g., FBA-BIP and transition support services per state law) but ruled in favor of parent of child with autism for substantive FAPE because the proposed IEP's failure to provide 1:1 ABA therapy was contrary to "a clear consensus" of the evaluative info at the IEP meeting [tuition reimbursement case – remanded for remaining steps]

S Dep't of Educ. v. Leo W., 226 F. Supp. 3d 1081, 69 IDELR ¶ 59 (D. Haw. 2016)
- ruled that district's failure to perform timely behavioral evaluation for kindergarten child with autism was procedural violation that did not deny the child's or parent's substantive rights [tuition reimbursement case]

S Z.C. v. N.Y.C. Dep't of Educ., 222 F. Supp. 3d 326, 69 IDELR ¶ 75 (S.D.N.Y. 2016)
- upheld substantive appropriateness of proposed IEP and capability of proposed placement for student with autism [tuition reimbursement case]

S Ms. M. v. Falmouth Sch. Dep't, 847 F.3d 19, 69 IDELR ¶ 86 (1st Cir. 2017)
- rejected parent's contention that the prior written notice, which proposed use of a particular multisensory reading program, was part of the IEP, finding that the IEP's provision for a specified amount of "specially designed instruction" in reading and math was sufficiently unambiguous in light of the IDEA, state law, and agency guidance not to resort to extrinsic evidence (here, the prior written notice) and progress [tuition reimbursement case]

(*P*) J.D. v. N.Y.C. Dep't of Educ., 677 F. App'x 709, 69 IDELR ¶ 87 (2d Cir. 2017)
- rejected and remanded IHO and SRO decisions that had been in favor of substantive appropriateness of proposed IEP for student with SLD due to reliance on conclusory and contradictory testimony and corresponding lack of objective evidence based on evaluation and progress [tuition reimbursement case]

S Luo v. Baldwin Union Free Sch. Dist., 677 F. App'x 719, 69 IDELR ¶ 88 (2d Cir. 2017)
- brief affirmance that district did not deny participation of parent of child with autism

P J.E. v. N.Y.C. Dep't of Educ., 229 F. Supp. 3d 223, 69 IDELR ¶ 93 (S.D.N.Y. 2017)
- ruled that IEP team's failure to consider more restrictive, nonpublic placement for child with autism denied the parents the opportunity for meaningful participation (citing E.H.) [tuition reimbursement case]

S P.C. v. Rye City Sch. Dist., 232 F. Supp. 3d 394, 69 IDELR ¶ 122 (S.D.N.Y. 2017)
- upheld substantive appropriateness of three successive IEPs and ruled that procedural violations (e.g., omission of SLI goals) were harmless error for student with OHI [tuition reimbursement case]

S M.S. v. Lake Elsinore Unified Sch. Dep't, 678 F. App'x 543, 69 IDELR ¶ 148 (9th Cir. 2017)
- ruling, in brief reversal, that district was not obligated to reevaluate the student with autism despite his escalating behavioral problems because "the [district] did not determine that reevaluation was necessary, [the] parents did not request a reevaluation . . ., [the] teacher did not request a reevaluation, and fewer than three years had elapsed [tuition and IEE reimbursement case]

S S.H. v. Tustin Unified Sch. Dep't, 682 F. App'x 559, 69 IDELR ¶ 176 (9th Cir. 2017)
- brief ruling upholding rejection of procedural claims of parents of student with Dravets syndrome—ample opportunity for participation in placement decision, harmless failure to provide prior written notice, and "open-minded" IEP process rather than predetermination

(*P*) Endrew F. v. Douglas Cnty. Sch. Dist. RE-1, 580 U.S. 386, 69 IDELR ¶ 174 (2017)
- ruled that the substantive standard under the IDEA is whether the IEP is "reasonably calculated to enable [the] child to make progress appropriate in light of the child's circumstances," remanding for application to this student with autism in a self-contained class [tuition reimbursement case]

S J.B. v. N.Y.C. Dep't of Educ., 242 F. Supp. 3d 186, 69 IDELR ¶ 184 (S.D.N.Y. 2017)
- upheld procedural appropriateness, which focused here on parental participation, and substantive appropriateness of proposed IEP for in-district placement of 14-year-old with autism who has been in private school [tuition reimbursement case]

S Davis v. District of Columbia (supra)
- upheld appropriateness of charter school's fourth grade IEP for child with autism (prior to disputed exiting based on ineligibility as SLD and SLI) based on Endrew F.'s substantive standard

P M.C. v. Antelope Valley Union High Sch. Dist., 858 F.3d 1189 (9th Cir. 2017)
- ruled that district's unilateral amendment of IEP was a per se procedural violation (based on parental participation) and failure to specify the AT that the child with blindness and developmental delay needed, contrary to state law, was also prejudicial in terms of parental participation plus remanded for substantive FAPE shifting B/P to district for adequacy of unilaterally amended services

P/S Brandywine Heights Area Sch. Dist. v. B.M., 248 F. Supp. 3d 618, 69 IDELR ¶ 212 (E.D. Pa. 2017)
- upholding IHO's decision that district failed to provide FAPE based on delayed and faulty evaluation of child with autism upon transitioning with behavioral problems from IU program to district kindergarten but that district met substantive standard for FAPE (under Endrew F.) after the effects of the revised BIP [compensatory education case]

S G.L. v. Saucon Valley Sch. Dist., 267 F. Supp. 3d 586, 69 IDELR ¶ 249 (E.D. Pa. 2017)
- upheld substantive appropriateness of self-contained placement of middle-school student with ED and nonprejudicial effect of procedural violations (e.g., late reevaluation and FBA)—rejecting parents' proposed prospective private placement based on capability of implementation theory

S R.B. v. N.Y.C. Dep't of Educ., 689 F. App'x 48, 69 IDELR ¶ 263 (2d Cir. 2017)
- ruled that even if the failure to include an in-person evaluation of the teenager with autism was a procedural violation, the two successive IEPs, per Endrew F., "were reasonably calculated to provide [him] with the postsecondary goals and transition services required by the IDEA [tuition reimbursement case]

S T.M. v. Quakertown Cmty. Sch. Dist., 251 F. Supp. 3d 792, 69 IDELR ¶ 276 (E.D. Pa. 2017)
- upheld substantive appropriateness of IEP for fourth grader with autism and ID, concluding that the evaluation, progress measurement, and ABA-basis met the Endrew F. standard even if not the "gold standard" and 20 hours of 1:1 strict ABA that the parent's BCBA recommended

S D.B. v. Ithaca City Sch. Dist., 690 F. App'x 778, 70 IDELR ¶ 1 (2d Cir. 2017)
- ruled that procedural violation of lack of updated testing was not prejudicial and that the proposed IEP for high school student with SLD met the substantive standard (in Rowley) for FAPE [tuition reimbursement case]

P J.C. v. Katonah-Lewisboro Sch. Dist., 690 F. App'x 53, 70 IDELR ¶ 2 (2d Cir. 2017)
- ruled that district's proposed 12:1:1 placement for student with multiple disabilities was not substantively appropriate, concluding that state review officer's rejection of pediatric neuropsychologist's recommendation of 8:1;1 class lacked sufficient, cogent explanation [tuition reimbursement case]

P N.W. v. District of Columbia, 253 F. Supp. 3d 5, 70 IDELR ¶ 10 (D.D.C. 2017)
- ruled for parents of student with autism and SLD based on (a) lack of lunch and recess supports in the IEP (either substantive FAPE under four-corners approach or procedural in terms of parental participation) and (b) capacity of the school to implement the IEP

S C.E. v. Chappaqua Cent. Sch. Dist., 695 F. App'x 621, 70 IDELR ¶ 31 (2d Cir. 2017)
- upheld rejection of challenges to IHO impartiality and to BIP implementation for child with autism [tuition reimbursement case]

P Special Sch. Dist. 1 v. R.M.M., 861 F.3d 8769, 70 IDELR ¶ 78 (8th Cir. 2017)
- ruling that parentally placed private school students have an individual right to FAPE under Minnesota state law

S L.A.S. v. Dep't of Educ., Haw., 692 F. App'x 842, 70 IDELR ¶ 60 (9th Cir. 2017)
- brief ruling upholding district court's determination that parent of child with SLD in private school did not meet burden of proving predetermination despite troubling wording of letter regarding child's placement

S C.G. v. Waller Indep. Sch. Dist., 697 F. App'x 816, 70 IDELR ¶ 61 (5th Cir. 2017)
- upheld substantive appropriateness of IEP for student with autism under Endrew F. standard, including "appropriately ambitious" (through Michael F. 4-factor text)

S/P I.L. v. Knox Cnty. Bd. of Educ., 257 F. Supp. 3d 946, 70 IDELR ¶ 71 (E.D. Tenn. 2017)
- upheld procedural and substantive appropriateness of IEP for student with ID with behavioral issues, including Endrew F. and LRE, but held that excessive use of gym-mat ring was seclusion, not time-out, in violation of state special education law, resulting in order to implement the IEP and BIP that the parent had opposed and to provide 4 hours of compensatory education

S I.Z.M. v. Rosemount-Apple Valley-Eagan Pub. Sch., 863 F.3d 966, 70 IDELR ¶ 86 (8th Cir. 2017)
- ruled that neither the state statute for instruction in Braille nor the IDEA regulation for accessible instructional materials (NIMAS standard) heightened the substantive standard under Rowley-Endrew F., thereby upholding the IHO's decision against student with visual impairment

S Jusino v. N.Y.C. Dep't of Educ., 700 F. App'x 25, 70 IDELR ¶ 87 (2d Cir. 2017)
- rejected parents' claim that one-story school was not capable of implementing the PT benchmark in their child's IEP—a model staircase and an outside staircase sufficed

S R.A. v. W. Contra Costa Unified Sch. Dist., 696 F. App'x 171, 70 IDELR ¶ 88 (9th Cir. 2017)
- rejected predetermination claim and ruled that district did not deny FAPE by failing to complete behavior and psychoeducational assessments of ten-year-old with autism where the parents set precondition of hearing and seeing the assessments

P Sch. Dist. of Phila. v. Post, 262 F. Supp. 3d 178, 70 IDELR ¶ 96 (E.D. Pa. 2017)
- upheld hearing officer's ruling that district denied FAPE to child with autism by violating parental participation procedural requirement (and stay-put) and its resulting harm to both the child and the parents (and deferring to the hearing officer's calculation of compensatory education)

P S.H. v. Mt. Diablo Unified Sch. Dist., 263 F. Supp. 3d 746, 70 IDELR ¶ 98 (N.D. Cal. 2017)
- ruled that district denied FAPE for child with autism in three separate ways: 1) failing to specify whether SLT services were group or individual (parental participation), 2) failing to include general ed teacher on IEP team (also parental participation); and 3) providing invalid, interim IEP upon transfer from parental private placement w/o IEP during the summer, upholding remedy limited to SLT compensatory education and order for full IEP team to formulate full IEP

P/S Dall. Indep. Sch. Dist. v. Woody, 865 F.3d 303, 70 IDELR ¶ 113 (5th Cir. 2017)
- ruled, in unusual facts not clearly covered by the IDEA, that district that failed to propose an IEP to child with SLD who had become resident from another state while in local private school was liable for tuition reimbursement only from the point that it should have proposed IEP after exercising its child find obligation

S M.L. v. Smith, 867 F.3d 487, 70 IDELR ¶ 142 (4th Cir. 2017)
- ruled that the IDEA does not require the IEP to provide religious/cultural instruction; the "circumstances" in Endrew F. do not include the child's preferred religion

S Rachel H. v. Dep't of Educ., Haw., 868 F.3d 1085, 70 IDELR ¶ 169 (9th Cir. 2017)
- ruled that the IEP requirement for "location," although narrower than "placement," does not procedurally require every IEP to identify the anticipated school where special education services will be delivered—here reasonably understood and, thus, not required for parental participation or student benefit/progress

(*S*) McLean v. District of Columbia, 280 F. Supp. 3d 164, 70 IDELR ¶ 202 (D.D.C. 2017)
- remanded to IHO for clearer determination of whether procedural violation, which was lack of observation in initial evaluation of child with ADHD, resulted in requisite loss of parental participation or student benefit/progress (after this evaluation determined the child not to be eligible, although the evaluation the following year found the child was eligible)

S Richardson v. District of Columbia, 273 F. Supp. 3d 94, 70 IDELR ¶ 195 (D.D.C. 2017)
- ruled that initial evaluation that child was not eligible under autism or developmental delay (DD) was appropriate, despite district's subsequent determination after IEE that the child was eligible as DD, concluding that even if the alleged deficiencies (e.g., use of outdated testing data) constituted procedural violations, the parents failed to meet their burden of proof that the child, if the procedural violations were cured, would have been eligible at the time

P/S Tamalpais Union High Sch. Dist. v. D.W., 271 F. Supp. 3d 1152, 70 IDELR ¶ 230 (N.D. Cal. 2017)
- affirmed IHO's rulings that procedural violations of failure to provide mental health assessment and sufficiently clear offer of SLT services to student with OHI/SLI constituted denial of FAPE for one of the two years at issue and that the IEP for the other year was substantively appropriate without counseling as a related service (applying Endrew F.) and without a smaller class size

S N.B. v. N.Y.C. Dep't of Educ., 711 F. App'x 29, 70 IDELR ¶ 245 (2d Cir. 2017)
- upheld the substantive appropriateness under Endrew F. of the district's proposed IEP for child with autism, concluding with deference to the review officer that the IEP's failure to mandate DIR/Floortime method was not a denial of FAPE and that the parents did not prove that the school was not capable of implementing the IEP [tuition reimbursement case]

(*S*) N.P. v. Maxwell, 711 F. App'x 713, 71 IDELR ¶ 53 (4th Cir. 2017)
- reversed district court's ruling for parents of twice-exceptional ninth grader due to lack of sufficient explanation for overturning hearing officer's decision and remanded the case to the hearing officer for reconsideration in light of Endrew F. [tuition reimbursement case]

S R.C. v. Bd. of Educ. of Wappingers Cent. Sch. Dist., 705 F. App'x 29, 71 IDELR ¶ 54 (2d Cir. 2017)
- upheld the appropriateness of the district's proposed private therapeutic placement of high school senior with PDD rather than the parents' unilateral private placement [tuition reimbursement case]

S J.P. v. N.Y.C. Dep't of Educ., 717 F. App'x 30, 71 IDELR ¶ 77 (2d Cir. 2017)
- affirmed substantive appropriateness under Endrew F. standard of IEP and rejected the procedural appropriateness challenges based on alleged predetermination and failure of FBA-BIP to meet state standards [tuition reimbursement case]

P Sch. Dist. of Phila. v. Kirsch, 722 F. App'x 215, 71 IDELR ¶ 123 (3d Cir. 2018)
- affirmed that district's failure to have IEP for twins with autism ready at the start of the school year was a procedural violation that significantly impeded the parents' opportunity for participation [tuition reimbursement case]

P Endrew F. v. Douglas County Sch. Dist. RE-1, 290 F. Supp. 3d 1175, 71 IDELR ¶ 144 (D. Colo. 2018)
- on remand from the Supreme Court (supra), ruled that the proposed IEP for the fourth grader with autism did not meet the new, refined substantive standard for FAPE in light of his minimal academic and functional progress, including the impact of his escalating maladaptive behaviors [tuition reimbursement case]

S Pavelko v. District of Columbia, 288 F. Supp. 3d 301, 71 IDELR ¶ 165 (D.D.C. 2018)
- upheld procedural and, under Endrew F., substantive appropriateness of first proposed IEP of child with autism and ADHD (although IHO ruled and district did not appeal that the updated proposed IEP nine months later was not appropriate) [tuition reimbursement case]

P/S E.F. v. Newport Mesa Unified Sch. Dist., 726 F. App'x 535, 71 IDELR ¶ 161 (9th Cir. 2018)
- upholding, in brief opinion on remand, that district's IEPs met Endrew F. substantive standard for FAPE for nonverbal child with autism, with limited exception for AT evaluation and services[34]

S J.K. v. Missoula Cnty. Pub. Sch., 713 F. App'x 666, 71 IDELR ¶ 181 (9th Cir. 2018)
- brief ruling rejecting predetermination and substantive FAPE claims of gifted student with ED [tuition reimbursement case]

P A.W. v. N.Y.C. Dep't of Educ., 287 F. Supp. 3d 420, 71 IDELR ¶ 198 (S.D.N.Y. 2018)
- ruled that proposed placement for student with SLD (ADHD) in an integrated co-teaching class was not appropriate due to his distractibility, sensory challenges, and school psychologist's lack of pertinent specific support [tuition reimbursement case]

S Mr. P v. W. Hartford Bd. of Educ. (supra)
- rejected a whole host of alleged procedural FAPE claims, mostly based on lack of loss to parent or 10th grader with ED – also upholding substantive FAPE, finding that the previous Second Circuit standard comported with Endrew F.

S Rosaria M. v. Madison City Bd. of Educ., 325 F.R.D. 429, 72 IDELR ¶ 9 (N.D. Ala. 2018)
- ruled that procedural violations with evaluation (e.g., lack of FBA) and ESY determinations did not result in substantive loss to first grader with SLD and various physical impairments and that her IEP met the Endrew F. substantive standard even though she did not advance to the next grade at the end of the school year

P/S S.C. v. Chariho Reg'l Sch. Dist., 298 F. Supp. 3d 370, 72 IDELR ¶ 20 (D.R.I. 2018)
- reached mixed results for the substantive appropriateness of two IEPs that preceded the one the IHO addressed—the first one, w/o justifiable reason, did not meet the bare minimum ("the IDEA does not provide for 'preliminary IEPs'") for the return to school of this child with ED, including school avoidance, but the second one belatedly corrected these deficiencies

(P)/S Z.B. v. District of Columbia, 888 F.3d 515, 72 IDELR ¶ 27 (D.C. Circ. 2018)
- remanded to reconsider substantive appropriateness of the first proposed IEP for fourth grader with OHI or SLD (ADHD) based on reactive ("rubber stamp") and seemingly insufficient evaluation and upheld the substantive appropriateness of the following year's proposed IEP, applying Endrew F. standard to both IEPs [tuition reimbursement case]

[34] See the Related Services section for the limited exception.

P/S Middleton v. District of Columbia, 312 F. Supp. 3d 113, 72 IDELR ¶ 94 (D.D.C. 2018)
- ruled that placement in diploma track w/o including the parent in this decision, the provision of unchallenging IEP goals in that track, the insufficiency of behavioral interventions linked to attendance problems, and the 20%–40% lack of implementation constituted denial of FAPE, although transition services and LRE specifications were appropriate

S Parrish v. Bentonville Sch. Dist., 896 F.3d 889, 72 IDELR ¶ 141 (8th Cir. 2018)
- upheld rulings that district did not deny FAPE for two elementary school students with autism, including the implementation of BIPs and its use of behavioral strategies that might have been imperfect but were in good faith

S F.L. v. Bd. of Educ. of Great Neck U.F.S.D., 735 F. App'x 38, 72 IDELR ¶ 232 (2d Cir. 2018)
- ruled that 1) the district provided parents with meaningful opportunity for participation via listening even though disagreeing; 2) the IEPs met the *Endrew F*. standard based on steady, despite not parentally preferred progress and repeated goals [tutoring reimbursement/compensatory education case]

S J.G. v. New Hope-Solebury Sch. Dist., 323 F. Supp. 3d 716, 72 IDELR ¶ 240 (E.D. Pa. 2018)
- ruled that IEP for 11th grader with SLD met Endrew F. standard even though IHO did not address whether the goals were sufficiently ambitious and the student did not meet all of them [tuition reimbursement case]

S Hart v. District of Columbia, 323 F. Supp. 3d 1, 72 IDELR ¶ 241 (D.D.C. 2018)
- ruled that even if the failure to conduct a new comprehensive psychological evaluation of a student with ED was a procedural violation in this case, it did not result in loss of educational opportunity to the student

S Wade v. District of Columbia, 322 F. Supp. 3d 123, 72 IDELR ¶ 247 (D.D.C. 2018)
- ruled that high school's inability to fulfill the IEP requirements of a student with SLD of 27.5 hours of special ed services outside general education and small class sizes constituted denial of FAPE because placement that is capable of implementing the child's IEP is the benchmark for FAPE—and also violation for 27% failure-to-implement (citing Middleton) but not a prejudicial implementation violation due to district's good faith offer and student's refusal of IEP's behavioral support services

S K.D. v. Downingtown Area Sch. Dist., 904 F.3d 248, 72 IDELR ¶ 261 (3d Cir. 2018)
- upheld substantive appropriateness per Endrew F. of proposed IEP for 3rd grader with ADD, dyslexia, and vision problems – including conclusion that DCL was unpersuasive [tuition reimbursement case]

S J.B. v. District of Columbia, 325 F. Supp. 3d 1, 72 IDELR ¶ 274 (D.D.C. 2018)
- ruled that IEP for 8th grader with SLD and ID met the Endrew F. standard despite limited progress, insignificant change from previous IEP, and arguably insufficient PELs

S J.R. v. N.Y.C. Dep't of Educ., 748 F. App'x 382, 73 IDELR ¶ 1 (2d Cir. 2018)
- upheld the substantive appropriateness of 12:1:1 program for student with S/LI [tuition reimbursement case]

P/S S.H. v. Rutherford Cnty. Sch., 334 F. Supp. 3d 868, 73 IDELR ¶ 10 (M.D. Tenn. 2018)
- approved magistrate's R&R that IEP for elementary school child with Prader-Willi Syndrome (PWS) was not appropriate but instead of residential placement, which the parents proposed, the appropriate "Solomonic" remedy was staff training in PWS and tweaked IEP with BIP

S Johnson v. Bos. Pub. Sch., 906 F.3d 182, 73 IDELR ¶ 31 (1st Cir. 2018)
- upheld substantive appropriateness of IEP/placement in public school for the deaf that provided ASL and other services for student with hearing impairment – Endrew F. not changing the First Circuit's standard

P Bd. of Educ. of Mamaroneck Union Free Sch. Dist. v. A.D., 739 F. App'x 79, 73 IDELR ¶ 32 (2d Cir. 2018)
- brief affirmance of review officer's denial-of-FAPE ruling based on lack of counseling for student with ED/ADHD, leading to reimbursement for non-residential portion of out-of-state placement – exclusion of school psychologist's counseling-services testimony based on Second Circuit's qualified four corner's rule

(*P*) McLean v. District of Columbia, 323 F. Supp. 3d 20, 73 IDELR ¶ 75 (D.D.C. 2018)
- remanded to IHO to apply the Endrew F. standard with more attention to evidence after the creation of the IEP and more explanation as to the weight of the belatedly completed assessment of this first grader with OHI/ED

S S.C. v. Oxford Area Sch. Dist., 751 F. App'x 220, 73 IDELR ¶ 90 (3d Cir. 2018)
- brief affirmance of substantive appropriateness, per Endrew F., of IEP for student with SLD, finding adequate addressing of behavior/anxiety and notable progress despite many absences

S E.R. v. Spring Branch Indep. Sch. Dist., 909 F.3d 754, 73 IDELR ¶ 112 (5th Cir. 2018)
- upheld IEP in segregated class at a different school for fourth grader with multiple disabilities, concluding that Endrew F. did not change Michael F. and that the procedural claims, including alleged predetermination were either not proven or not prejudicial [tuition reimbursement case]

S Doe v. Belchertown Pub. Sch., 347 F. Supp. 3d 90, 73 IDELR ¶ 128 (D. Mass. 2018)
- ruled that the procedural violations (e.g., deficiencies in transition services) did not amount to denial of FAPE in light of substantive appropriateness of proposed placement change from private special education school to partial inclusion high school program for student with language-based disability [tuition reimbursement case]

P L.T. v. N. Penn Sch. Dist., 342 F. Supp. 3d 610, 73 IDELR ¶ 145 (E.D. Pa. 2018)
- ruled that IDEA requires district of residence to propose FAPE (via a contingent IEP) for student with disabilities enrolled in a residential treatment facility in another district upon parent's request (without reenrollment)

S R.Z.C. v. N. Shore Sch. Dist. (supra)
- briefly upheld IEP for high school student with SLD (before exiting him) met the Endrew F. standard for FAPE

S Renee J. v. Hous. Indep. Sch. Dist., 913 F.3d 523, 73 IDELR ¶ 168 (5th Cir. 2019)
- upheld appropriateness of IEP for high school student with autism, ID, and ADD, including transition plan and school refusal/bullying, and rejected predetermination claim regarding ABA

P M.S. v. L.A. Unified Sch. Dist., 913 F.3d 1119, 73 IDELR ¶ 195 (9th Cir. 2019) see also B.H. v. Manhattan Beach Unified Sch. Dist., 247 Cal. Rptr. 3d 501, 74 IDELR ¶ 169 (App. Div. 2019) (adoptive assistance program)
- ruled that district of residence has an independent obligation under the IDEA to consider whether a residential placement should be offered to student with disabilities for educational purposes as part of her IEP notwithstanding that another agency had residentially placed her for mental health treatment under juvenile court order

P Bd. of Educ. of Yorktown Cent. Sch. Dist. v. C.S., 357 F. Supp. 3d 311, 73 IDELR ¶ 202 (S.D.N.Y. 2019)[35]
- ruled that the district was unable to implement the most recent operative IEP, thus denying FAPE to the student with multiple disabilities [tuition reimbursement case]

S Colonial Sch. Dist. v. G.K., 763 F. App'x 192, 73 IDELR ¶ 224 (3d Cir. 2019)
- upheld substantive appropriateness of IEP for student with autism and SLD based on snapshot standard (despite questionable progress thereafter) and ruled that the IEP's imprecise and somewhat subjective goals, which the parents did not fully understand in terms of progress measurement, did not deprive them of a meaningful opportunity for participation

S A.H. v. Smith, 367 F. Supp. 3d 387, 73 IDELR ¶ 234 (D. Md. 2019)
- upheld substantive appropriateness, per Endrew F., of proposed IEP for middle-school student with autism as well as proposed placement's capacity to implement IEP's ABA provisions [tuition reimbursement case]

[35] For the brief affirmance in which the Second Circuit focused on a particular nuance, see the Tuition Reimbursement section infra.

S Barney v. Akron Bd. of Educ., 763 F. App'x 528, 73 IDELR ¶ 251 (6th Cir. 2019)
- upheld, for third grader with ID and peanut allergy, rejection of (a) parent's procedural FAPE claims (lack of meaningful participation, records access, and ESY consideration) based on lack of both specific proof and requisite loss; (b) LRE claim for driving him for field trip ("she cannot blame the school district for her own decision to separate [him] from his peers"); and (c) substantive FAPE claims (including IEP reference to his peanut allergy and separate individual health plan) as meeting Endrew F. standard

S R.F. v. Cecil Cnty. Pub. Sch., 919 F.3d 237, 74 IDELR ¶ 31 (4th Cir. 2019); cf. E.S. v. Smith., 767 F. App'x 538, 74 IDELR ¶ 153 (4th Cir. 2019) (predetermination)
- ruled that district's unilateral increase in special education hours specified in the IEP of seven-year-old with autism w/o notice to the parents was a procedural violation that did not result on substantive loss to the student (under Endrew F.) or the parents, who sought a full-time private special education placement

S Oliver C. v. Dep't of Educ., 762 F. App'x 413, 74 IDELR ¶ 1 (9th Cir. 2019); see also Z.B. v. District of Columbia, 281 F. Supp. 3d 32, 71 IDELR ¶ 164 (D.D.C. 2019)
- ruled that change in schools did not amount to a change in placement, thus rejecting claims of lack of written notice and parent participation, including predetermination

S E.M. v. Lewisville Indep. Sch. Dist., 763 F. App'x 361, 74 IDELR ¶ 61 (5th Cir. 2019)
- brief affirmance of district court decision that upheld the appropriateness of an IEP for a third grader with autism and other disabilities under Michael F. four-factor test, with no mention of Endrew F. and relaxed, similarly subsumed treatment of PRR

S C.D. v. Natick Pub. Sch. Dist., 924 F.3d 621, 74 IDELR ¶ 121 (1st Cir. 2019), cert. denied, 140 S. Ct. 1264 (2020)
- upheld appropriateness of three successive proposed IEPs for student with ID, including transition assessment and services in the third one, based on district-deferential approach that rejected ambitious goals/challenging objectives as second, separate Endrew F. standard [tuition reimbursement case]

S R.E.B. v. Dep't of Educ., Haw., 770 F. App'x 796, 74 IDELR ¶ 125 (9th Cir. 2019)
- ruled that district 1) sufficiently addressed the transition of the student with autism from private school although not specified in the IEP, 2) sufficiently specified the student's LRE; 3) was not required to specify the qualifications of the aide in the IEP; and 4) also was not required to specify the ABA methodology in the IEP

(P) H.P. v. Bd. of Educ. of Chi., 385 F. Supp. 3d 623, 74 IDELR ¶ 128 (N.D. Ill. 2019)
- denied dismissal of claim that district's failure to translate vital IEP process documents and to provide competent and impartial interpreters to ELL parents amounted to a denial of FAPE (and a violation of Title VI)

S L.J. v. Sch. Bd. of Broward Cnty., 927 F.3d 1203, 74 IDELR ¶ 185 (11th Cir. 2017)
- adopted the Van Duyn materiality standard for failure-to-implement claims and applied it in favor of the district for the stay-put IEP of child with autism, distinguishing Endrew F. as applying to "content" FAPE claims

S Albright v. Mountain Home Sch. Dist., 926 F.3d 942, 74 IDELR ¶ 187 (8th Cir. 2019)
- upheld substantive appropriateness of IEP for student with autism, including appropriateness of the BIP in relation to PRR, and rejected parental participation challenge in a case of "a profoundly toxic lack of trust"

S J.G. v. Dep't of Educ., Haw., 772 F. App'x 567, 74 IDELR ¶ 190 (9th Cir. 2019), cert. denied, 140 S. Ct. 957 (2020)
- ruled, in brief decision, that district's proposed change in placement of middle schooler with autism from private school to its autism center, including use of LRE checklist, was not predetermination and met Endrew F. standard

S M.G. v. N. Hunterdon-Voorhees Reg'l High Sch. Dist., 778 F. App'x 107, 74 IDELR ¶ 191 (3d Cir. 2019)
- brief decision upholding, with deference to IHO's credibility determination, his decision that the IEP provided "significant learning and meaningful educational benefits in light of [the child with autism's] individual needs and potential"

S Pangerl v. Peoria Unified Sch. Dist.,780 F. App'x 505, 74 IDELR ¶ 246 (9th Cir. 2019)
- upheld rejection of parents' claims of denial of FAPE based on parent participation (left early and unreasonably), denial of ESY (exception rather than rule), vague transition plan (Endrew F. snapshot), and SLT services (qualified providers) for student with SLD and SLI

S Candi M. v. Riesel Indep. Sch. Dist., 379 F. Supp. 3d 570 (W.D. Tex. 2019)
- upheld FAPE implementation as well as procedural and substantive FAPE of IEP of high school student with OHI (ADD) and SLD (dyslexia), including transition assessment

S Perkiomen Valley Sch. Dist. v. S.D., 405 F. Supp. 620 75 IDELR ¶ 67 (E.D. Pa. 2019)
- reversing IHO, ruled that grade 6 IEP for student with dyslexia contained reading fluency PELs that did not "seriously" deprive parental participation and that met Endrew F. substantive standard, "although the fact that [she] apparently did not meet her IEP reading fluency goals in a timely manner is troubling" [tuition reimbursement case]

(*S*) Jefferson Cnty. Bd. of Educ. v. Amanda S., 418 F. Supp. 3d 911, 75 IDELR ¶ 95 (N.D. Ala. 2019)
- granted preliminary injunction to board, ruling that IHO likely erred by using progress rather than reasonable calculation of progress under Endrew A. in ruling that IEP for fourth grader did not provide FAPE after limited progress in reading

S Bruno v. Northside Indep. Sch. Dist., 788 F. App'x 287, 75 IDELR ¶ 243 (5th Cir. 2019), cert. denied, 140 S. Ct. 2804 (2020)
- brief affirmance of lower court decision upholding comparable services upon moving into district from out-of-state and substantive and procedural appropriateness of subsequent IEP for preschooler with autism

P D.L. v. St. Louis City Sch. Dist., 950 F.3d 1057, 75 IDELR ¶ 31 (8th Cir. 2020)
- ruled that district's proposed placement for fourth grader with autism at its special school for students with educational and behavior difficulties did not meet the Endrew F. standard for FAPE, because it was limited to correcting "poor choices," i.e., purely voluntary behavior, and lacked sensory supports [tuition reimbursement case]

S R.S. v. Highland Park Indep. Sch. Dist., 951 F.3d 319, 75 IDELR ¶ 32 (5th Cir. 2020)
- upheld ruling that the district's IEPs for nonverbal and non-ambulatory student with multiple disabilities amounted to substantive FAPE in the LRE (including Endrew F.), despite his five falls and partial regression – specialized team, expert input, and repeated revisions in protocol and IEP [tuition reimbursement case]

S A.A. v. Northside Indep. Sch. Dist., 951 F.3d 678, 76 IDELR ¶ 61 (5th Cir. 2020)
- ruled that district did not violate IDEA procedural requirements in conducting reevaluation of fourth grader with ED two months after parent's request and in changing the child's classrooms that were substantially similar in function w/o an IEP meeting and that his IEP met the Endrew F. standard based on his meaningful progress despite hospitalizations

S N.G. v. Placentia Yorba Linda Unified Sch. Dist., 807 F. App'x 648, 76 IDELR ¶ 117 (9th Cir. 2020)
- ruled that the proposed placement for student with autism met the Endrew F. standard and the unilateral residential placement was not necessary for FAPE. [tuition reimbursement case]

P A.N. v. Bd. of Educ. of Iroquois Cent. Sch. Dist., 801 F. App'x 35, 76 IDELR ¶ 148 (2d Cir. 2020)
- brief affirmance of lower court's decision that the proposed segregated placement for student with SLD (dyslexia) was substantively appropriate but the IEP was not, in light of repeated deficient literacy and math instruction, counseling, and assistive technology [tuition reimbursement case]

P Preciado v. Bd. of Educ. of Clovis Mun. Sch., 443 F. Supp. 3d 1289, 76 IDELR ¶ 67 (D.N.M. 2020)
- upheld rulings that district denied FAPE in grades 4 and 5 for student with SLD by (a) effectively excluding parental participation by relying on but not sufficiently explaining Istation reading progress scores, (b) not meeting Endrew F.'s substantive standard based on grade-level frame of reference and repeated insufficient methods (despite excessive attendance problems), (c) failing to implement sufficiently the specialized instruction in the final IEP, and (d) failing to provide AT evaluation for reading materials

S Butte Sch. Dist. No. 1 v. C.S., 817 F. App'x 321, 76 IDELR ¶ 204 (9th Cir. 2020)
- rejected claims on behalf of 12th grader with autism and ED based on lack of an FBA-BIP (not entitled and behaviorally appropriate IEP – Endrew F. reasonable>ideal) and transition assessment (harmless procedural violation – variety of services that were beneficial)

S Sanchez v. District of Columbia, 815 F. App'x 559, 76 IDELR ¶ 175 (D.C. Cir. 2020), cert. denied, 141 S. Ct. 375 (2020)
- brief ruling that district's proposed transfer of student with autism from one private school to another did not significantly impede the parent's opportunity for participation in the circumstances of this case [tuition reimbursement case]

P/S Spring Branch Indep. Sch. Dist. v. O.W. (supra)
- ruled that (1) the use of in-class time-outs was substantial or significant departure that resulted in loss of benefit, (2) as was the halving of the school day w/o a written document; but (3) the use of repeated restraints in the wake of violent behavior were permissible under state law and did not have to be in the child's IEP, and (4) summoning the police upon the child's assault on his teacher did not violate his IEP

S McKnight v. Lyon Cnty. Sch. Dist., 812 F. App'x 455, 76 IDELR ¶ 274 (9th Cir. 2020)
- brief affirmance that district's IEP for child with autism complied with procedural requirements for progress reporting and also met the Endrew F. substantive standard without the provision of a 1:1 aide—also ruled that autism specialist's classroom observation constituted screening, thus not requiring parental consent

S A.W. v. Tehachapi Unified Sch. Dist., 810 F. App'x 588, 76 IDELR ¶ 275 (9th Cir. 2020)
- brief affirmance of ruling that parent of nine-year old with autism and ADHD did not meet burden of proof that the district's failure to provide the requested BCBA supervision (2 hrs./wk.) for the ABA-trained aide amounted to a denial of FAPE under Endrew F.

S Wong v. Bd. of Educ., 478 F. Supp. 3d 229, 77 IDELR ¶ 43 (D. Conn. 2020)
- ruled that district provided parents with opportunity to attend IEP meetings, even if they did not attend all of them, and that the four successive IEPs for the twice-exceptional secondary school student met the Endrew F. substantive standard for FAPE [tuition reimbursement case]

S B.D. v. District of Columbia, 548 F. Supp. 3d 222, 77 IDELR ¶ 124 (D.D.C. 2020)
- ruled that proposed placement for student with multiple disabilities was substantively appropriate [tuition reimbursement case]

S Banwart v. Cedar Falls Cmty. Sch. Dist., 489 F. Supp. 3d 846, 77 IDELR 126 (D. Iowa 2020)
- ruled that district's placement of eighth grader with RAD and related behavioral issues in a specialized day school met the Endrew F. substantive standard and the parents' unilateral residential placement was not "educationally necessary" [tuition reimbursement case]

S Alvarez v. Swanton Local Sch. Dist., 458 F. Supp. 3d 726, 77 IDELR ¶ 136 (N.D. Ohio 2020)[36]
- rejected procedural and substantive (i.e., Endrew F.) FAPE claims on behalf of high school student with multiple disabilities, attributing blame to the parents' unreasonable insistence on home instruction (citing judge's previous decision in Horen)

S/P J.T. v. District of Columbia, 496 F. Supp. 3d 190, 77 IDELR ¶ 160 (D.D.C. 2020)[37]
- ruled that district's procedural violation in private placement process for student with autism did not result in requisite loss in parental participation and the two successive proposed placements met the capability requisites regarding transportation, noise, and class size, but the indefinite failure to provide a placement for at least the entire following year was a denial of FAPE [compensatory education case]

P Bellflower Unified Sch. Dist. v. Lua, 832 F. App'x 493, 77 IDELR ¶ 181 (9th Cir. 2020)
- ruled that district violated the IDEA by failing to offer updated IEP in response to parent's expression of interest, instead conditioning its offer on enrollment in the district of child with disabilities whom the parent had voluntarily placed in private school [tuition reimbursement case]

P/S S.S. v. Bd. of Educ. of Harford Cnty., 498 F. Supp. 3d 761, 77 IDELR ¶ 182 (D. Md. 2020)
- ruled, for the three years at issue, that the first IEP was appropriate, including IEP team decision in April to conduct an FBA-BIP after serious behavioral issues of student with autism, but the next two IEPs were (a) procedurally inappropriate due to nine-month delay in implementing the FBA-BIP and (b) substantively inappropriate, including lack of 12-month program with BCBA [tuition reimbursement case]

(P)/S Hernandez v. Grisham, 494 F. Supp. 3d 1044, 77 IDELR ¶ 185 (D.N.M. 2020), further proceedings, 508 F. Supp. 3d 893, 78 IDELR ¶ 12 (D.N.M. 2020), aff'd on jurisdictional grounds, 82 IDELR ¶ 52 (10th Cir. 2022)
- first, granted TRO for state commissioner of education to direct district's IEP team to correct likely Endrew F. violation for child with disabilities regardless of district's preference for remote instruction during the pandemic (in light of state health department regulations providing limited allowance for in-person instruction) – second, dismissed subsequent IDEA claim in part based on mootness and in part based on lack of exhaustion, while concluding that remote instruction did not violate LRE and the OSEP/OSERS guidance was not entitled to deference – 10th Circuit declined to address mootness or the merits based on plaintiffs' "woefully inadequate briefing"

(P) W.S. v. District of Columbia, 502 F. Supp. 3d 102, 77 IDELR ¶ 254 (D.D.C. 2020)
- remanded decision that was in favor the district to the IHO because he did not sufficiently address whether the proposed private placement for child with autism and ADHD was capable of implementing the significant IEP provision for his aggressive behaviors [tuition reimbursement case]

[36] Affirmed in an unpublished decision. Alvarez v. Swanton Local Sch. Dist., 78 IDELR 272 (6th Cir. 2021).

[37] The appellate court upheld the first part of this decision in an unpublished opinion. J.T. v. District of Columbia, 80 IDELR ¶ 62 (D.C. Cir. 2022).

P Montgomery Cnty. Intermediate Unit v. A.F., 506 F. Supp. 3d 293, 77 IDELR ¶ 276 (E.D. Pa. 2020)
- ruled that drastic deletion of BCBA and other behavioral services of preschool child with autism w/o meaningful explanation denied FAPE both in terms of parental participation and snapshot standard (R.E.) [tuition reimbursement case]

S A.B. v. Abington Sch. Dist., 841 F. App'x 392, 78 IDELR ¶ 1 (3d Cir. 2021)
- ruled that that a district's obligation to offer a FAPE for a privately enrolled student with a disability is not triggered unless the parent requests it specifically, as objectively understood [tuition reimbursement case]

S Elizabeth B. v. El Paso Cnty. Sch. Dist. 11, 841 F. App'x 40, 78 IDELR ¶ 5 (10th Cir. 2020)
- ruled that the IEP of a child with autism and epilepsy provided FAPE despite lack of FBA-BIP, 1:1 ABA methodology, and ESY

S P.P. v. Nw. Indep. Sch. Dist., 839 F. App'x 848, 78 IDELR ¶ 7 (5th Cir. 2020)
- upheld the appropriateness of the fifth- and sixth-grade IEPs of a student with dyslexia under the Fifth Circuit's four-factor test

P/S R.B. v. Downingtown Area Sch. Dist., 509 F. Supp. 3d 339, 78 IDELR ¶ 9 (E.D. Pa. 2020)
- upheld IHO's conclusion that lack of PELs in kgn. IEP of student with OHI was prejudicial in this case and that flawed behavioral component in grade 1 IEP each warranted limited compensatory education but IEP for following year, including reading services, was appropriate, thus warranting denial of tuition reimbursement

S Amanda P. v. Copperas Cove Indep. Sch. Dist., 838 F. App'x 104, 78 IDELR ¶ 92 (5th Cir. 2021)
- brief affirmance of lower court decision that district's reevaluation, including subsequent dyslexia screening/testing qualification and services, was not a procedural or substantive denial of FAPE and that the student's IEP met the four-part test in the Fifth Circuit for substantive FAPE

S KB v. Katonah Lewisboro Union Free Sch. Dist., 847 F. App'x 38, 78 IDELR ¶ 93 (2d Cir. 2021)
- upheld substantive appropriateness of two successive IEPs for high school student with ED, including determination that she did not need ESY [tuition reimbursement case]

S J.B. v. Frisco Indep. Sch. Dist., 528 F. Supp. 3d 614, 78 IDELR ¶ 137 (E.D. Tex. 2021)
- ruled that IEP for third grader with autism provided FAPE in the LRE, per Fifth Circuit's four-factor analysis, despite belated FBA-BIP [tuition reimbursement case]

P Perkiomen Valley Sch. Dist. v. R.B., 533 F. Supp. 3d 233, 78 IDELR ¶ 222 (E.D. Pa. 2021)
- ruled that proposed transition services in the most recent two IEPs for 20-year-old with ID and SLI were not appropriate due to focus on one vocation that was no longer the student's interest and failure to provide for community-based independent living skills [tuition reimbursement case]

S Esposito v. Ridgefield Park Bd. of Educ., 856 F. App'x 367, 78 IDELR ¶ 241 (3d Cir. 2021)
- brief affirmance that grade 12 IEP for student with language impairment met the Endrew F. standard and that the limitations period only applied to that KOSHK year

P M.D. v. Colonial Sch. Dist., 539 F. Supp. 3d 380, 78 IDELR ¶ 246 (E.D. Pa. 2021)
- ruled that district denied FAPE by not having IEP in place at start of school year after (a) student attended district and had IEP for a few years, (b) parents voluntarily placed student in private school for two years, (c) parents reenrolled student in district in April for year at issue; and (d) with timely notice parents unilaterally placed student in more intensive private school [tuition reimbursement case]

P Wake Cnty. Bd. of Educ. v. S.K., 541 F. Supp. 3d 652, 78 IDELR ¶ 279 (W.D.N.C. 2021)
- ruled that the IEP denied FAPE to child with autism and various other disabilities by failing to provide small school small class setting that child needed [tuition reimbursement case]

S Leigh Ann. H. v. Riesel Indep. Sch. Dist. (supra)
- upholding substantive appropriateness of two successive IEPs of high school student with SLD based on "capacious" interpretation of "special education" (here applying to special education teacher's consulting services to general ed teachers for various adaptations) and relaxed approach to transition services

S Capistrano Unified Sch. Dist. v. S.W., 21 F.4th 1125, 80 IDELR ¶ 31 (9th Cir. 2021)
- ruled that IEP goals for first grader with autism were adequate, including that they were measurable; IEP team considered recommendations of parents' experts; and districts are not required to develop an IEP for a child in private school in the absence of parental request [tuition reimbursement case]

S Crofts v. Issaquah Sch. Dist. No. 411 (supra)
- upheld substantive appropriateness of IEP for second grader with dyslexia based on the child's progress with the multisensory reading program even though it was not specifically the Orton-Gillingham methodology that the parent requested

S Lamar Consol. Indep. Sch. Dist. v. J.T., 577 F. Supp. 3d 599, 80 IDELR ¶ 73 (S.D. Tex. 2021)
- ruled that district failed to implement the IEP, including the BIP, but it engaged in remedial efforts and, more importantly, met the Endrew F. standard for FAPE for the proper measuring frame of a year, not a semester

S G.D. v. Swampscott Pub. Schs., 27 F.4th 1, 80 IDELR ¶ 149 (1st Cir. 2022)
- upheld proposed IEP, which moved second grader with severe dyslexia from partial inclusion placement to substantially separate language-based classroom based on slow gains, as meeting Endrew F. individual-circumstances standard, including the LRE preference [tuition reimbursement case]

S/(P) C.M. v. Rutherford Cnty. Schs., 595 F. Supp. 3d 630, 80 IDELR ¶ 239 (M.D. Tenn. 2022)
- rejected predetermination claim on behalf of high school student with dyslexia but postponed substantive FAPE ruling for his IEP pending mediation

S G.A. v. Williamson Cnty. Bd. of Educ., 594 F. Supp. 3d 979, 80 IDELR ¶ 255 (M.D. Tenn. 2022)
- rejected parent's various nuanced procedural claims, including predetermination, and supposedly substantive claims, including goals and counseling, for student with autism and ED under Endrew F. [tuition reimbursement case]

S Minnetonka Pub. Schs. v. M.L.K. (supra)
- IEP for student with autism met Endrew F. standard, including for his reading and attentional needs despite not identifying him with diagnoses of dyslexia and ADHD

P Falmouth Sch. Dep't v. Doe, 44 F.4th 23, 81 IDELR ¶ 151 (1st Cir. 2022)
- upheld ruling that two of district's IEPs for complex child with dyslexia and ADHD did not meet the Endrew F. standard by failing to provide reading program specially designed to address the child's specific orthographic processing deficit [tuition reimbursement case]

P Doe v. Newton Pub. Schs., 48 F.4th 42, 81 IDELR ¶ 211 (1st Cir. 2022)
- upheld rulings that (a) district's first proposed IEP, which was 80% in general education, was not sufficient in light of the severe mental health needs and very recent crisis of high school student with autism but (b) the next two IEPs, which were for private day placement in grade 12, were sufficiently therapeutic except they did not take into consideration the disruptive effect of changing the child from his residential placement [tuition reimbursement case]

S A.M. v. Wallingford-Swarthmore Sch. Dist., ___ F. Supp. 3d __, 81 IDELR ¶ 246 (E.D. Pa. 2022)
- ruled that proposed IEP for ninth grader with SLD (writing) was "appropriately ambitious" and that procedural violations (assistive technology evaluation and transition goals) did not result in loss to the student or the parents [tuition reimbursement case]

C. MAINSTREAMING/LRE

P Corey H. v. Bd. of Educ., 995 F. Supp. 900, 27 IDELR 713 (N.D. Ill. 1998)
- ruled that SEA violated IDEA by inadequately monitoring LRE mandates as well as by having certification categories and financial incentives that tended toward segregation

P Millersburg Area Sch. Dist. v. Lynda T., 707 A.2d 572, 27 IDELR 595 (Pa. Commw. Ct. 1998)
- ruled that district's failure to meet step 1 of Oberti test, via lack of 1) supplementary aids/services; and 2) a behavior management plan, justified compensatory education and inclusive placement for SED student

S Walczak v. Florida Union Free Sch. Dist. (supra); see also M.H. v. Monroe-Woodbury Cent. Sch. Dist., 296 F. App'x 126, 51 IDELR ¶ 91 (2d Cir. 2008) (upheld day school placement where residential placement was not educationally necessary)
- upheld appropriateness of district's proposed placement in special education class rather than residential placement [tuition reimbursement case]

S Mr. & Mrs. H. v. Region 14 Bd. of Educ., 46 F. Supp. 2d 106, 30 IDELR 359 (D. Conn. 1999)
- upheld appropriateness of inclusionary, rather than parents' unilateral private, placement of fifth grader with SLD [tuition reimbursement case]

P Bd. of Educ. v. Ill. State Bd. of Educ., 184 F.3d 912, 30 IDELR 891 (7th Cir. 1999)
- rejected district's segregated preschool program as not meeting the LRE requirement for an IDEA-eligible student [tuition reimbursement case]

S Blackmon v. Springfield R-12 Sch. Dist., 198 F.3d 648, 31 IDELR ¶ 132 (8th Cir. 1999)
- upheld reverse mainstreaming classroom placement of TBI/autistic child rather than parent's unilateral home-based early childhood program, concluding that procedural deficiencies were waived and, in any event, nonprejudicial [tuition reimbursement case]

S Dong v. Bd. of Educ., 197 F.3d 793, 31 IDELR ¶ 157 (6th Cir. 1999)
- upheld school-based TEACCH program, rather than parents' home-based Lovaas-type program for autistic child [tuition reimbursement case]

(*P*) T.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 32 IDELR ¶ 30 (3d Cir. 2000)
- remanded to determine whether regular class options were available within reasonable distance to implement the IEP of this preschool child with a speech and motor disability

S St. Johnsbury Academy v. D.H., 240 F.3d 163, 34 IDELR ¶ 32 (2d Cir. 2001)
- private school's requirement for a fifth-grade achievement level for mainstreaming did not violate IDEA (or § 504)

S J.W. v. Contoocook Valley Sch. Dist., 154 F. Supp. 2d 217, 35 IDELR ¶ 123 (D.N.H. 2001)
- upheld appropriateness of district's proposed self-contained placement for SLD student with emotional difficulties, rejecting parents' arguments about his asserted additional eligibility labels ("code war"), his purported need for a shortened school day and the IEP's lack of ESY

S Coale v. State Dep't of Educ., 162 F. Supp. 2d 316, 35 IDELR ¶ 149 (D. Del. 2001)
- upheld mainstreamed IEP for sixth-grade student with SLD—the IEP flaws were nonprejudicial

S Douglas W. v. Greenfield Pub. Sch., 164 F. Supp. 2d 157, 35 IDELR ¶ 183 (D. Mass. 2001)
- upheld district's 60%-40% mainstreamed placement of student with ADHD and dyslexia rather than parent's unilateral private school placement [tuition reimbursement case]

P A.S. v. Norwalk Bd. of Educ., 183 F. Supp. 2d 534, 36 IDELR ¶ 92 (D. Conn. 2002)
- upheld inclusionary placement for multiply disabled ninth grader based on the Oberti factors (i.e., reasonable efforts, comparative benefits and substantial disruptiveness)

P Bd. of Educ. v. Jeff S., 184 F. Supp. 2d 790, 36 IDELR ¶ 93 (C.D. Ill. 2002)
- rejected segregated placement for hearing-impaired preschool child [tuition reimbursement case]

S Beth B. v. Van Clay, 282 F.3d 493, 36 IDELR ¶ 121 (7th Cir. 2002)
- upheld full-time special education placement with reverse mainstreaming for severely physically and mentally challenged seventh-grade student rather than parents' preferred and previously applicable inclusionary placement

P Girty v. Sch. Dist. of Valley Grove, 163 F. Supp. 2d 527, 35 IDELR ¶ 181 (W.D. Pa. 2001), aff'd mem., 60 F. App'x 889, 37 IDELR ¶ 1 (3d Cir. 2002)
- rejected district's proposed partially segregated special education placement of mainstreamed student with intellectual disabilities

S M.A. v. Voorhees Twp. Bd. of Educ., 202 F. Supp. 2d 345, 37 IDELR ¶ 3 (D.N.J. 2002), aff'd mem., 65 F. App'x 404, 39 IDELR ¶ 262 (3d Cir. 2003)
- upheld district's proposed out-of-district IEP for severely autistic student rather than placement in the self-contained district class that the parents sought to continue

S Sch. Dist. of Wisconsin Dells v. Z.S., 295 F.3d 671, 37 IDELR ¶ 34 (7th Cir. 2002)
- upheld homebound placement for disruptive student with autism (rather than 70% mainstreaming)

S Hanson v. Smith, 212 F. Supp. 2d 474, 37 IDELR ¶ 153 (D. Md. 2002)
- upheld district's proposed change in placement of student with multiple disabilities from private school to modestly mainstreamed in-district program – cost viewed as an allowable factor (and deferentially rejecting alleged procedural violations)

P Warton v. New Fairfield Bd. of Educ., 217 F. Supp. 2d 261, 37 IDELR ¶ 281 (D. Conn. 2002)
- upheld parents' preferred placement of student with SLD in inclusive middle school program (Oberti factors)

P Katherine G. v. Kentfield Sch. Dist., 261 F. Supp. 2d 1159, 39 IDELR ¶ 63 (N.D. Cal. 2003)
- rejected district's full inclusion placement for kindergarten child with communication disability [tuition reimbursement case]

S White v. Ascension Parish Sch. Bd., 343 F.3d 373, 39 IDELR ¶ 182 (5th Cir. 2003); McLaughlin v. Holt Pub. Sch. Bd. of Educ., 320 F.3d 663, 38 IDELR ¶ 152 (6th Cir. 2003); Urban v. Jefferson Cnty. Sch. Dist., 89 F.3d 720, 24 IDELR 465 (10th Cir. 1996); Veazey v. Ascension Parish Sch. Bd., 109 F. Supp. 2d 482, 40 IDELR ¶ 179 (M.D. La. 2004)
- rejected mandatory right of placement in neighborhood school under IDEA (as well as under § 504 and the ADA)

S Brillon v. Klein Indep. Sch. Dist., 100 F. App'x 309, 41 IDELR ¶ 121 (5th Cir. 2004)
- held that IEP team's decision to move child with disability in second grade into special education setting for science and social studies did not violate LRE due to "unduly burdensome modifications to the regular curriculum"

S Tammy S. v. Reedsburg Sch. Dist., 302 F. Supp. 2d 959, 41 IDELR ¶ 133 (W.D. Wis. 2004)
- upheld placement of student with deafness, PDD, and medical complications in hybrid program three days/week in another district approximately one hour each way and two days/week at state school for the deaf approximately 2+ hours each way

P L.B. v. Nebo Sch. Dist., 379 F.3d 966, 41 IDELR ¶ 206 (10th Cir. 2004)
- rejected, based on LRE multi-factor test, district's proposed placement of preschool child with autism in "hybrid" (approximately 50% nondisabled children) plus 8-15 hours/week of ABA as compared with parents' unilateral placement of the child in a mainstream private preschool with phasing-out aide plus 40 hours/week of ABA, awarding parents equitable reimbursement of ABA program and aide (tuition not requested)

S R.L. v. Plainville Bd. of Educ., 363 F. Supp. 2d 222, 43 IDELR ¶ 57 (D. Conn. 2005)
- upheld district's proposed IEP for child with multiple, degenerative disabilities, ruling that the technical procedural deviations did not constitute a denial of FAPE and that the 60% mainstreaming was also appropriate given the trade-off of pull-out related services

S T.W. v. Unified Sch. Dist. No 259, 136 F. App'x 122, 43 IDELR ¶ 187 (10th Cir. 2005)
- ruled that district's proposed placement of student with Down syndrome in self-contained kindergarten class did not violate LRE – Daniel R.R. test (including teacher training, curricular modifications and nine-week trial placement)

S Dick-Friedman v. Bd. of Educ., 427 F. Supp. 2d 768, 45 IDELR ¶ 181 (E.D. Mich. 2006)
- upheld IEP that offered one half of the school day in general education and one half in categorical class, without providing justification in the IEP, as FAPE in the LRE [tuition reimbursement case]

S Pachl v. Seagren, 453 F.3d 1064, 46 IDELR ¶ 1 (8th Cir. 2006)
- upheld district's proposed placement, which was 30% in segregated program, for 12-year-old student with multiple disabilities including autism, rather than full inclusion sought by parents

S A.U. v. Roane Cnty. Bd. of Educ., 501 F. Supp. 2d 1134, 48 IDELR ¶ 3 (E.D. Tenn. 2007)
- upheld placement of preschool child with hearing impairment in collaborative Head Start class rather than parents' private placement that was totally with nondisabled other students [tuition reimbursement case]

P Jennifer D. v. N.Y.C. Dep't of Educ., 550 F. Supp. 2d 420, 50 IDELR ¶ 93 (S.D.N.Y. 2008)
- rejected proposed placement of student with ADHD in small class in public high school for students with ED as not FAPE in the LRE (without adopting and applying separate LRE test) as compared to placement in small class in regular high school based on improved behavior [tuition reimbursement case]

P/S P. v. Newington Bd. of Educ., 546 F.3d 111, 51 IDELR ¶ 2 (2d Cir. 2008)
- upheld hearing officer's decision in favor of the district's 74% mainstreaming for 2005-06 for 9-year-old with intellectual disabilities and her order for inclusion consultant for one year as compensatory education for LRE violation (60% mainstreaming) for 2004-05

S Patskin v. Bd. of Educ. of Webster Cent. Sch. Dist., 583 F. Supp. 2d 422, 51 IDELR ¶ 94 (W.D.N.Y. 2008)
- upheld review officer's decision that district's placement of fifth grader with SLD in special education class for most of the day was the LRE rather than the specialized day school that the parents' sought—not a prejudicial procedural error and supported by evidence that the child displayed emotional difficulties at home but not at school

S J.S. v. N. Colonie Cent. Sch. Dist., 586 F. Supp. 2d 74, 51 IDELR ¶ 150 (N.D.N.Y. 2008)
- upheld removal of high school student with autism to a self-contained class as meeting the Oberti factors

S A.G. v. Wissahickon Sch. Dist., 374 F. App'x 330, 54 IDELR ¶ 113 (3d Cir. 2010)
- upheld school district's self-contained placement, with review officer-ordered inclusion for one class and various nonacademic activities for 18-year-old with severe intellectual disabilities

S R.H. v. Plano Indep. Sch. Dist., 607 F.3d 1003, 54 IDELR ¶ 211 (5th Cir. 2010)
- upheld placement for child with autism in district's preschool special education program rather than inclusionary private preschool program—LRE within FAPE analysis and flexibly oriented to public placements [tuition reimbursement case]

S Lebron v. N. Penn. Sch. Dist., 769 F. Supp. 2d 788, 56 IDELR ¶ 72 (E.D. Pa. 2011)
- rejected, in upholding the appropriateness of an IEP that provided regular kindergarten services for a child with autism plus supplemental services in an autistic support class at a different school, applicability of LRE because district did not remove the child from the general education program

S Barron v. S. Dakota Bd. of Regents, 655 F.3d 787, 57 IDELR ¶ 122 (8th Cir. 2011)
- rejected parents' claim that closing the state school for the deaf violated FAPE and LRE, commenting that the "[t]he IDEA's integrated-classroom preference makes no exception for deaf students" and that "the state is not required to make available 'the best possible option'"

S L.G. v. Fair Lawn Bd. of Educ. (supra)
- upheld, via global application of Oberti that focused on substantive appropriateness (i.e., meaningful benefit), proposed continued placement of child with autism in specialized ASD preschool program, which included 1:1 ABA services for half of the time and limited reverse-inclusion component, in comparison to parents' unilateral placement of the child in an inclusive preschool [tuition reimbursement case]

S J.H. v. Fort Bend Indep. Sch. Dist., 482 F. App'x 915, 59 IDELR ¶ 122 (5th Cir. 2012)
- upheld, based primarily on first and second factors of Daniel R.R., the IEP team's change in placement of middle school student with ID from 50% mainstreaming to self-contained special education class

P G.B. v. Tuxedo Union Free Sch. Dist., 751 F. Supp. 2d 552, 55 IDELR ¶ 228 (S.D.N.Y. 2010), aff'd, 486 F. App'x 954, 60 IDELR ¶ 2 (2d Cir. 2012)
- held that district's successive placements for 8-year-old with PDD violated the two-part test for LRE [tuition reimbursement case]

S D.W. v. Milwaukee Pub. Sch. (supra)
- ruled that placement of high school student with intellectual disabilities in classroom for students with intellectual disabilities was the LRE based on evidence that the student could not learn satisfactorily in the parents' preferred placement in multi-categorical classroom

S M.W. v. N.Y.C. Dep't of Educ. (supra)
- upheld "integrated co-teaching" placement, which is "somewhere in between a regular classroom and a segregated, special education classroom" as the LRE for this individual 9-year-old child with autism, ADHD, and Tourette syndrome

P Cobb Cnty. Sch. Dist. v. A.V., 961 F. Supp. 2d 1252, 61 IDELR ¶ 242 (N.D. Ga. 2013)
- ruled that change of placement of high school senior with SLD/SLI (based on apraxia) from general education to special education track for core classes violated LRE where co-teaching model would have provided greater educational benefits (only disputed factor of the test)

P H.L. v. Downingtown Area Sch. Dist., 624 F. App'x 64, 65 IDELR ¶ 223 (3d Cir. 2015)
- ruled that failure of proposed IEP to show sufficient consideration of full-inclusion, rather than 90-minutes of pull-out for language arts per day, for student with SLD previously in fully inclusive private school was substantive LRE defect that rendered the IEP inappropriate [tuition reimbursement case]

S S.M. v. Gwinnett Cnty. Sch. Dist. (supra)
- ruled that district's placement in general education with supplementary services and with three core subjects in special education classes met LRE test under first prong of Greer/Daniel R.R. test

S Jason O. v. Manhattan Sch. Dist. No. 41 (supra)
- proposed self-contained program for students with ED was the LRE for child with significant and continuing emotional/behavioral problems where the district's general education placement had been ineffective despite various supplemental aids and services and the proposed placement provided multiple, albeit limited, opportunities for interaction with nondisabled students

(*P*) Smith v. L.A. Unified Sch. Dist., 822 F.3d 1065, 67 IDELR ¶ 226 (9th Cir. 2016)
- allowed parents to intervene to challenge policy resulting from settlement agreement with other parents to eliminate special education centers for more integration of students with disabilities

S D.M. v. Seattle Sch. Dist. No. 1 (supra)
- ruled that district's self-contained placement for approximately 80% of the school day was the LRE for this child with autism

P Sch. Dist. of Phila. v. Post (supra)
- ruled that removal of kgn. student with autism for 45–90 minutes per day violated the Oberti test for LRE [compensatory education case]

S B.E.L. v. Haw. Dep't of Educ., 711 F. App'x 426, 71 IDELR ¶ 162 (9th Cir. 2018)
- upheld more restrictive placement than parents' preferred inclusionary placement for student with dyslexia/SLD based on Rachel H. multi-factored test [tuition reimbursement case]

P L.H. v. Hamilton Cnty. Dep't of Educ., 900 F.3d 779, 72 IDELR ¶ 204 (6th Cir. 2018)[38]
- ruled that district's proposed segregated placement was not the LRE, with a discussion distinguishing LRE from the substantive standard of FAPE, identifying the nuanced interactions, and providing spirited support for mainstreaming

S Solorio v. Clovis Unified Sch. Dist., 748 F. App'x 146, 74 IDELR ¶ 2 (9th Cir. 2019)
- brief ruling affirming that proposed IEP of student with Down Syndrome that provided for almost half of the days in self-contained special education classes fulfilled the LRE factors, rejecting parents' PRR arguments for full inclusion

P J.A. v. Smith Cnty. Sch. Dist., 364 F. Supp. 3d 803, 74 IDELR ¶ 16 (M.D. Tenn. 2019)
- ruled in favor of retaining inclusionary placement, with addition of properly trained aide and FBA-BIP, for kindergartner with Down Syndrome rather than district's proposed change to specialized classroom—distinguishing FAPE deference from LRE cases (citing L.H.)

S R.M. v. Gilbert Unified Sch. Dist., 768 F. App'x 720, 74 IDELR ¶ 92 (9th Cir. 2019)
- brief ruling affirming the increase of 20 minutes of special education component and the change in schools for a student with Down Syndrome, after an IEP meeting and prior written notice, as respectively in accord with the Rachel H. factors and the location>placement distinction

S C.D. v. Natick Pub. Sch. Dist. (supra)
- ruled that district's three successive proposed IEPs that provided mix of general and special education classes for student with ID were the LRE, reaffirming the First Circuit's balancing test rather than the more nuanced multi-factor test in various other circuits

P A.B. v. Clear Creek Indep. Sch. Dist., 787 F. App'x 217, 75 IDELR ¶ 90 (5th Cir. 2019)
- ruled that district's proposed change of third grader with autism and ADHD from inclusionary placement to special education class for all academic subjects did not meet Daniel R. multi-factor test

P Knox Cnty. v. M.Q., 535 F. Supp. 3d 75, 78 IDELR ¶ 255 (M.D. Tenn. 2021)
- ruled that absence of general education teacher from IEP team was harmless error in this case, but the placement of the kindergarten child with autism largely in a self-contained class was not the LRE based on the Sixth Circuit's three-part test - LRE as separate from substantive FAPE

[38] On remand, the federal district court awarded the parents $103k for reimbursement for the private school including the aide whom the parents provided. L.H. v. Hamilton Cnty. Dep't of Educ., 73 IDELR ¶ 121 (E.D. Tenn. 2018).

S H.W. v. Comal Indep. Sch. Dist., 32 F.4th 454, 81 IDELR ¶ 2 (5th Cir. 2022)
- ruled that blended program for third grader with ID and other disabilities, as the next step in a progression of placements that started primarily in general education and successively included increased inclusion support and segregated component, met the Daniel R.R. multi-factor test and, on a holistic approach contrary to L.H., the embedded Endrew F. standard

S J.P. v. Belton Sch. Dist. No. 124, 40 F.4th 887, 81 IDELR 124 (8th Cir. 2022)
- upheld change in placement for student with multiple disabilities from completely segregated class in the district to nearby state school for severe disabilities based on comparable benefits LRE analysis – "the IDEA does not … sacrific[e] a student's access to a FAPE to have him in a more integrated setting"

P/S D.R. v. Redondo Beach Unified Sch. Dist., 56 F.4th 636, 82 IDELR ¶ 77 (9th Cir. 2022)
- ruled in favor of inclusive placement (75% rather than district's proposed 44%) for fifth grader with autism based on all Rachel H. factors favoring it – the first, academic factor is the most important but its criterion is progress toward IEP goals rather than grade level performance for students whose disabilities preclude it (citing Endrew F. and L.H.), and this child's progress being attributable to his 1:1 aide along with his receiving substantial modifications of the general ed curriculum are irrelevant – but parents were not entitled to reimbursement because they should have relied on stay-put rather than unilaterally arranging for private services

D. RELATED SERVICES AND ASSISTIVE TECHNOLOGY

P Helms v. Pickard, 151 F.3d 347, 28 IDELR 972 (5th Cir. 1998); Peck v. Lansing Sch. Dist., 148 F.3d 619, 28 IDELR 472 (6th Cir. 1998)
- providing special education or related services to student with a disability on the premises of his/her sectarian school does not violate the establishment clause—nor does providing transportation to and from the sectarian school

(*P*) Peter v. Wedl, 155 F.3d 992, 28 IDELR 1071 (8th Cir. 1998)
- remanded for possible constitutional violation (1st Amendment free exercise and free speech and 14th Amendment equal protection) if differential treatment of IDEA-eligible students in parochial schools, as compared to those in other private and in home schools with regard to related services

P Cedar Rapids Cmty. Sch. Dist. v. Garret F., 526 U.S. 66, 29 IDELR 966 (1999)
- specialized health care services that do not require a physician and are necessary for an IDEA-eligible student are related, not medical, services

S Armstrong v. Alicante Sch., 44 F. Supp. 2d 1087, 30 IDELR 251 (E.D. Cal. 1999)
- drug prevention is not a supportive, or related, service under the IDEA

S KDM v. Reedsport Sch. Dist., 196 F.3d 1046, 31 IDELR ¶ 107 (9th Cir. 1999)
- a state (Oregon) regulation requiring that special education and related services be provided in a religiously neutral setting neither violated 1st Amendment free exercise and establishment clauses nor 14th Amendment equal protection where the district provided vision specialist services at a nearby public site rather than at the parochial school

S Jasa v. Millard Pub. Sch., 206 F.3d 813, 32 IDELR ¶ 57 (8th Cir. 2000); Cyrex v. Ascension Parish Sch. Bd., 31 IDELR ¶ 54 (5th Cir. 1999); Russman v. Bd. of Educ., 150 F.3d 219, 28 IDELR 612 (2d Cir. 1998) (Russman I); Nieuwenhuis v. Delavan-Darien Sch. Dist., 996 F. Supp. 855, 27 IDELR 839 (E.D. Wis. 1998)
- IDEA (prior to 2004 reauthorization) did not require district to provide related services to students with disabilities enrolled in parochial schools

S Russman v. Bd. of Educ., 92 F. Supp. 2d 95, 32 IDELR ¶ 115 (E.D.N.Y. 2000) (Russman II)
- 1st Amendment establishment clause—and state statute—do not require providing related services at parochial schools

P Bd. of Educ. v. Thomas K., 926 N.E.2d 250, 54 IDELR ¶ 125 (N.Y. 2010) (1:1 aide as related service per dual enrollment statute); Bd. of Educ. v. Kain, 875 N.Y.S.2d 239, 52 IDELR ¶ 75 (App. Div. 2009) (case-by-case basis under state law depending on necessity); Richard K. v. Petrone, 815 N.Y.S.2d 270 (App. Div. 2006) (state health and welfare law); Veschi v. Nw. Lehigh Sch. Dist., 772 A.2d 469, 34 IDELR ¶ 142 (Pa. Commw. Ct. 2001), appeal denied, 788 A.2d 382 (Pa. 2001) (dual enrollment statute plus outdated equal opportunity regulation); Dep't of Educ. v. Grosse Point Sch., 701 N.W.2d 195, 43 IDELR ¶ 115 (Mich. Ct. App. 2005), vacated based on mootness, 712 N.W.2d 445 (Mich. 2005) (IEE based on state statute requiring equal auxiliary services to students in private schools and state special ed regs for "every" student with a disability); Indep. Sch. Dist. No. 281 v. Minn. Dep't of Educ., 743 N.W.2d 315, 49 IDELR ¶ 133 (Minn. Ct. App. 2008) (ESY). But cf. Bay Shore Union Free Sch. Dist. v. T., 405 F. Supp. 2d 230 (E.D.N.Y. 2005), vacated, 485 F.3d 730, 47 IDELR ¶ 243 (2d Cir. 2007) (dismissed for lack of jurisdiction)
- injunctive relief for parentally-placed students in private schools to obtain special education and/or related services based on state law[39]

S Roslyn Union Free Sch. Dist. v. University of the New York, 711 N.Y.S.2d 582, 33 IDELR ¶ 2 (N.Y. App. Div. 2000)
- ruled that district was not obligated under the IDEA to provide transportation home from eligible child's private after-school program where that program was not necessary for him to receive FAPE, even though the district's after-school program was not appropriate and included transportation home

[39] For an additional, unpublished decision, see John T. v. Del. Cnty. Intermediate Unit, 32 IDELR ¶ 142 (E.D. Pa. 2000), dismissed at plaintiff's request, 35 IDELR ¶ 211 (E.D. Pa. 2001).

S Dale M. v. Bd. of Educ., 237 F.3d 813, 33 IDELR ¶ 266 (7th Cir. 2001)
- confinement in a residential school is not a related service under the IDEA [tuition reimbursement case]

P Dep't of Educ. v. Cari Rae S., 158 F. Supp. 2d 1190, 35 IDELR ¶ 90 (D. Haw. 2001)
- cost of hospitalizations were related services when they were for diagnostic and evaluation purposes (which in this case was in the wake of a child find violation)

S Bristol Warren Reg'l Sch. Comm. v. R.I. Dep't of Educ., 253 F. Supp. 2d 236, 38 IDELR ¶ 238 (D.R.I. 2003)
- the IDEA (and 14th Amendment equal protection) do not require on-site provision of special education services at a parochial school

S Fick v. Sioux Falls Sch. Dist. 49-5, 337 F.3d 968, 39 IDELR ¶ 151 (8th Cir. 2003)
- ruled that the IDEA's transportation entitlement does not extend to out-of-district after-school center

S Sherman v. Mamaroneck Union Free Sch. Dist., 340 F.3d 87, 39 IDELR ¶ 181 (2d Cir. 2003)
- ruled that TI-82 calculator, rather than the TI-92 that the parents' demanded and that did factoring of polynomials, was appropriate for SLD high school junior even though he failed the course without the TI-92 (due to lack of effort, as determined by hearing and review officers)

S Ms. S. v. Scarborough Sch. Comm., 366 F. Supp. 2d 98, 42 IDELR ¶ 117 (D. Me. 2005)
- rejected parent's request for adult hand-off for general education bus as being either beyond the scope of the IDEA or not in accordance with LRE mandate

P District of Columbia v. Ramirez, 377 F. Supp. 2d 63, 43 IDELR ¶ 245 (D.D.C. 2005)
- ruled that the student was entitled to door-to-door transportation, including aide, where it was necessary for him to receive FAPE

P DeKalb Cnty. Sch. Dist. v. M.T.V., 413 F. Supp. 2d 1322, 45 IDELR ¶ 30 (N.D. Ga. 2005), aff'd, 164 F. App'x 900, 45 IDELR ¶ 30 (11th Cir. 2006)
- upheld reimbursement for costs of vision therapy based on evidence that student had blurred and double vision that affected his reading

S M.K. v. Sergi, 554 F. Supp. 2d 201, 50 IDELR ¶ 126 (D. Conn. 2008); cf. Mary T. v. Sch. Dist., 575 F.3d 235, 52 IDELR ¶ 211 (3d Cir. 2009) (acute mental health placement); P.K. v. Bedford Cent. Sch. Dist., 569 F. Supp. 2d 371, 50 IDELR ¶ 251 (S.D.N.Y. 2008) (substance abuse treatment)
- rejected noneducation services, including wraparound services and medication management, as not related services—wraparound services were not necessary for educational progress, and medication management was within medical treatment exclusion

S Petit v. U.S. Dep't of Educ., 675 F.3d 769, 58 IDELR ¶ 241 (D.C. Cir. 2012)
- upheld 2006 IDEA regulation that cochlear implant mapping is not a related service

P/S Cobb Cnty. Sch. Dist. v. A.V. (supra)
- upheld IHO decision that vision therapy was, but sensory integration therapy was not, necessary for the special education benefit of a high school student with SLD/SLI (based on apraxia)

S Ruby v. Jefferson Cnty. Bd. of Educ. (supra)
- ruled that district comparably complied with temporary specialized transportation services provision of IEP from out-of-state transfer back of student with multiple physical disabilities—alleged violations of notice/consultation procedures were unproven or harmless, and temporary accommodating arrangement was not denial of FAPE

S Se.H. v. Bd. of Educ. of Anne Arundel Cnty., 647 F. App'x 242, 67 IDELR ¶ 198 (4th Cir. 2016)
- ruled that elementary school child with multiple physical disabilities was not entitled to a staff member trained in CPR and the Heimlich maneuver to accompany him throughout the school day in light of the reasonable measures that district had in place

S E.F. v. Newport Mesa Unified Sch. Dist., 726 F. App'x 525, 71 IDELR ¶ 161 (9th Cir. 2018)
- ruled that belated AT evaluation and services for nonverbal child did not amount to denial of FAPE [compensatory education case]

(*P*) J.L. v. N.Y.C. Dep't of Educ., 324 F. Supp. 3d 455, 72 IDELR ¶ 237 (S.D.N.Y. 2018)
- ruled that challenge to policies of "beadledom" that systematically foreclosed current IEP related services for students with severe medical disabilities sufficiently qualified as FAPE failure-to-implement claim

P E.I.H. v. Fair Lawn Bd. of Educ., 747 F. App'x 68, 72 IDELR ¶ 263 (3d Cir. 2018)
- ruled that child with autism and epilepsy who had transportation on her IEP was also entitled to a school nurse on the bus as a related service because she at least temporarily needed, as a matter of safety, the nurse to administer her prescribed seizure medication

S Osseo Area Sch., Indep. Sch. Dist. No. 279 v. M.N.B., 970 F.3d 917, 77 IDELR ¶ 1 (8th Cir. 2020)
- ruled that IDEA does not require neighboring district that accepted application for student with ED under state open enrollment law was obligated to provide door-to-door transportation in her IEP beyond district boundaries

S Hills & Dales Child Development Ctr. v. Iowa Dep't of Educ., 968 N.W.3d 238, 80 IDELR ¶ 1 (Iowa 2021)
- ruled that the IEP team has the authority to determine whether to grant an excuse for an outside provision of ABA therapy by a private agency upon a physician's order

P/S Elmira City Sch. Dist. v. N.Y. State Educ. Dep't, 166 N.Y.S.3d 710, 80 IDELR ¶ 294 (App. Div. 2022)
- ruled that district denied FAPE for the period that it was unable to find a 1:1 registered nurse required by the child's IEP (but not for the prior period when the parties were not able to finalize this IEP provision) and that the district's proposal to provide residential placement for this purpose was overly restrictive, entitling the child to compensatory education

II. DISCIPLINE ISSUES

(S) Gadsden City Bd. of Educ. v. B.P., 3 F. Supp. 2d 1299, 28 IDELR 166 (N.D. Ala. 1998)
- held that school district was not required to exhaust IDEA's expedited hearing provision before seeking Honig injunction

P/S Colvin v. Lowndes Cnty. Sch. Dist., 114 F. Supp. 2d 504, 32 IDELR ¶ 32 (N.D. Miss 2000)
- allowed expulsion of student who brought weapon into the school because plaintiff did not preponderantly prove eligibility or, in any event, contributory relationship to misconduct but, upon his return, required evaluation based on oral request for testing and other child find indicators

S Parent v. Osceola Cnty. Sch. Bd., 59 F. Supp. 2d 1243, 32 IDELR ¶ 144 (M.D. Fla. 1999)
- upheld appropriateness, including LRE, of extended alternative school placement in wake of unchallenged determination that student's misconduct (slashing another student with a box cutter) was not a manifestation of his disability (SLD/ED)

S In re Charles U., 837 N.Y.S.2d 356 (App. Div. 2007); In re Beau II, 715 N.Y.S.2d 686, 33 IDELR ¶ 180 (2000); cf. In re Erich D., 767 N.Y.S.2d 488, 40 IDELR ¶ 96 (N.Y. App. Div. 2003). But see In re Doe, 753 N.Y.S.2d 656 (N.Y. Family Ct. 2002)
- ruled that PINS petition, which is a status rather than criminal offense, does not trigger IDEA procedural safeguards where its purpose, to obtain probation department monitoring, was to reinforce, not alter, the child's educational placement

S Randy M. v. Texas City Indep. Sch. Dist., 93 F. Supp. 2d 1310, 32 IDELR ¶ 168 (S.D. Tex. 2000)
- denied injunction request of 13-year old SLD student whom the district placed in an alternative setting after determining that his assault of another student (with sexual overtones) was not a manifestation of his disability

P LIH v. N.Y.C. Bd. of Educ., 103 F. Supp. 2d 658, 33 IDELR ¶ 1 (E.D.N.Y. 2000)
- issued preliminary injunction to the effect that the IDEA disciplinary protections apply during summer school

S Farrin v. Me. Sch. Administrative Dist., 165 F. Supp. 2d 37, 35 IDELR ¶ 189 (D. Me. 2001)
- upheld both the district's determination that 14-year-old SLD student's involvement in marijuana sale on school premises was not a manifestation of his disability and the resulting "expulsion IEP"

S Commonwealth v. Nathaniel N., 764 N.E.2d 883, 36 IDELR ¶ 131 (Mass. App. Ct. 2002); cf. In re P.E.C., 211 S.W.3d 368 (Tex. Ct. App. 2006) (IDEA "stay-put does not apply to juvenile court dispositions)
- ruled that IDEA does not preempt or prevent filing or adjudication of juvenile charges against a student with a disability who commits a crime

S Roslyn Union Free Sch. Dist. v. Geffrey W., 740 N.Y.S.2d 451, 36 IDELR ¶ 239 (App. Div. 2002)
- granted Honig injunction for homebound placement of dangerous middle school student pending completion of psychiatric evaluation and IEP team review

(*P*) S.W. v. Holbrook Pub. Sch., 221 F. Supp. 2d 222, 37 IDELR ¶ 216 (D. Mass. 2002)
- ruled that child was entitled to "stay-put" in school after parent filed for due process to challenge multidisciplinary team's decision, in wake of student's expulsion for selling drugs, that child was not eligible under IDEA

S cf. Souderton Area Sch. Dist. v. Elisabeth S., 820 A.2d 863, 38 IDELR ¶ 244 (Pa. Commw. Ct. 2003)
- IDEA's disciplinary removal protections do not apply to student with a disability whom the district excluded because of head lice

S Corey H. v. Cape Henlopen Sch. Dist., 286 F. Supp. 2d 380, 40 IDELR ¶ 37 (D. Del. 2003)
- pushing student out the door was not a change in placement and thus not a violation of the IDEA (Honig)

S AW v. Fairfax Cnty. Sch. Bd., 372 F.3d 674, 41 IDELR ¶ 119 (4th Cir. 2004)
- upheld preexpulsion determination that ED student's threatening letter to another student was not a manifestation of his ADHD (and that his transfer to a similar program at another school was within the stay-put provision)

(*P*) Gutin v. Washington Twp. Bd. of Educ., 467 F. Supp. 2d 414, 47 IDELR ¶ 8 (D.N.J. 2006)[40]
- preserved for trial IDEA/§ 504 claim that district did not provide FAPE in the wake of unappealed determination that the misconduct (drug use) was not a manifestation of the ADHD of the IDEA student

[40] In an unpublished decision, Gutin v. Washington Twp. Bd. of Educ., 48 IDELR ¶ 126 (D.N.J. 2007), the same court dismissed this suit based on the failure to exhaust and the intervening Third Circuit decision in A.W. v. Jersey City Pub. Sch., 486 F.3d 791 (3d Cir. 2007).

S Fitzgerald v. Fairfax Cnty. Sch. Bd., 556 F. Supp. 2d 543, 50 IDELR ¶ 165 (E.D. Va. 2008)
- upheld district's determination for student with ED that his disability did not cause him to paintball the school in a drive-by with a couple of his friends—also ruled that parents may invite additional participants to the manifestation determination meeting without district approval, but that parents may not veto the team's decision

(*P*) Shelton v. Maya Angelou Pub. Charter Sch., 578 F. Supp. 2d 84, 51 IDELR ¶ 31 (D.D.C. 2008)
- upheld hearing officer's decision that failure to provide FBA-BIP and to continue services in wake of determination that the conduct was not a manifestation of the child's disability was denial of FAPE but reserved judgment on compensatory education pending determination of whether the district's refusal to implement the hearing officer's remedy during the appeal of the decision constituted denial of FAPE

S Hollingsworth v. Hackler, 303 S.W.3d 884, 53 IDELR ¶ 298 (Tex. Ct. App. 2009)
- held, in the context of Sec. 1983 qualified immunity, that parent's right to be part of any group making educational placement decisions does not extend to making disciplinary placement decisions in the wake of a determination that the child's misconduct was not a manifestation of his disability

P Sch. Bd. v. Brown, 769 F. Supp. 2d 928, 56 IDELR ¶ 18 (E.D. Va. 2010)
- ruled that district violated child find by not conducting an evaluation of the behavioral problems of student with OHI (cerebral palsy) and violated parents' opportunity of meaningful participation in the manifestation determination (for which the hearing officer misapplied the implementation criterion), upholding—as compensatory education—her order for counseling services

P District of Columbia v. Doe, 611 F.3d 888, 54 IDELR ¶ 275 (D.C. Cir. 2010)
- upheld, as within IHO's authority, reduction in length of removal that was not a manifestation of the student's disability where it was a matter of FAPE

(*S*) Jefferson Cnty. Bd. of Educ. v. S.B., 788 F. Supp. 2d 1347, 56 IDELR ¶ 300 (N.D. Ala. 2011)
- ruled, in context akin to a preliminary injunction, that the IDEA did not require district to treat student with a disability (who had been expelled for gun possession after a determination that this conduct was not a manifestation of his disability) differently from nondisabled students who were not allowed to: 1) return to the same school for a semester after the expulsion; or 2) participate in graduation ceremony

P/S Fisher v. Friendship Pub. Charter Sch., 857 F. Supp. 2d 64, 58 IDELR ¶ 287 (D.D.C. 2012)
- district violated IDEA by not providing FAPE, via an alternative placement, to a student with OHI (ADHD) expelled for use of marijuana that was not a manifestation of his disability, but he was not entitled to compensatory education because his parent provided education leading to his graduation

S Garmany v. District of Columbia, 935 F. Supp. 2d 177, 61 IDELR ¶ 15 (D.D.C. 2013)
- ruled that parents failed to prove that the district's in-school suspension of student with SLD constituted a failure to implement the IEP—standard is substantial departure, and parents did not show that the IEP precluded any punishment options other than the BIP's listed consequences

S C.C. v. Hurst-Euless-Bedford Indep. Sch. Dist., 653 F. App'x 808, 67 IDELR ¶ 254 (5th Cir. 2016)
- subsequent to earlier ruling,[41] brief affirmance that district did not violate the IDEA after failing to reevaluate student with IEP after juvenile authorities decided not to prosecute him for his misconduct that district determined was not a manifestation of his disability

(*P*) Patrick v. Success Acad. Charter Sch., Inc., 354 F. Supp. 3d 185, 73 IDELR ¶ 146 (E.D.N.Y. 2018)
- denied dismissal of claim that charter school's removal of seven-year old with OHI (rare blood disorder) to 45-day IAES for misrepresented serious bodily injury violated IDEA

P Jay F. v. William S. Hart Union High Sch. Dist., 772 F. App'x 578, 74 IDELR ¶ 188 (9th Cir. 2019)
- brief ruling reversing, based on his history of threatening behavior, district's manifestation determination that student's ED was not causally connected to his threatened retaliation against other students—also upholding remedies of expungement and dialectical behavior therapy (and attorneys' fees)

(*P*) Olu-Cole v. E.L. Haynes Pub. Charter Sch., 930 F.3d 519, 74 IDELR ¶ 215 (D.C. Cir. 2019)
- ruled that school did not overcome heavy presumption to return student with ED to his regular placement after 45-day IAES (for serious bodily injury to another student) expired, remanding for determination of compensatory education

S Leigh Ann. H. v. Riesel Indep. Sch. Dist. (supra)
- upholding manifestation determination despite procedural violation due to lack of substantive harm (re-done opportunity within a month and progress in alternative setting)

(P)/S K.C. v. Reg'l Sch. Unit 73, __ F. Supp. 3d __, 81 IDELR ¶ 93(D. Me. 2022)
- ruled that district's (a) written notice w/o oral explanation of parent's consent rights for change in placement, (b) use of IAES for supposed special-circumstances seriously disruptive conduct that was manifestation of multiple behavioral disabilities of fifth grader, and (c) out-of-district placement proposal were not violations of IDEA, but the district's unilateral change of the IEP's first determination of the IAES did violate IDEA and, based on the undisputed additional denials of FAPE, remand to the IHO for an appropriate compensatory education award

[41] See § 504/ADA section infra.

P Petition of State, __ A.3d __, 82 IDELR ¶ 96 (N.H. 2022)
- ruled that state law that requires district to conduct a manifestation determination review before filing a juvenile delinquency petition incorporates this IDEA procedure but not its 10-day exemption, thus applying to this child even though it was in the wake of a short-duration suspension

III. ATTORNEYS' FEES

A. ELIGIBILITY

P/S Connors v. Mills, 34 F. Supp. 2d 795, 29 IDELR 946 (N.D.N.Y. 1998)
- ruling that lay advocate is eligible for consultant, but not legal representation, fees

S Z.A. v. San Bruno Park Sch. Dist., 165 F.3d 1273, 29 IDELR 792 (9th Cir. 1999)
- denied attorneys' fees award to attorney not licensed in the state where the case was litigated

P/S Lucht v. Molalla River Sch. Dist., 225 F.3d 1023, 33 IDELR ¶ 89 (9th Cir. 2000); cf. L.H. v. Chino Valley Unified Sch. Dist., 944 F. Supp. 2d 867, 61 IDELR ¶ 70 (C.D. Cal. 2013) (not where no material change in legal relationship). But see Vultaggio v. Bd. of Educ., 343 F.3d 598, 39 IDELR ¶ 261 (2d Cir. 2003); Megan C. v. Indep. Sch. Dist. No. 625, 57 F. Supp. 2d 776, 30 IDELR 132 (D. Minn. 1999)
- mixed results whether "action or proceeding" includes state complaint resolution process

P Daniel S. v. Scranton Sch. Dist., 230 F.3d 90, 33 IDELR ¶ 179 (3d Cir. 2000)
- allowed attorneys' fees for IEP meeting where the scheduled due process hearing was the catalyst for said meeting

S Meridian Sch. Dist. No. 2 v. D.A., 792 F.3d 1054, 65 IDELR ¶ 253 (9th Cir. 2015); T.B. v. Bryan Indep. Sch. Dist., 628 F.3d 240, 55 IDELR ¶ 244 (5th Cir. 2010); D.S. v. Neptune Twp. Bd. of Educ., 264 F. App'x 186, 49 IDELR ¶ 181 (3d Cir. 2008)
- held that even though parents prevailed with regard to IEE reimbursement and evaluation order, they were not entitled to attorneys' fees where, as a result of said evaluation, the child was not eligible for special education services

S Pardini v. Allegheny Intermediate Unit, 524 F.3d 419, 50 IDELR ¶ 2 (3d Cir. 2008); Ford v. Long Beach Unified Sch. Dist., 461 F.3d 1087, 46 IDELR ¶ 92 (9th Cir. 2006); S.N. v. Pittsford Cent. Sch. Dist., 448 F.3d 601, 45 IDELR ¶ 270 (2d Cir. 2006); Woodside v. Sch. Dist., 248 F.3d 129, 34 IDELR ¶ 179 (3d Cir. 2001); Doe v. Bd. of Educ., 165 F.3d 260, 33 IDELR ¶ 63 (4th Cir. 1998); Erickson v. Bd. of Educ., 162 F.3d 289, 29 IDELR 478 (4th Cir. 1998); B.D. v. District of Columbia, 66 F. Supp. 3d 75 (D.D.C. 2015); cf. Bowman v. District of Columbia, 496 F. Supp. 2d 160 (D.D.C. 2007) (court-appointed advocates who did not establish attorney-client relationships). But see Matthew V. v. DeKalb Cnty. Sch. Sys., 244 F. Supp. 2d 1331, 38 IDELR ¶ 181 (N.D. Ga. 2003)

- ruled that parent-attorneys who represent their children in IDEA actions are not eligible to receive attorneys' fees if they prevail

P Children's Ctr. for Dev. Enrichment v. Machle, 612 F.3d 518, 54 IDELR ¶ 273 (6th Cir. 2008)

- ruled that reverse attorneys' fees provision in IDEA does not apply to private schools

(*P*) E.D. v. Newburyport Pub. Sch., 654 F.3d 140, 57 IDELR ¶ 91 (1st Cir. 2011)

- parents' move out of state after obtaining hearing officer's decision in favor of tuition reimbursement does not render their attorneys' fees claim moot

S J.S. v. N.Y.S. Dep't of Corrections & Cmty., 557 F. Supp. 3d 403, 79 IDELR ¶ 165 (W.D.N.Y. 2021)

- ruling that prevailing student (as contrasted with parent) is not entitled to recovery of attorneys' fees under the IDEA

B. "PREVAILING"

S Warner v. Indep. Sch. Dist. No. 625, 134 F.3d 1334, 27 IDELR 499 (8th Cir. 1998)

- parents were not prevailing party where changed relationship was for state-, not IDEA-, based relief (thus, $0, rather than $158,000 originally requested and $63,500 awarded at trial level)

S J.C. v. Mendham Twp. Bd. of Educ., 29 F. Supp. 2d 214, 29 IDELR 603 (D.N.J. 1998)

- parents are not prevailing party if all they obtained was stay put

S Joshua H. v. Lansing Pub. Sch., 161 F. Supp. 2d 888, 35 IDELR ¶ 180 (N.D. Ill. 2001)

- parents were not prevailing party where they obtained, via the hearing, no more than what the district had timely offered before the hearing

S J.O. v. Orange Twp. Bd. of Educ., 287 F.3d 267, 36 IDELR ¶ 206 (3d Cir. 2002); Bd. of Educ. v. Nathan R., 199 F.3d 377, 31 IDELR ¶ 182 (7th Cir. 2000)

- parent is not prevailing party where interim relief is not merit-based

P M.L. v. Fed. Way Sch. Dist., 401 F. Supp. 2d 1158, 44 IDELR ¶ 214 (W.D. Wash. 2005)
- granted $94,000 attorneys' fees award for reimbursement amount of less than $2500, which was same amount as timely offer of settlement but which had better IEP team composition (though parents moved, thus rendering the FAPE issue moot)

P Hawkins v. Berkeley Unified Sch. Dist., 250 F.R.D. 459, 50 IDELR ¶ 14 (N.D. Cal. 2008)
- district was not eligible for reverse attorneys' fees where parents' claims, even if frivolous, were connected to, rather than independent from, their successful claims

S Robert K. v. Cobb Cnty. Sch. Dist., 279 F. App'x 798, 50 IDELR ¶ 62 (11th Cir. 2008)
- parents did not qualify as prevailing parties for attorneys' fees based on their victory at due process hearing re stay-put order and enforcement of settlement agreement because the first was not merit-based and the second was state law breach of contract claim

P Doe v. Bos. Pub. Sch., 550 F. Supp. 2d 170, 50 IDELR ¶ 73 (D. Mass. 2008)
- held that parents prevailed for purposes of attorneys' fees even though the relief on the two claims decided in their favor was limited to three months of reimbursement

P Oscar v. Alaska Dep't of Educ., 541 F.3d 978, 50 IDELR ¶ 211 (9th Cir. 2008)
- educational agency was not entitled to recover its attorneys' fees in wake of parents' voluntary dismissal of their claim, because the agency was not the prevailing party (i.e., altered the legal relationship) even if the parents' claim was frivolous

S Bingham v. New Berlin Sch. Dist., 550 F.3d 601, 51 IDELR ¶ 61 (7th Cir. 2008); P.N. v. Seattle Sch. Dist. No. 1, 474 F.3d 1165, 46 IDELR ¶ 61 (9th Cir. 2007); Mr. L. v. Sloan, 449 F.3d 405 (2d Cir. 2006); Maria C. v. Sch. Dist. of Phila., 142 F. App'x 78, 43 IDELR ¶ 243 (3d Cir. 2005); Smith v. Fitchburg Pub. Sch., 401 F.3d 16, 42 IDELR ¶ 28 (1st Cir. 2005); Alegria v. District of Columbia, 391 F.3d 262, 42 IDELR ¶ 110 (D.C. Cir. 2004); Doe v. Bos. Pub. Sch., 358 F.3d 20, 40 IDELR ¶ 176 (1st Cir. 2004); T.D. v. LaGrange Sch. Dist. No. 102, 349 F.3d 469, 40 IDELR ¶ 32 (7th Cir. 2003); J.C. v. Reg'l Sch. Dist., 278 F.3d 119, 36 IDELR ¶ 31 (2d Cir. 2002); James T. v. Troy Sch. Dist., 407 F. Supp. 2d 827 (E.D. Mich. 2005); Matthew V. v. DeKalb Cnty. Sch. Sys., 244 F. Supp. 2d 1331, 38 IDELR ¶ 181 (N.D. Ga. 2003); Van Aucken v. Skiver, 38 IDELR ¶ 95 (N.D. Ohio 2002); J.S. v. Ramapo Cent. Sch. Dist., 165 F. Supp. 2d 530, 35 IDELR ¶ 185 (S.D.N.Y. 2001); April M. v. W. Boylston Pub. Sch., 35 IDELR ¶ 154 (D. Mass. 2001); Baer v. Klagholz, 786 A.2d 907, 35 IDELR ¶ 272 (N.J. Super. Ct. App. Div. 2001); cf. C.Z. v. Plainfield Cmty. Unit Sch. Dist., 680 F. Supp. 2d 950 (C.D. Ill. 2010) (extension in certain circumstances). But see P.O. v. Greenwich Bd. of Educ., 210 F. Supp. 2d 76 (D. Conn. 2002); Ostby v. Oxnard Union High, 209 F. Supp. 2d 1035, 37 IDELR ¶ 4 (C.D. Cal. 2002)
- rejected "catalyst theory" under IDEA based on Supreme Court's ADA decision in Buckhannon[42]

P John M. v. Bd. of Educ., 612 F. Supp. 2d 981, 52 IDELR ¶ 154 (N.D. Ill. 2009)
- parents prevailed, resulting in $45,000 in attorneys' fees for obtaining qualitatively "significant" relief, although it amounted to only $6,000 of the $33,000 market value of the sought services

P J.D. v. Kanawha Cnty. Bd. of Educ., 571 F.3d 38, 52 IDELR ¶ 182 (4th Cir. 2009)
- upheld attorneys' fees award of $34,000 because purportedly equally favorable timely settlement offer referred to mediation session, which is confidential

P Keene v. Zelman, 337 F. App'x 553, 53 IDELR ¶ 5 (6th Cir. 2009)
- upheld $81,000 in attorneys' fees award against state, rejecting various "special circumstances" defenses, including good faith prompt rectification of the problem

P V.G. v. Auburn Enlarged Cent. Sch. Dist., 349 F. App'x 582, 53 IDELR ¶ 140 (2d Cir. 2009)
- ruled that parents were entitled to attorneys' fees as prevailing party under Buckhannon based on private settlement that the hearing officer approved via a consent decree

[42] Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Human Serv., 532 U.S. 598 (2001). Although the clear majority of the lower courts have found Buckhannon to apply by analogy to the IDEA, those in the majority have not interpreted it uniformly in relation to private settlement agreements. Compare Abraham v. District of Columbia, 338 F. Supp. 2d 113 (D.D.C. 2004), with Smith v. Fitchburg Pub. Sch., 401 F.3d 16 (1st Cir. 2005).

P/S El Paso Indep. Sch. Dist. v. Richard R., 591 F.3d 417, 53 IDELR ¶ 175 (5th Cir. 2009); cf. Gary G. v. El Paso Indep. Sch. Dist., 632 F.3d 201, 56 IDELR ¶ 32 (5th Cir. 2011) (failure to include attorneys' fees in settlement offer does not justify rejection). But cf. Cobb Cnty. Sch. Dist. v. D.B., 670 F App'x 684, 69 IDELR ¶ 3 (11th Cir. 2016) (both parties protracted the litigation); Davis v. District of Columbia, 71 F. Supp. 3d 141, 64 IDELR ¶ 135 (D.D.C. 2014) (failure to include attorneys' fees justified rejection of timely settlement offer)

- vacated $46,000 attorneys' fees award for parents due to unreasonable protraction of litigation in unreasonably rejecting settlement offer

P/S El Paso Indep. Sch. Dist. v. Berry, 400 F. App'x 947, 55 IDELR ¶ 186 (5th Cir. 2010)

- upheld trial court's order for parents' attorney to pay $10,000 of district's $80,000 in attorneys' fees due to "repeatedly prolonging litigation and stonewalling efforts to conclude it to the detriment of his client [the child] who continued receiving services under an old and unnecessary [IEP] while the 'grown-ups' fought"

P/S R.P. v. Prescott Unified Sch. Dist. (supra); Bobby v. Sch. Bd. of Norfolk, 54 F. Supp. 3d 466, 64 IDELR ¶ 175 (E.D. Va. 2014); Doe v. Attleboro Pub. Sch., 960 F. Supp. 2d 286, 60 IDELR ¶ 247 (D. Mass. 2013); District of Columbia v. West, 699 F. Supp. 2d 773, 54 IDELR ¶ 117 (D.D.C. 2010); District of Columbia v. Nahass, 699 F. Supp. 2d 175, 54 IDELR ¶ 115 (D.D.C. 2010); District of Columbia v. West, 699 F. Supp. 2d 273, 54 IDELR ¶ 117 (D.D.C. 2010); cf. Sch. for Arts in Learning Pub. Charter Sch. v. Barrie, 724 F. Supp. 2d 86, 54 IDELR ¶ 315 (D.D.C. 2010) (dismissal does not qualify as prevailing party). But see Capital City Pub. Charter Sch. v. Gambale, 27 F. Supp. 3d 121, 63 IDELR ¶ 6 (D.D.C. 2014); Bridges Pub. Charter Sch. v. Barrie, 796 F. Supp. 2d 39, 57 IDELR ¶ 3 (D.D.C. 2011) (including refusal to participate in resolution session); cf. G.M. v. Saddleback Valley Unified Sch. Dist., 583 F. App'x 702, 63 IDELR ¶ 214 (9th Cir. 2014) (remanding to question frivolousness based on close child find case); Alief Indep. Sch. Dist. v. C.C., 655 F.3d 412, 57 IDELR ¶ 151 (5th Cir. 2011) (district's filing first does not require dismissal of its claim for attorneys' fees for parents' subsequent filing for allegedly improper purpose)

- declined to grant district's attorneys' fees claim against parent's attorney, concluding that the complaint was not frivolous

S McCrary v. District of Columbia, 791 F. Supp. 2d 191, 56 IDELR ¶ 291 (D.D.C. 2011)

- prevailing status for an award of attorneys' fees (in the D.C. Circuit) requires not only an adjudicative change in the parties' legal relationship, but also adjudicative relief

P/S Y.Z. v. Clark Cnty. Sch. Dist., 54 F. Supp. 3d 1171, 64 IDELR ¶ 131 (D. Nev. 2014); Walker v. District of Columbia, 798 F. Supp. 2d 48, 57 IDELR ¶ 41 (D.D.C. 2011); cf. Smith v. Imagine Hope Cmty. Pub. Charter Sch., 934 F. Supp. 2d 132, 61 IDELR ¶ 17 (D.D.C. 2013); M.R. v. District of Columbia, 841 F. Supp. 2d 262, 58 IDELR ¶ 102 (D.D.C. 2012) (private settlement that includes attorneys' fees is breach of contract case beyond jurisdiction of federal courts)

- IHO-approved private settlement triggers attorneys' fees

S Woods v. Northport Pub. Sch. (supra)
- upheld limiting award to pre-settlement hours amounting to $25k in attorneys' fees because although the parents were substantially justified in rejecting the settlement due to its failure to include attorneys' fees, the limitation was reasonable in light of the parents' limited success of the overly long and contentious administrative proceeding

P/S J.G. v. Kiryas Joel Union Free Sch. Dist., 843 F. Supp. 2d 394, 59 IDELR ¶ 79 (S.D.N.Y. 2012)
- ruled that parents, who sought tuition reimbursement and won on LRE issue at Step 1 but lost overall based on Step 2, were not prevailing party but that their motion for attorneys' fees was not frivolous; thus, neither party was entitled to attorneys' fees

S PILCOP v. Pocono Mountain Sch. Dist., 491 F. App'x 316, 59 IDELR ¶ 93 (3d Cir. 2012)
- parents' symbolic victory of the interpretation of "education records" did not entitle them to prevailing party status

S W.V. v. Encinitas Union Sch. Dist., 289 F.R.D. 308, 59 IDELR ¶ 289 (S.D. Cal. 2012)
- granted district's motion for Rule 11 sanctions of $2,500 against parent for pursuing IDEA case in bad faith (i.e., despite terms of the parties' settlement)

P J.S. v. Carmel Cent. Sch. Dist., 501 F. App'x 95, 60 IDELR ¶ 1 (2d Cir. 2012)
- ruled that parents were prevailing party although district provided tuition reimbursement after review officer decision as stay-put; also upheld hourly rate of $415 of experienced parent attorney for the lodestar calculation

S Genrette v. Options Pub. Charter Sch., 926 F. Supp. 2d 364, 60 IDELR ¶ 216 (D.D.C. 2013)
- order for FBA but not for parents' other requests for private placement or compensatory education does not suffice for prevailing party status for attorneys' fees

S Alief Indep. Sch. Dist. v. C.C., 713 F.3d 268, 61 IDELR ¶ 3 (5th Cir. 2013)
- parents who lost their case do not qualify prevailing party entitled to attorneys' fees upon successfully defending district's request for recovery of their attorneys' fees

S Giosta v. Midland Sch. Dist. No. 7 (supra)
- upheld denial of attorneys' fees where parents prevailed only on minor items, which were de minimis compared to their extensive claims (e.g., compensatory education for reading goals but not three years of entire denial of FAPE nor IEE at public expense)[43]

P L.A. Cnty. Office of Educ. v. C.M., 550 F. App'x 387, 62 IDELR ¶ 164 (9th Cir. 2013)
- parents were prevailing party where they succeeded on the issue of the county's temporary liability for the student's residential service while in and upon release from juvenile hall, even though not subsequently (but only for the due process hearing, not the court proceeding)

[43] For the rulings on the merits, see T.G. v. Midland Sch. Dist. (supra and infra).

P Justin R. v. Matayoshi, 561 F. App'x 619, 62 IDELR ¶ 283 (9th Cir. 2014)
- ruled that magistrate judge's order that specified jurisdiction for oral settlement agreement was sufficient for "judicial imprimatur" prerequisite for prevailing status

P Hawkins v. Potomac Lighthouse Pub. Charter Sch., 19 F. Supp. 3d 330, 62 IDELR ¶ 291 (D.D.C. 2014)
- ruled that child's failure to avail herself of significant portion of compensatory education does not affect prevailing status

S Boyd v. Idea Pub. Charter Sch., 42 F. Supp. 3d 217, 63 IDELR ¶ 128 (D.D.C. 2014)
- ruled that parent did not qualify as prevailing party where consent order settlement required the school to conduct new evaluations and provide access to her daughter's service logs and special education files—not material alteration of the parties' legal relationship

S Tina M. v. St. Tammany Parish Sch. Bd., 816 F.3d 57, 67 IDELR ¶ 54 (5th Cir. 2016). But see A.P. v. Bd. of Educ. for Tullahoma, 160 F. Supp. 3d 1024, 67 IDELR ¶ 69 (E.D. Tenn. 2016); cf. M.R. v. Ridley Sch. Dist., 868 F.3d 218, 70 IDELR ¶ 141 (3d Cir. 2017) (when accompanied by retrospective equitable relief)
- ruled that obtaining stay-put order does not qualify the parents for attorneys' fees

P Jefferson Cnty. Bd. of Educ. v. Bryan M., 706 F. App'x 510, 70 IDELR ¶ 145 (11th Cir. 2017)
- ruled that, despite mooting the case by withdrawing their child from the district after IHO decision that ordered new IEP and training, parents were prevailing parties for the purpose of attorneys' fees because they obtained a judgment they were entitled to enforce

S G.B. v. Easton Area Sch. Dist., 264 F. Supp. 3d 690, 70 IDELR ¶ 171 (E.D. Pa. 2017)
- ruled that parents who obtained much of what they sought in a records case after IHO's denial of dismissal motion, which was subsequently settled, met only the first criterion (material alteration in parties' legal relationship) but not the second criterion (judicial sanctioning) for prevailing party status for attorney fees

P H.E. v. Walter D. Palmer Learning Partners Charter Sch., 873 F.3d 406, 70 IDELR ¶ 244 (3d Cir. 2017)
- ruled that plaintiff-parent is prevailing party for attorneys' fees upon vindicating a purely procedural right under the IDEA (in this case, a hearing) even if the relief obtained is not temporary forward-looking injunctive relief

P Utica Cmty. Sch. v. Alef, 710 F. App'x 673, 70 IDELR ¶ 246 (6th Cir. 2017)
- ruled that parents' claims on behalf of 18-year old student with autism were not frivolous, thus rejecting district's counterclaim against parents' lawyer for attorneys' fees

S S.P. v. Pa. Dep't of Educ., 731 F. App'x 113, 72 IDELR ¶ 56 (3d Cir. 2018); cf. Henry v. Friendship Edison P.C.S., 880 F. Supp. 2d 5 (D.D.C. 2012) (child find ruling for evaluation was not sufficient for prevailing party status)
- obtaining IEE at public expense did not qualify parents for prevailing party status where the SEA only paid for it per IHO order after the charter school closed

S Lauren C. v. Lewisville Indep. Sch. Dist., 904 F.3d 363, 72 IDELR ¶ 262 (5th Cir. 2018)
- ruled that parents did not qualify as prevailing party for attorneys' fees as a result of IHO decision that ruled that the IEP was appropriate but, finding the failure to diagnose autism in addition to ID, ordered the IEP team to add this classification to the IEP (with no resulting change in special education services)

S J.S. v. Westerly Sch. Dist., 910 F.3d 4, 73 IDELR ¶ 111 (1st Cir. 2018)
- ruled that parents were not entitled to attorneys' fees when all they attained—an order for an expedited (and ultimately unsuccessful) determination of eligibility after moving out of the district—amounted to a "Pyrrhic procedural victory that did not advance, and may well have undercut, the goal of obtaining any success at all on the merits of the parents' claims"

S Wofford v. N. Little Rock Sch. Dist., 788 F. App'x 415, 75 IDELR ¶ 242 (8th Cir. 2019)
- brief ruling that parent did not qualify as a prevailing party for attorneys' fees where, upon the hearing officer's order for the district to develop a BIP with the assistance of a parent-approved behavior consultant, the parent moved the family out of the district so to preclude implementation of the relief

S J.M. v. Oakland Unified Sch. Dist., 804 F. App'x 501, 76 IDELR ¶ 34 (9th Cir. 2020)
- ruled that parents were not entitled to attorneys' fees where the hearing officer ordered placement that they opposed – order for IAES was relatively ephemeral and order for certain records was too limited degree of success

S A.B. v. Pleasant Valley Sch. Dist., 839 F. App'x 665, 77 IDELR ¶ 274 (3d Cir. 2020)
- upheld major reduction of attorneys' fees award based on various grounds, including unreasonable rates and limited success

S Oskowis v. Sedona Oak-Creek Unified Sch. Dist., 855 F. App'x 421, 79 IDELR ¶ 91 (9th Cir. 2021)
- brief ruling upholding award of attorneys' fees to school district where pro se parent brought frivolous claims for improper purpose of harassing school district with increased litigation costs

C. SCOPE

S King v. Floyd Cnty. Bd. of Educ., 5 F. Supp. 2d 393, 28 IDELR 963 (E.D. Ky. 1998)
- reduced attorneys' fees to exclude time familiarizing oneself with the field, for post-relief monitoring expenses and for Westlaw charges

P Dale M. v. Bd. of Educ., 29 F. Supp. 2d 925, 29 IDELR 600 (C.D. Ill. 1998)[44]; cf. Brillon v. Klein Indep. Sch. Dist., 274 F. Supp. 2d 864, 39 IDELR ¶ 184 (S.D. Tex. 2003) (full expert fees but reduced attorneys' fees)
- upheld award for expert witness, but reduced award by approximately 50% due to undocumented expenses; excessive investigation, client-conferencing and monitoring; and uncovered (here, OCR) hours

P/S Mr. X v. New York State Educ. Dep't, 20 F. Supp. 2d 561, 29 IDELR 705 (S.D.N.Y. 1998); see also I.B. v. N.Y.C. Dep't of Educ., 336 F.3d 79, 39 IDELR ¶ 155 (2d Cir. 2003)
- upheld Wall Street attorney's billing rule of $350-$375 per hour but reduced award 20% to $147,000 in light of excessive and duplicative time entries

P P.L. v. Norwalk Bd. of Educ., 64 F. Supp. 2d 61, 31 IDELR ¶ 50 (D. Conn. 1999); see also Gross v. Perrysburg Exempted Village Sch. Dist., 306 F. Supp. 2d 726, 40 IDELR ¶ 258 (N.D. Ohio 2004); Pazik v. Gateway Reg'l Sch. Dist., 130 F. Supp. 2d 217, 34 IDELR ¶ 58 (D. Mass. 2001)
- upheld full attorneys' fees request of $112,000 for 13-day due process hearing, including fee application, travel time and expert witness fees

P/S Crawford v. San Dieguito Union Sch. Dist., 202 F. App'x 185 (9th Cir. 2006); Neosho R-V Sch. Dist. v. Clark (supra); see also Benito M. v. Bd. of Educ., 544 F. Supp. 2d 713, 49 IDELR ¶ 221 (N.D. Ill. 2008); Bd. of Educ. v. Summers, 358 F. Supp. 2d 462, 42 IDELR ¶ 265 (D. Md. 2005) (95% of $236.5k); Koswenda v. Flossmoor Sch. Dist. No. 161, 227 F. Supp. 2d 979, 37 IDELR ¶ 273 (D. Ill. 2002) (18% of requested amount)
- reduced requested amount of attorneys' fees by 40% based on limited success of parents

S Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy, 548 U.S. 291, 45 IDELR ¶ 267 (2006)
- held that IDEA does not provide for prevailing parents to recover expert fees

P/S Ryan M. v. Bd. of Educ., 731 F. Supp. 2d 776, 55 IDELR ¶ 8 (N.D. Ill. 2010)
- awarded $78,000 rather than requested $95,000 in attorneys' fees due to incomplete success and unsubstantiated or duplicative billing, but allowed prejudgment interest

S Rooths v. District of Columbia, 802 F. Supp. 2d 56 (D.D.C. 2011)
- substantially reduced attorneys' fees from requested amount for five attorneys, including approximately halving of their requested hourly rates (e.g., $557-$569 for attorney with 11 years of litigation experience)

[44] The Seventh Circuit independently held that the parents' attorney must return the fees to the district after the appeals court reversed the underlying decision. Dale M. v. Bd. of Educ., 282 F.3d 984, 36 IDELR ¶ 127 (7th Cir. 2002).

P Ector Cnty. Indep. Sch. Dist. v. VB, 420 F. App'x 338, 56 IDELR ¶ 151 (5th Cir. 2011)
- district court did not abuse its discretion in determining that parents' refusal to attend IEP meeting to resolve their complaint did not unduly protract the proceedings, thus not warranting reduction in their $39,000 attorneys' fees award

P/S E.S. v. Katonah-Lewisboro Sch. Dist., 796 F. Supp. 2d 421, 56 IDELR ¶ 231 (S.D.N.Y. 2010), aff'd, 487 F. App'x 619, 59 IDELR ¶ 63 (2d Cir. 2012)
- reduced requested total from $289,000 to $157,000 based on unreasonable rates and unreasonable billing, but not for obtaining only one of two years of requested tuition reimbursement

P/S G.B. v. Tuxedo Union Free Sch. Dist., 894 F. Supp. 2d 415, 59 IDELR ¶ 252 (S.D.N.Y. 2012)
- awarded parents, in wake of $71,000 tuition reimbursement (infra), attorneys' fees of $76k rather than requested $80,700 (with the reduction attributable only to excessive hours, not disputed hourly fees

P Jo.R. v. Garden Grove Unified Sch. Dist., 551 F. App'x 902, 62 IDELR ¶ 166 (9th Cir. 2013)
- concluded that district court abused its discretion in limiting attorneys' fees, in case where parent prevailed in 2 or their 19 claims, to $51,000 excluding, for example, time spent researching successful issues, reviewing/annotating transcript and preparing closing arguments, awarding instead $242,000

P/S K.L. v. Warwick Valley Cent. Sch. Dist., 584 F. App'x 17, 64 IDELR ¶ 195 (2d Cir. 2014)
- upheld not only determination that parents were prevailing party despite limited relief but also reduced rate per hour, number of hours, and—as not abuse of discretion here—denial of fee petition time

P/S C.W. v. Capistrano Unified Sch. Dist., 784 F.3d 1237, 65 IDELR ¶ 31 (9th Cir. 2015)
- ruled that parents' IDEA and § 504 claims were not frivolous but ADA intimidation claim and Sec. 1983 money damages claim were frivolous, entitling district to partial attorney's fees paid by parents' attorney

S McAllister v. District of Columbia, 794 F.3d 15, 65 IDELR ¶ 284 (D.C. Cir. 2015)
- disallowed recovery, as part of attorneys' fees award, of "paralegal" who was consultant expert and, thus, within the exclusion under Murphy supra

P O.R. v. N.Y.C. Dep't of Educ., 340 F. Supp. 3d 357, 73 IDELR ¶ 118 (S.D.N.Y. 2018); Merrick v. District of Columbia, 316 F. Supp. 3d 498, 72 IDELR ¶ 153 (D.D.C. 2018); McAllister v. District of Columbia, 160 F. Supp. 3d 273, 67 IDELR ¶ 59 (D.D.C. 2016); F.S. v. District of Columbia, 307 F.R.D. 28 (D.D.C. 2014); cf. R. M-G. v. Bd. of Educ., 645 F. App'x 672, 67 IDELR ¶ 167 (10th Cir. 2016); Banda v. Antelope Valley Union High Sch. Dist., 637 F. App'x 335, 67 IDELR ¶ 56 (9th Cir. 2016)[45]; Kelsey v. District of Columbia, 219 F. Supp. 3d 197, 69 IDELR ¶ 33 (D.D.C. 2016) (availability of fees-on-fees awards in IDEA cases)

- upheld award for "fees on fees" in IDEA case

P Norristown Area Sch. Dist. v. F.C. (supra)

- upheld full requested $140k attorney's fees award despite partial success where their claims arose from common core of facts and parents succeeded on two significant issues

S Anaheim Union High Sch. Dist. v. J.E., 637 F. App'x 380, 67 IDELR ¶ 81 (9th Cir. 2016); cf. Williams v. Fulton Cnty. Sch. Dist., 717 F. App'x 913, 71 IDELR ¶ 55 (11th Cir. 2017) (upholding reduction of attorneys' fees award from $420k to $283k based on discretionary rather than mandatory determination of reasonableness, thus rendering the district's protraction of the proceedings as irrelevant); I.T. v. Haw. Dep't of Educ., 700 F. App'x 596, 70 IDELR ¶ 62 (9th Cir. 2017) (upholding reduction from $60K to $30K based on prevailing community rate and limited success)

- upheld not only reduction in requested hourly rate of parent attorney based on prevailing community rate for commensurate experience (to $400 per hour) but also denial of $16.6K for expert consultant whom the fee request had labeled as a paralegal

S Beauchamp v. Anaheim Union High Sch. Dist., 816 F.3d 1216, 67 IDELR ¶ 107 (9th Cir. 2016)

- upheld award of only 12% of requested $80K in attorneys' fees largely because the district's timely offer of settlement, although not admitting liability, provided far more compensatory relief than the hearing officer ordered upon finding child find violation (thus limiting the compensable time to the work before the settlement offer)

S C.G. v. Winslow Twp. Bd. of Educ., 704 F. App'x 179, 70 IDELR ¶ 114 (3d Cir. 2017)

- upheld reduction in attorneys' fees award from $260K to $47K based on excessive billing (at agreed upon rate of $425/hr.) for experienced parent special education attorney

S T.B. v. San Diego Unified Sch. Dist., 293 F. Supp. 3d 1177, 71 IDELR ¶ 195 (S.D. Cal. 2018)

- reduced attorneys' fees award in long-standing dispute (supra) from requested $2.2 million to $.9 million based on limited success

[45] The ultimate award was $347K in attorneys' fees, including $182K for fees on fees. Banda v. Antelope Valley Union High Sch. Dist., 68 IDELR ¶ 71 (C.D. Cal. 2016).

(P) Rena C. v. Colonial Sch. Dist., 890 F.3d 404, 72 IDELR ¶ 26 (3d Cir. 2018)

P/S McNeil v. District of Columbia, 342 F. Supp. 3d 156, 73 IDELR ¶ 51 (D.D.C. 2018)
- ruled that parents were justified in rejecting timely offer of settlement in case in which they obtained no better relief via adjudication, because the settlement offer did not include attorneys' fees

P/S Paris Sch. Dist. v. Harter, 894 F.3d 885, 72 IDELR ¶ 112 (8th Cir. 2018)
- upheld reduction in attorneys' fees award from $69K to $27K due to excessive billing and unreasonable amount of time for the hearing (7 days compared to state regulatory guideline of 3 days)

P/S P.J. v. Conn. State Bd. of Educ., 931 F.3d 156, 74 IDELR ¶ 245 (2d Cir. 2019)
- ruled that Supreme Court's Buckhannon decision did not abrogate, by silence, its Delaware Valley decision that reasonable attorney's fees are available for useful and necessary work in monitoring class action consent decree, further reducing district's court's award of $470k, rather than parent attorneys' request of $1.1 million, to approximately $200k

P/S Rayna P. v. Campus Cmty. Sch., 390 F. Supp. 3d 556, 74 IDELR ¶ 222 (D. Del. 2019)
- modestly reduced parents' attorneys' fees from request $376k to $310k for largely successful comp ed case on behalf of two brothers, rejected charter school's request for further reduction based on parents' contingent fee agreement and charter school's ability to pay

P/S Pocono Mountain Sch. Dist. v. T.D., 597 F. Supp. 3d 709, 80 IDELR ¶ 280 (M.D. Pa. 2022)
- awarded parents—based on reasonable rates, partial success, excessive entries—$127k rather than the $627k requested for attorneys' fees

P Bellflower Unified Sch. Dist. v. Arnold, 586 F. Supp. 3d 1010, 82 IDELR ¶ __ (C.D. Cal. 2022)
- awarded full requested amount of $76k as reasonable and adequately documented

IV. REMEDIES

A. TUITION REIMBURSEMENT

P/S Montgomery Twp. Bd. of Educ. v. S.C. (supra); Cleveland Heights-Univ. Heights City Sch. Dist. v. Boss, 144 F.3d 391, 28 IDELR 32 (6th Cir. 1998). But see Rafferty v. Cranston Pub. Sch. Comm., 315 F.3d 21, 38 IDELR ¶ 31 (1st Cir. 2002); Reese v. Bd. of Educ., 225 F. Supp. 2d 1149, 37 IDELR ¶ 252 (E.D. Mo. 2002); Sylvie M. v. Bd. of Educ., 48 F. Supp. 2d 681, 31 IDELR ¶ 28 (W.D. Tex. 1999); cf. Suzawith v. Green Bay Area Sch. Dist., 132 F. Supp. 2d 718, 33 IDELR ¶ 209 (E.D. Wis. 2000) (equities)
- upheld tuition reimbursement for one of two years, concluding that the private school's failure to comply with the LRE requirement could not be used to bar its appropriateness

S Jones v. Bd. of Educ., 15 F. Supp. 2d 783, 28 IDELR 961 (D. Md. 1998)
- rejected tuition reimbursement, according presumption of correctness to board's proposed placement

P/S Bd. of Educ. v. Ill. State Bd. of Educ., 21 F. Supp. 2d 862, 29 IDELR 32 (N.D. Ill. 1998)
- limited reimbursement to tuition and related educational expenses, not room and board or transportation

(*P*) Carnwath v. Bd. of Educ., 33 F. Supp. 2d 431, 29 IDELR 853 (D. Md. 1998); cf. Sarah M. v. Weast, 111 F. Supp. 2d 695, 33 IDELR ¶ 5 (D. Md. 2000); Mayo v. Balt. City Pub. Sch., 40 F. Supp. 2d 331, 30 IDELR 861 (D. Md. 1999)[46]
- reversed and remanded hearing officer's dismissal of tuition reimbursement case on procedural grounds—school district's procedural safeguards notice (and parents' actual notices via their experienced attorney) was insufficient to trigger the parental duty to notify the district of the unilateral placement

P Connors v. Mills (supra)
- ruling that the parents are entitled to tuition reimbursement on a prospective basis where they cannot afford to "front" the costs, at least where the Burlington prerequisites are met or the district agrees it cannot provide the student with FAPE

P/S Warren G. v. Cumberland Cnty. Sch. Dist., 190 F.3d 80, 31 IDELR ¶ 27 (3d Cir. 1999)
- denied tuition reimbursement for the period before parents requested due process hearing, but rejected reduction due to parents unreasonable conduct for the post-filing period (pre-IDEA 1997)

S Hous. Indep. Sch. Dist. v. Bobby R., 200 F.3d 341, 31 IDELR ¶ 185 (5th Cir. 2000); Linda W. v. Ind. Dept. of Educ., 200 F.3d 504, 32 IDELR ¶ 66 (7th Cir. 1999); see also Wanham v. Everett Pub. Sch., 550 F. Supp. 2d 152, 50 IDELR ¶ 44 (D. Mass. 2008)
- denied tuition reimbursement to parent where the district initially failed to implement portions of the IEP but, after providing compensatory education, it had implemented substantial or significant provisions of the IEP

[46] For subsequent published decisions in Carnwath and Sarah M., see Carnwath v. Grasmick and S.M. v. Weast infra.

S Patricia P. v. Bd. of Educ., 203 F.3d 462, 31 IDELR ¶ 211 (7th Cir. 2000); P.S. v. Brookfield Bd. of Educ., 353 F. Supp. 2d 306, 42 IDELR ¶ 204 (D. Conn. 2005), aff'd mem., 186 F. App'x 79 (2d Cir. 2006); cf. Greenland Sch. Dist. v. Amy N., 358 F.3d 150, 40 IDELR ¶ 203 (1st Cir. 2004) (no request for evaluation or notice of placement – not in special ed); Morgan v. Greenbrier Cnty. Bd. of Educ., 83 F. App'x 566, 40 IDELR ¶ 122 (4th Cir. 2003) (jumped the gun on unilateral placement); M.S. v. Mullica Twp. Bd. of Educ., 485 F. Supp. 2d 555, 47 IDELR ¶ 251 (D.N.J. 2007), aff'd, 263 F. App'x 263, 49 IDELR ¶ 154 (3d Cir. 2008) (failed to consent to reevaluation and cooperate with IEP team); Lauren G. v. W. Chester Area Sch. Dist. (supra) (delayed in making the child available for evaluation); L.K. v. Bd. of Educ., 113 F. Supp. 2d 856, 33 IDELR ¶ 213 (W.D.N.C. 2000) (plus lack of timely notice). But cf. Goldstrom v. District of Columbia, 319 F. Supp. 2d 5, 41 IDELR ¶ 129 (D.D.C. 2004) (requires determination first of whether district violated IDEA)

- denied tuition reimbursement where parents did not allow the district a reasonable opportunity to evaluate their child

P/S Bd. of Educ. v. Kelly E., 207 F.3d 931, 32 IDELR ¶ 62 (7th Cir. 2000)

- IDEA validly abrogated states' 11th Amendment immunity, but it does not entitle a school district to any or all of a tuition reimbursement award from the state

S M.C. v. Voluntown Bd. of Educ., 226 F.3d 60, 33 IDELR ¶ 91 (2d Cir. 2000)

- barred reimbursement, based on equities, for costs of child's psychological treatment where parents failed to raise the issue until after the treatment ended

(*P/S*) James v. Upper Arlington City Sch. Dist., 228 F.3d 764, 33 IDELR ¶ 122 (6th Cir. 2000)

- district's refusal to conduct pre-enrollment IEP after child's unilateral removal was violation of IDEA, but parents could not recover reimbursement for expenses retroactively for the period before they requested the IEP

S M.S. v. Bd. of Educ., 231 F.3d 96, 33 IDELR ¶ 183 (2d Cir. 2000)

- ruled against reimbursement for private SLD school based on objective evidence of progress and LRE as a consideration

P/S Glendale Unified Sch. Dist. v. Almasi, 122 F. Supp. 2d 1093, 33 IDELR ¶ 221 (C.D. Cal. 2000)

- district's offer of multiple placement types rather than specific firm recommendation constituted a denial of FAPE, and mother's withholding of assessment records equitably warranted reduction in reimbursement

S Dale M. v. Bd. of Educ. (supra)

- ruled that district's obligation to provide eligible student with FAPE does not extend to reimbursement of placement that is essentially custodial (i.e., not primarily educational) in nature

S Carnwath v. Grasmick, 115 F. Supp. 2d 577, 33 IDELR ¶ 271 (D. Md. 2000)
- rejected various claims of state education agency and local agency responsibility for IHO's competence, procedural actions, and timeliness and to the IHO's decision that the district's proposed placement offered FAPE to student with SLD [tuition reimbursement case]

S Rome Sch. Comm. v. Mrs. B., 247 F.3d 29, 34 IDELR ¶ 200 (1st Cir. 2001)
- dismissed parents' appeal of lower court's reversal hearing officer's award of tuition reimbursement without requiring, based on circumstances of this case, the parents to pay back the district – lack of showing of appropriateness of residential placement

S Doe v. Metro. Nashville Pub. Sch., 9 F. App'x 453, 34 IDELR ¶ 256 (6th Cir. 2001)
- rejected parents' private-school, child find claim that district should have provided them with individualized information about its special education program, finding instead that the district's child find program sufficed and the delayed evaluation of this out-of-state student excusable, thus rejecting tuition reimbursement

(*P*) Justin G. v. Bd. of Educ., 148 F. Supp. 2d 576, 35 IDELR ¶ 3 (D. Md. 2001)
- preserved for trial whether: 1) lack of IEP denied FAPE; 2) segregated unilateral placement was appropriate; and 3) parents' delay was one-sided bad faith

P Wolfe v. Taconic-Hills Cent. Sch. Dist., 167 F. Supp. 2d 530, 35 IDELR ¶ 186 (N.D.N.Y. 2001)
- rejected review officer's denial of tuition reimbursement because his equitable factors lacked sufficient factual foundation

S Rafferty v. Cranston Pub. Sch. Comm. (supra); cf. Pollowitz v. Weast, 34 IDELR ¶ 171 (4th Cir. 2001) (state law)
- denied tuition reimbursement where parents failed to provide the district with timely notice of their objections to the proposed IEP

P Murphy v. Arlington Cent. Sch. Dist. Bd. of Educ., 297 F.3d 195, 37 IDELR ¶ 62 (2d Cir. 2002), aff'd on other grounds, 548 U.S. 291, 45 IDELR ¶ 267 (2006); Bd. of Educ. v. Schutz, 290 F.3d 476, 36 IDELR 261 (2d Cir. 2002); St. Tammany Parish Sch. Bd. v. La., 142 F.3d 776, 28 IDELR 194 (5th Cir. 1998); Ashland Sch. Dist. v. V.M., 494 F. Supp. 2d 1180, 48 IDELR ¶ 130 (D. Or. 2007); Cnty. Sch. Bd. v. R.T. (supra); L.B. v. Greater Clark Cnty. Sch., 458 F. Supp. 2d 845, 45 IDELR ¶ 273 (S.D. Ind. 2006); Escambia Cnty. Bd. of Educ. v. Benton, 358 F. Supp. 2d 1112, 43 IDELR ¶ 5 (S.D. Ala. 2005); Bd. of Educ. v. O'Shea, 353 F. Supp. 2d 306, 42 IDELR ¶ 202 (S.D.N.Y. 2005); Bd. of Educ. v. Ill. State Bd. of Educ., 10 F. Supp. 2d 971, 28 IDELR 716 (N.D. Ill. 1998); cf. Hous. Indep. Sch. Dist. v. V.P. (supra) (despite insufficiently clear parental hearing request); Mackey v. Bd. of Educ., 386 F.3d 158, 42 IDELR ¶ 2 (2d Cir. 2004) (Mackey III) (as of the due date, not, if later, the actual date, of the state-level administrative decision)
- ruled that district was responsible to "front" the funds necessary for continued private placement once a state-level administrative or judicial decision supports the appropriateness (subject to further review) in a unilateral placement case

S Daniel G. v. Delaware Valley Sch. Dist., 813 A.2d 36, 38 IDELR ¶ 40 (Pa. Commw. Ct. 2002)
- district's proposed program only need be appropriate at the time proposed, even if parent's unilateral placement is superior based on information at the time or subsequently, and the district's good faith efforts count for appropriateness

P/S S.M. v. Weast, 240 F. Supp. 2d 426, 38 IDELR ¶ 96 (D. Md. 2003)
- denied or granted tuition reimbursement depending primarily on whether parents were cooperative in IEP development

P L.M. v. Evesham Twp. Bd. of Educ., 256 F. Supp. 2d 290, 39 IDELR ¶ 124 (D.N.J. 2003); Matthew J. v. Massachusetts Dep't of Educ., 989 F. Supp. 380, 27 IDELR 339 (D. Mass. 1998)
- upheld tuition reimbursement for sectarian school as not violating 1st Amendment establishment clause (or IDEA)

S Berger v. Medina City Sch. Dist., 348 F.3d 513, 40 IDELR ¶ 31 (6th Cir. 2003); see also Tracy v. Beaufort Cnty. Sch. Dist., 335 F. Supp. 2d 675 (D.S.C. 2004)
- denied tuition reimbursement where: 1) private school did not offer any special education for what was the district's deficiency (here, pre-tutoring for child with hearing impairment); and 2) parents did not provide timely notice before enrollment as compared with removal of the child

(*P*) Loren F. v. Atlanta Indep. Sch. Dist., 349 F.3d 1309, 40 IDELR ¶ 34 (11th Cir. 2003)
- reversed and remanded denial of tuition reimbursement, requiring fact-finding as to parents' alleged unreasonableness and systematic multi-step tuition reimbursement analysis

S Ms. M. v. Portland Sch. Comm., 360 F.3d 267, 40 IDELR ¶ 228 (1st Cir. 2004)
- rejected parent's claim that she should be excused from notice requirement for tuition reimbursement based on alleged illiteracy

P Bucks Cnty. Dep't of MH/MR v. De Mora, 379 F.3d 61, 41 IDELR ¶ 233 (3d Cir. 2004)[47]
- tuition reimbursement award, at least under IDEA Part C, may include time expended by parent serving as Lovaas instructor

P Kitchelt v. Weast, 341 F. Supp. 2d 553, 42 IDELR ¶ 48 (D. Md. 2004)
- where district did not have appropriate IEP available at the start of the year, concluded that tuition reimbursement for one half of that year (rather than hearing officer's one month and parents' one year) was equitable based on various factors

[47] For an earlier decision in this case, where the state appellate court concluded that the IFSP failed to provide meaningful progress toward more than one of its goals, see De Mora v. Dep't of Pub. Welfare, 768 A.2d 904, 34 IDELR ¶ 85 (Pa. Commw. Ct. 2001). For a subsequent decision, in which the court concluded that attorneys' fees are not available under Part C, see Bucks Cnty. Dep't of MH/MR v. De Mora, 38 IDELR ¶ 2 (E.D. Pa. 2002).

S Werner v. Clarkstown Cent. Sch. Dist., 363 F. Supp. 2d 656, 43 IDELR ¶ 59 (S.D.N.Y. 2005)
- held that district's failure to provide the parents with adequate opportunity to explore its proposed residential program was a fatal procedural flaw, but that the inappropriateness of the parents' unilateral placement (lack of any special education or related services) and the equities (sham cooperation with district) defeated their claim for tuition reimbursement

P/S Gabel v Bd. of Educ., 368 F. Supp. 2d 313, 43 IDELR ¶ 137 (S.D.N.Y. 2005)
- held that parents sustained their burden of proof as to the appropriateness of the unilateral placement and that the equities supported tuition reimbursement, but related services were solely within the jurisdiction of the IHO and state's commissioner of education, not the courts

P Alfono v. District of Columbia, 422 F. Supp. 2d 1, 45 IDELR ¶ 118 (D.D.C. 2006)
- awarded tuition reimbursement where district had not completed IEP prior to the start of the school year in question

P N. Reading Sch. Comm. v. Bureau of Special Educ. Appeals, 480 F. Supp. 2d 479, 47 IDELR ¶ 215 (D. Mass. 2007)
- upheld tuition reimbursement for private placement of student with SLD based on deference to hearing officer's analysis and relaxed standards at second step

S Gagliardo v. Arlington Cent. Sch. Dist., 489 F.3d 105, 48 IDELR ¶ 1 (2d Cir. 2007)
- where district's proposed placement of student with Asperger Disorder in relatively distant approved private day school was not FAPE in the LRE, at the second step court rejected appropriateness of unilateral placement in neighborhood prep school—despite student's progress—as not targeted to his identified needs

S C.G. v. Five Town Cmty. Sch. Dist., 513 F.3d 279, 49 IDELR ¶ 93 (1st Cir. 2008)
- denied tuition reimbursement for residential placement where the parents' unreasonable obstruction, or Boulwarism, led to district not developing a complete IEP for student with ED

S Matrejek v. Brewster Cent. Sch. Dist., 293 F. App'x 133, 50 IDELR ¶ 271 (2d Cir. 2008); Pinn v. Harrison Cent. Sch. Dist., 473 F. Supp. 2d 477, 47 IDELR ¶ 133 (S.D.N.Y. 2007)
- denied tuition reimbursement where parents failed to prove that their unilateral placement was appropriate (including LRE in second case)

(*P*) M.S. v. Fairfax Cnty. Sch. Bd., 553 F.3d 315, 51 IDELR ¶ 148 (4th Cir. 2009)
- reversed and remanded decision where student made overall progress, requiring the FAPE determination for tuition reimbursement be made on a year-by-year basis

P/S Madison Metro. Sch. Dist. v. P.R., 598 F. Supp. 2d 938, 51 IDELR ¶ 269 (W.D. Wis. 2009)
- ruled that district was obligated to reimburse parents for partial, not full, day program where preschool child with disability received special education services in LRE

P/S Lauren P. v. Wissahickon Sch. Dist., 310 F. App'x 554, 51 IDELR ¶ 206 (3d Cir. 2009)
- upheld compensatory education for part of one year due to insufficient BIP, but denied tuition reimbursement based on inappropriate unilateral placement for the following year

(*P*) Forest Grove Sch. Dist. v. T.A., 557 U.S. 230, 52 IDELR ¶ 151 (2009)[48]
- child's lack of previous enrollment in special education is not a categorical bar to tuition reimbursement instead being one of the various equities

S Mary T. v. Sch. Dist. (supra)
- denied tuition reimbursement where the reason was medical, not educational

(*S*) Richardson Indep. Sch. Dist. v. Michael Z., 580 F.3d 286, 52 IDELR ¶ 277 (5th Cir. 2009)
- remanded to determine whether the hybrid residential placement met this (rather than the Third Circuit's "inextricable intertwined") test: was it 1) essential in order for the disabled child to receive meaningful educational benefit; and 2) primarily oriented toward enabling the child to obtain an education

P JP v. Cnty. Sch. Bd of Hanover cnty., 641 F. Supp. 2d 499, 52 IDELR ¶ 294 (E.D. Va. 2009)
- after again finding denial of FAPE on remand from Fourth Circuit, awarded parents' credit-card interest and transaction fees ($3,000) in addition to tuition reimbursement ($30,000) plus approximately $300,000 in attorneys' fees

P Hogan v. Fairfax Cnty. Sch. Bd., 645 F. Supp. 2d 554, 53 IDELR ¶ 14 (E.D. Va. 2009)
- revised reduction of tuition reimbursement from one-third to one-sixth where parents' obstructionist conduct was balanced against district's ultimate obligation and letting the student "fall off its proverbial radar screen"

S Schoenbach v. District of Columbia, 309 F. Supp. 2d 71, 41 IDELR ¶ 2 (D.D.C. 2004); cf. Sch. Union No. 37 v. Ms. C., 518 F.3d 31, 49 IDELR ¶ 179 (1st Cir. 2008) (laches)
- denied tuition reimbursement where parents did not provide timely notice to district, thereby contributing to inappropriateness of proposed IEP

S S.W. v. N.Y.C. Dep't of Educ., 646 F. Supp. 2d 346 (S.D.N.Y. 2009)
- ducked deciding whether IDEA permits direct tuition payment to the private school retroactively, where the equities, especially lack of timely notice, weighed against the parents

[48] For the subsequent decision after remand, see Forest Grove v. T.A. (infra).

P/S Cone v. Randolph Cnty. Sch. Bd. of Educ., 657 F. Supp. 2d 667, 53 IDELR ¶ 113 (M.D.N.C. 2009)
- ruled that district's proposed placement at high school was not substantively appropriate based on the extensive needs of the student with multiple disabilities, including autism, and that the district's subsequently proposed residential placement was not ready on time, but excepted from reimbursement that part of the delay attributable to the parents' lack of reasonable cooperation

S Ashland Sch. Dist. v. Parents of Student R.J., 588 F.3d 1004, 53 IDELR ¶ 176 (9th Cir. 2009)
- held that private residential program was not necessary for the educational needs of teenager with ADHD and home-related adjustment disorder [tuition reimbursement case]

S Ashland Sch. Dist. v. Parents of Student E.H., 587 F.3d 1175, 53 IDELR ¶ 177 (9th Cir. 2009)
- upheld denial of reimbursement for lack of timely written notice based on respective review standards of hearing officer's decision (de novo) and district court's decision (abuse of discretion)

P A.D. v. Bd. of Educ., 690 F. Supp. 2d 193, 54 IDELR ¶ 9 (S.D.N.Y. 2010)
- ruled, contrary to review officer, that the parents' unilateral placement of child with autism was appropriate (including responsibility for inadequate evaluation being the district's) and that they were entitled to tuition reimbursement

P Bd. of Educ. v. Wilhelmy, 689 F. Supp. 2d 970, 54 IDELR ¶ 58 (N.D. Ohio 2010)
- upheld tuition reimbursement for segregated placement of child with hearing impairment where the mainstreamed placement provided trivial benefit and the intensive services of the restrictive placement helped close the significant gap

S Maynard v. District of Columbia, 701 F. Supp. 2d 116, 54 IDELR ¶ 158 (D.D.C. 2010)
- denied tuition reimbursement where parent acted unreasonably by not allowing district sufficient time to develop IEP before unilaterally placing the child in a private school

P/S R.B. v. N.Y.C. Dep't of Educ., 713 F. Supp. 2d 235, 54 IDELR ¶ 223 (S.D.N.Y. 2010)
- rejected reimbursement for $29,700 prep school placement as inappropriate for child's needs, but ordered reimbursement for $13,800 supplemental special education program because district's lack of proposed placement for child with SLD excused parent's lack of timely notice

P Atlanta Indep. Sch. Sys. v. S.F., 740 F. Supp. 2d 1335, 55 IDELR ¶ 97 (N.D. Ga. 2010)
- ruled that school district is not entitled to recover tuition reimbursement paid due to hearing officer's order that the court subsequently reversed

P Sudbury Pub. Sch. v. Massachusetts Dep't of Elementary & Secondary Educ., 762 F. Supp. 2d 254, 55 IDELR ¶ 284 (D. Mass. 2010)
- evidence that parent's primary motivation was to obtain public funding for her unilateral placement of her child with SLD did not reach level of affirmatively impeding the IEP development, thus not warranting equitable reduction or elimination of tuition reimbursement

S Indianapolis Pub. Sch. v. M.B., 771 F. Supp. 2d 928, 56 IDELR ¶ 8 (S.D. Ind. 2011)
- although the child showed progress, denied tuition reimbursement where the unilateral private placement did not provide special education services

P E.Z.-L. v. N.Y.C. Dep't of Educ. (supra)
- rejected defendant district's unjust enrichment counterclaim, upon tuition reimbursement decision in its favor, for recoupment of tuition paid during stay-put, "given that both binding and nonbinding case law is to the contrary"

S Covington v. Yuba City Unified Sch. Dist., 780 F. Supp. 2d 1014, 56 IDELR ¶ 37 (E.D. Cal. 2011)
- although ruled that district's IEP was not appropriate, denied tuition reimbursement on alternative grounds—inappropriateness of the parents' unilateral placement and their lack of timely notice

P Mr. A. v. N.Y.C. Dep't of Educ., 769 F. Supp. 2d 403, 56 IDELR ¶ 42 (S.D.N.Y. 2011)
- upheld tuition payment relief to parents who met the three-part test for reimbursement but had not paid the tuition due to inability to afford it

P C.B. v. Garden Grove Unified Sch. Dist., 635 F.3d 1155, 56 IDELR ¶ 121 (9th Cir. 2011)
- upheld, as equitable, full reimbursement for private program that met many, but not all of the educational needs of child with autism and ADHD

P C.B. v. Special Sch. Dist. No. 1 (supra)
- LRE does not apply to unilateral parental placements in tuition reimbursement cases

S Forest Grove v. T.A., 638 F.3d 1234, 56 IDELR ¶ 185 (9th Cir. 2011)
- on remand from Supreme Court, denied tuition reimbursement based on the equities (including, primarily in this case, the reason for the unilateral placement—drugs and behavior rather than the student's disability)

S J.G. v. Kiryas-Joel Union Free Sch. Dist., 777 F. Supp. 2d 606, 56 IDELR ¶ 200 (S.D.N.Y. 2011)
- held that district's self-contained program was too restrictive for five-year-old with multiple disabilities, but the unilateral placement at orthodox religious school was also inappropriate (e.g., staff training and curriculum)

S Davis v. Wappingers Cent. Sch. Dist., 772 F. Supp. 2d 500 (S.D.N.Y. 2011), aff'd, 431 F. App'x 12, 56 IDELR ¶ 248 (2d Cir. 2011); cf. R.S. v. Lakeland Cent. Sch. Dist., 471 F. App'x 77, 59 IDELR ¶ 32 (2d Cir. 2012)
- denied tuition reimbursement because, although the district's proposed IEP was procedurally and substantively deficient, the private school program was not appropriate (based on lack of progress and thus not purely prospective evidence)

(*P*) A.G. v. District of Columbia, 794 F. Supp. 2d 133, 57 IDELR ¶ 9 (D.D.C. 2011)
- ruled that IHO must allow the parent flexible opportunity to present costs for reimbursement

S Weaver v. Millbrook Cent. Sch. Dist., 812 F. Supp. 2d 514, 57 IDELR ¶ 126 (S.D.N.Y. 2011)
- upheld, with due deference, review officer's determination that parent's private placement was not appropriate

P/S W.M. v. Lakeland Cent. Sch. Dist., 783 F. Supp. 2d 497, 57 IDELR ¶ 137 (S.D.N.Y. 2011)
- granted partial tuition reimbursement based on balancing of the equities

P P.K. v. N.Y.C. Dep't of Educ., 819 F. Supp. 2d 90, 57 IDELR ¶ 139 (E.D.N.Y. 2011), aff'd in summary order, 526 F. App'x 135, 61 IDELR ¶ 96 (2d Cir. 2013)
- upheld direct retroactive payment of tuition after finding that the proposed IEP for preschool child with autism lacked sufficient specially designed instruction (1:1 ABA) and related services (SLT and parent training per state regulation) and that the parent's unilateral placement was appropriate—affirmance focusing on inadequate 1:1 instruction and discounting retrospective evidence of actual services

P/S Moorestown Twp. Bd. of Educ. v. S.D. (supra)
- pro-rated tuition reimbursement as of the date the district knew it should have provided an IEP

P/S J.S. v. Scarsdale Union Free Sch. Dist. (supra)
- reduced tuition reimbursement by 75% based on detailed balancing of the equities, including parent's lack of timely notice (after ruling that the district's proposed placement was not, and parent's unilateral placement was, appropriate)

S G.R. v. Dall. Sch. Dist., 823 F. Supp. 2d 1120, 57 IDELR ¶ 223 (D. Or. 2011)
- denied tuition reimbursement where the unilateral residential placement was not (and the district's proposal was) appropriate

P Walker v. District of Columbia, 786 F. Supp. 2d 232, 56 IDELR ¶ 258 (D.D.C. 2011)
- ruled that increased tuition was reasonable

(*S*) Dep't of Educ., Haw. v. M.F. (supra)
- remanded for determination of tuition reimbursement, if any, depending on the equities including lack of timely written notice

S M.B. v. Hamilton Se. Sch. (supra)
- concluded that parents' reliance on the general information and good reputation of the unilateral placement (Lindamood Bell Center) and the successful performance of the child upon moving to another district was insufficient to prove appropriateness at the second step of tuition reimbursement analysis

S N.T. v. District of Columbia, 839 F. Supp. 2d 29, 58 IDELR ¶ 69 (D.D.C. 2012)
- denied tuition reimbursement where district could provide an appropriate placement and the unilateral placement, in comparison, was not the LRE

S T.B. v. St. Joseph Sch. Dist., 677 F.3d 844, 58 IDELR ¶ 242 (8th Cir. 2012)
- denied tuition reimbursement where basis of parent's FAPE challenge was the district's failure to develop IEPs after the unilateral placement of the child with autism in a home-based program and, alternatively, their home-based program was not reasonably calculated to meet the child's educational needs (per Department of Mental Health waiver that the program would not supplant district's special education services)

P Ka.D. v. Nest, 475 F. App'x 658, 58 IDELR ¶ 244 (9th Cir. 2012)
- upheld tuition reimbursement for child with autism, concluding that the district's placement in the general education class was a denial of FAPE in the LRE and that the unilateral placement in a private school was appropriate

P/S J.S. v. Scarsdale Union Free Sch. Dist. (supra)
- reduced tuition reimbursement by 75% based on detailed balancing of the equities, including parent's lack of timely notice (after ruling that the district's proposed placement was not, and parent's unilateral placement was, appropriate)

P M.H. v. N.Y.C. Dep't of Educ., 685 F.3d 217, 59 IDELR ¶ 62 (2d Cir. 2012). But cf. Schreiber v. E. Ramapo Cent. Sch. Dist., 700 F. Supp. 2d 529, 54 IDELR ¶ 161 (S.D.N.Y. 2010) (LRE plus other considerations)
- upheld $80,000 tuition reimbursement for kindergarten child with autism based on finding that child needed extensive 1:1 discrete-trial ABA services, which district's proposed 6:1 placement did not provide and which conformed to LRE consideration for the parent's unilateral private placement—deference to IHO rather than review officer where "more thorough and careful reasoning"

P/S G.B. v. Tuxedo Union Free Sch. Dist. (supra); Johnson v. Metro Davidson Cnty. Sch. Sys. (supra)
- reduced reimbursement due to lack of timely notice

P E.S. v. Katonah-Lewisboro Sch. Dist. (supra)
- upheld reimbursement for second year based on progress in private school (and equitable considerations)

P Anchorage Sch. Dist. v. M.P. (supra)
- upheld reimbursement for tutoring expenses for uncooperative, actively litigious parents when district's failure to proceed with IEP process was equally or more inequitable

P/S S.H. v. Plano Indep. Sch. Dist. (supra)
- upheld substantial reduction of tuition reimbursement to a few ESY weeks based on effects of state dual enrollment law and corrective IEP

P Coventry Pub. Sch. v. Rachel J. (supra)
- ruled that out-of-state residential, therapeutic placement was appropriate for student with emotional and learning disabilities in tuition reimbursement context

P Aaron P. v. Haw., Dep't of Educ. (supra)
- upheld appropriateness of autism-specific unilateral placement and non-reduction of tuition reimbursement based on parental conduct (i.e., not unreasonable or in bad faith)

(*P*) Upper Freehold Reg'l Bd. of Educ. v. T.W., 496 F. App'x 238, 59 IDELR ¶ 215 (3d Cir. 2012)
- ruled that impasse after parents' active participation was not grounds for equitable reduction of tuition reimbursement (distinguishing Cape Henlopen), remanding for multi-step determination of whether parents were entitled to this requested remedy

S T.M. v. Kingston City Sch. Dist., 891 F. Supp. 2d 289, 59 IDELR ¶ 254 (N.D.N.Y. 2012)
- ruled that parent was not entitled to tuition reimbursement where 1) student earned, though had not received, high school diploma at the time of the unilateral placement (thus, no longer eligible) and 2) the parents withheld the previous private school's transcript, which unreasonably prevented determination of the student's graduation status

S Lauren G. v. W. Chester Area Sch. Dist. (supra)
- reduced tuition reimbursement under IDEA for three of four months based on equitable considerations—parents' failure to cooperate for timely evaluation (but granted it under § 504 infra)

P Jefferson Cnty. Sch. Dist. R-1 v. Elizabeth E., 702 F.3d 1227, 60 IDELR ¶ 91 (10th Cir. 2012)
- ruled that child with ED was entitled to reimbursement, at Step 2, for the residential placement under "straightforward application" of IDEA for accredited education facility plus mental health support as related services (here not challenged in terms of the medical-services exception)

S D. D-S. v. Southold Union Sch. Dist., 506 F. App'x 80, 60 IDELR ¶ 94 (2d Cir. 2012)
- affirmed denial of tuition reimbursement for child with SLD based on inappropriateness, including restrictiveness, of residential placement

P B.R. v. N.Y.C. Dep't of Educ. (supra)
- ruled that parent was entitled to reimbursement of $92,000 annual tuition for day-school for child with autism based on the equities—although parents made clear their desire to keep the child at the private school, they cooperatively participated at every step of the of the district's belated placement process

S M.N. v. Haw. Dep't of Educ., 509 F. App'x 640, 60 IDELR ¶ 181 (9th Cir. 2013)
- upheld denial of tuition reimbursement for child with autism who received a "meager" educational benefit after a year in a private ABA-based program

P G.G. v. District of Columbia (supra)
- ruled that the parents' unilateral placement in the wake of a child find violation did not equitably eliminate the district's reimbursement obligation at least where the district did not have an appropriate placement at those times

(*P*) Latynski-Rossiter v. District of Columbia, 928 F. Supp.2d 57, 60 IDELR ¶ 215 (D.D.C. 2013). But see Doe v. Westport Bd. of Educ., ___ F. Supp. 3d ___, 76 IDELR ¶ 42 (D. Conn. 2020)
- ruled that transfer of rights at age 18 does not extinguish parent's standing to pursue tuition reimbursement, at least when the claim accrued before the transfer

S L.K. v. Ne. Sch. Dist., 932 F. Supp. 2d 467, 60 IDELR ¶ 286 (S.D.N.Y. 2013)
- upheld denial of tuition reimbursement where the parent did not meet burden of proof that the private school's program was reasonably calculated to meet the child's unique needs based on services and progress

P/S Dep't of Educ. v. S.C. (supra)
- reduced reimbursement 50% due based on the equities—good faith efforts of district and unreasonable conduct of parent that tainted collaborative process, e.g., failed to raise issue of inclusion until the hearing

P Deer Valley Unified Sch. Dist. v. L.P. (supra)
- parent's unilateral placement met Rowley "floor of opportunity" standard

S M.B. v. Minisink Valley Cent. Sch. Dist., 523 F. App'x 76, 61 IDELR ¶ 5 (2d Cir. 2013)
- deferred to SRO's decision that the parents' private placement for the child with ED did not meet the Second Circuit's test for its substantive appropriateness—here lack of individualized program targeted to child's identified needs despite some academic and behavior progress

P D.C. v. N.Y.C. Dep't of Educ. (supra)
- concluded that the private placement was appropriate despite teacher's lack of certification in the school's methodology and that the equities supported reimbursement where parent cooperated throughout the process

S Munir v. Pottsville Sch. Dist. (supra)
- followed Mary T. (supra) to reject entitlement to tuition reimbursement at residential facility where the student required it for mental health needs segregable from his educational needs

P/S Cobb Cnty. Sch. Dist. v. A.V. (supra)
- upheld appropriateness of private placement, although less rigorous and less integrated than district's proposed placement and reduction of reimbursement to one half for tuition and vision therapy where both parties were equally at fault

S D.B. v. N.Y.C. Dep't of Educ. (supra)
- concluded, alternatively to dicta, that parent's unilateral placement was inappropriate because contrary to the IEP the school lacked socialization opportunities, OT/PT, and extensive academic instruction

P F.O. v. N.Y.C. Dep't of Educ. (supra)
- concluded that private day school was appropriate for child with autism and other disabilities and that the equities favored the payment, ordering reimbursement for annual tuition of $92k

P District of Columbia v. Vinyard (supra)
- upheld reimbursement to student's medical malpractice trust fund, which had paid the tuition for the unilateral placement

(*P*) Jenna R.P. v. City of Chi. Sch. Dist. No. 229, 3 N.E.3d 927, 62 IDELR ¶ 180 (Ill. Ct. App. 2013)
- ruled that the parent's unilateral placement need not be in the LRE and need not be FAPE in the sense of the district's earlier-step obligation, remanding for determination of the amount of reimbursement

S K.E. v. District of Columbia (supra)
- ruled that the residential placement for this child with ED was not necessary for educational purposes

P/S M. K-N v. District of Columbia, 35 F. Supp. 3d 1, 62 IDELR ¶ 295 (D.D.C. 2014)
- upheld full reimbursement from unilateral placement to IEP meeting (in the wake of prejudicial procedural violation of failing to hold the IEP meeting and, thus, violating parental participation) but rejected the parents' contention that the IEP meeting was invalid, because it is the issue of a separately filed proceeding

P C.F. v. N.Y.C. Dep't of Educ. (supra)
- deferred to the IHO's determination that the unilateral placement was appropriate and that the equities did not weight against reimbursement

P C.L. v. Scarsdale Union Free Sch. Dist., 744 F.3d 826, 63 IDELR ¶ 1 (2d Cir. 2014)
- ruled that parent's placement was appropriate and that the equities (i.e., parental cooperation) also weighed in favor of reimbursement, reaffirming that LRE was a, but not the, factor in determining appropriateness of the unilateral placement

P Scott v. N.Y.C. Dep't of Educ. (supra)
- upheld, based on equities (e.g., parents' prompt notification and district being less than forthcoming), direct payment to private school where parent bartered for and could not come close to affording the tuition

P/S S.L. v. Upland Unified Sch. Dist., 747 F.3d 1155, 63 IDELR ¶ 32 (9th Cir. 2014)
- ruled that parents' unilateral placement in parochial school was appropriate and they were entitled to reimbursement for the tuition and transportation but not, due to insufficient documentation, the private aides

S Ward v. Bd. of Educ., 568 F. App'x 18, 63 IDELR ¶ 121 (2d Cir. 2014)
- upheld inappropriateness of unilateral placement based on 1) unsuccessful placement to lower level math class rather than providing specially designed instruction and 2) lack of behavioral goals/progress

P C.U. v. N.Y.C. Dep't of Educ. (supra)
- upheld tuition reimbursement based on equities—parents' notice was one day late but attributable to district conduct

P M.M. v. N.Y.C. Dep't of Educ. (supra)
- ruled that the residential placement was appropriate, with LRE as only one factor and with the psychiatric treatment facilitating the student's education; the lack of notice was not materially inequitable in this case; and the grandparent's loan did not preclude the remedy

P V.S. v. N.Y.C. Dep't of Educ. (supra)
- ruled that the unilateral placement met the applicable standard based on student's progress and that the equities favored reimbursement

(*P*) E.M. v. N.Y.C. Dep't of Educ. (supra)
- ruled that parent has standing to seek reimbursement where "as a result of the [district's] alleged failure to provide a FAPE, [the parent] has incurred a financial obligation to [the private school] under the [loan receipt-type] terms of the enrollment contract"

P R.L. v. Miami Dade Cnty. Sch. Bd. (supra)
- upheld full reimbursement to 1) parents for home-based 1:1 program for high school student with autism under the specific circumstances (e.g., certified special education teacher) despite shortcomings in socialization, and 2) Medicaid for OT and SLT (not medical in nature regardless of label)—including revisitation of predetermination in determining the equities

P Blount Cnty. Bd. of Educ. v. Bowens (supra)
- excused timely notice requirement where IEP team had acquiesced to the placement

S N.W. v. Boone Cnty. Bd. of Educ., 763 F.3d 611, 63 IDELR ¶ 275 (6th Cir. 2014)
- ruled that IDEA prohibits tuition reimbursement where the district offered FAPE and the parent unilaterally placed the child

S Pinto v. District of Columbia, 69 F. Supp. 3d 275, 64 IDELR ¶ 103 (D.D.C. 2014)
- ruled that parents' challenge to IHO's ruling that the unilateral placement was not appropriate (because it was not the LRE for the individual child) focused on the inadequacy of the district's proposed IEP, which is a separate matter and thus insufficient to override the IHO's ruling

S Hardison v. Bd. of Educ. of Oneonta City Sch. Dist., 773 F.3d 372, 64 IDELR ¶ 161 (2d Cir. 2014)
- rejecting the IHO's decision in favor of reimbursement at residential placement, deferring instead to the review officer's reasoned conclusion that "the hearing record lacks sufficient information regarding how [the private placement] provided educational instruction specially designed to meet the unique needs of the student"

S Fort Bend Indep. Sch. Dist. v. Douglas A., 601 F. App'x 250, 65 IDELR ¶ 1 (5th Cir. 2015)
- denied reimbursement for residential placement where the placement was for therapeutic reasons (suicide attempt and drug problem) and the child's progress at the facility was primarily not judged by educational achievement

S W.D. v. Watchung Hills Reg'l High Sch. Bd. of Educ. (supra); see also Wood v. Katy Indep Sch. Dist. (supra)
- denied tuition reimbursement for lack of parents' timely notice of unilateral placement

S A.H. v. Independence Sch. Dist., 466 S.W.3d 17, 65 IDELR ¶ 149 (Mo. Ct. App. 2015)
- denied jurisdiction for tuition reimbursement where parent removed student to private school before filing for due process—based on OSEP-criticized and outlier Eighth Circuit decision in Thompson v. Bd. of Special Sch. Dist., 144 F.3d 574 (8th Cir. 1998)

S H.L. v. Downingtown Area Sch. Dist. (supra)
- denied reimbursement based on minimal progress at private placement on tests in areas of need of student with SLD

S Doe v. E. Lyme Bd. of Educ. (supra)
- ruled that the private placement in a religious school, which provided small classes and modified grades but no specialized services itself (as compared with those from outside providers), was not tailored to the individual needs of this child with autism

P/(S) Leggett v. District of Columbia (supra)
- ruled that parent was entitled to tuition reimbursement for a residential program that was necessary for emotional but not medical reasons in the absence of any identified nonresidential placement on the record that would meet the student's needs, but not for any specific components of the program, such as extracurricular activities or horseback riding, shown not to be primarily oriented to her needs—and the balance of the equities favored the parent here

P Norristown Area Sch. Dist. v. F.C. (supra)
- upheld appropriateness of private school and consideration of transition back to public school as equitable factor in determining whether to reduce tuition reimbursement (here too harsh)

P T.K. v. N.Y.C. Dep't of Educ. (supra)
- ruled that private placement, although not including multiple related services appropriate to the child with autism, met the relaxed overall standard of reasonably calculated for benefit, and the parents' payment of precautionary deposit prior to the IEP meeting was not inequitable where its absence would imperil the child's opportunity if the proposed IEP was not appropriate

S Rockwall Indep. Sch. Dist. v. M.C., 816 F.3d 329, 67 IDELR ¶ 108 (5th Cir. 2016)
- finding it unnecessary to decide whether district offered FAPE, denied tuition reimbursement parents based on parents' unreasonable, all-or-nothing position that their high schooler with ED should be re-enrolled in the private placement or else

S E.T. v. Bureau of Special Educ. Appeals, 169 F. Supp. 3d 221, 67 IDELR ¶ 118 (D. Mass. 2016)
- denied tuition reimbursement for unilateral placement of highly intelligent student with Asperger disorder based on equities—district timely provided the parents with a list of schools that could have potentially provided the student with a FAPE, yet the parents—not the district—were the cause of delay prior to the unilateral placement

P/S Dall. Indep. Sch. Dist. v. Woody (supra)
- limited reimbursement for the last quarter of the year based on the accrual of the lack of timely offer of FAPE

P J.C. v. Katonah-Lewisboro Sch. Dist. (supra); J.E. v. N.Y.C. Dep't of Educ. (supra); S.Y. v. N.Y.C. Dep't of Educ. (supra); E.M. v. N.Y.C. Dep't of Educ. (supra); T.Y. v. City Sch. Dist. of N.Y.C. (supra); L.R. v. City Sch. Dist. of N.Y.C. (supra); W.S. v. City Sch. Dist. of N.Y.C. (supra); S.C. v. Katonah-Lewisboro Cent. Sch. Dist. (supra); S.B. v. N.Y.C. Dep't of Educ. (supra); W.W. v. N.Y.C. Dep't of Educ. (supra); E.H. v. N.Y.C. Dep't of Educ. (supra); GB v. N.Y.C. Dep't of Educ. (supra); FB v. N.Y.C. Dep't of Educ. (supra); K.R. v. N.Y.C. Dep't of Educ. (supra); P.L. v. N.Y.C. Dep't of Educ. (supra); T.K. v. N.Y.C. Dep't of Educ. (supra)
- ruled that private school met reasonably-calculated standard for the student with autism and that the equities favored reimbursement

(*P/S*) L.K. v. N.Y.C. Dep't of Educ., 674 F. App'x 100, 69 IDELR ¶ 90 (2d Cir. 2017)
- upheld that parents are not entitled to reimbursement for supplemental services that were not necessary, i.e., services beyond FAPE, but remanded for determination of related reimbursement issue, including full reasonable rate for parent even if more than it would have cost the district in the first place

S M.G. v. District of Columbia, 246 F. Supp. 3d 1, 69 IDELR ¶ 246 (D.D.C. 2017)
- ruled that unilateral placement met the substantive standard for FAPE even though it did not provide special education services, especially in the light of no available alternatives, and the 10-day notice provision did not apply because the district had already expelled the student

(*P*) J.T. v. Dep't of Educ., Haw., 695 F. App'x 227, 70 IDELR ¶ 144 (9th Cir. 2017)
- ruled that "hindsight"-based lack of progress at the unilateral placement is an equitable consideration but not part of the separable issue of the appropriateness of said placement in the multi-step test for tuition reimbursement

P Sch. Dist. of Phila. v. Kirsch (supra)
- ruled that equities supported reimbursement award and that the award should be extended to include aide and OT/SLT that parents provided to make the private school program appropriate

P L.H. v. Hamilton Cnty. Dep't of Educ. (supra)
- ruled that parents were entitled to reimbursement for unilateral placement of student with ID at a Montessori School, concluding that the program was sufficiently structured for the child's needs and that Endrew F. is the standard for appropriateness of the private placement

P Steven R.F. v. Harrison Sch. Dist. No. 2, 924 F.3d 1309, 74 IDELR ¶ 122 (10th Cir. 2019); see also Nathan M. v. Harrison Sch. Dist. No. 2, 942 F.3d 1034, 75 IDELR ¶ 179 (10th Cir. 2019)
- ruled that district's appeal of hearing officer's tuition reimbursement order, which was based on district's placement process violations depriving parents of requisite participation opportunity, was moot in light of district's payment of tuition per stay-put

S W.A. v. Hendrick Hudson Cent. Sch. Dist. (supra)
- rejected appropriateness of small boarding school for gr. 9 and 10 for student with OHI based on migraines and related psychological issues (deference to expertise of SRO)

P Edmonds Sch. Dist. v. A.T., 780 F. App'x 491, 74 IDELR ¶ 218 (9th Cir. 2019)
- upheld tuition reimbursement award for residential placement of student with severe mental health problems, concluding that he needed this placement for educational benefit and that it qualified as an educational placement

S R.H. v. Bd. of Educ. Saugerties Cent. Sch. Dist., 776 F. App'x 719, 74 IDELR ¶ 221 (2d Cir. 2019)
- rejected appropriateness of private school for grade 7 student with autism and anxiety disorder due to its failure to offer services designed to meet his unique needs despite the limited evidence of social, emotional, and attendance improvement

P D.L. v. St. Louis City Sch. Dist. (supra)
- ruled that unilateral placement that provided sensory and speech support, weekly OT, autism-focused services and staff to fourth grader with autism and resulted in his academic progress was appropriate and the district's correction of the substantive defects in its proposed placement did not end the reimbursement relief w/o notice to the parents via an IEP meeting

P A.N. v. Bd. of Educ. of Iroquois Cent. Sch. Dist. (supra)
- affirmed award of tuition reimbursement for sixth grader with dyslexia, upholding rulings that the unilateral placement was appropriate and the equities were in favor of the parents

S J.F. v. Byram Twp. Bd. of Educ., 812 F. App'x 79, 76 IDELR ¶ 176 (3d Cir. 2020)
- denied tuition reimbursement based on equities, specifically parents' lack of timely written notice and their unreasonable conduct

S Spring Branch Indep. Sch. Dist. v. O.W. (supra)
- ruled that tuition reimbursement may not extend to period that did not amount to denial of FAPE

P S.S. v. Bd. of Educ. of Harford Cnty. (supra)
- upheld tuition reimbursement based on needed 12-month program and undisputed progress of the child

P Bd. of Educ. of Wappingers Cent. Sch. Dist. v. D.M., 831 F. App'x 29, 78 IDELR ¶ 2 (2d Cir. 2020)
- upheld appropriateness of private placement based on the reasonable calculation, not perfection, test

(*P*) K.E. v. N. Highlands Reg'l Bd. of Educ., 840 F. App'x 705, 78 IDELR ¶ 3 (3d Cir. 2020)
- remanded tuition reimbursement denial for (a) insufficient analysis for underlying FAPE ruling, (b) questionable application of 10-day notice limitation, and (c) unclear parent unreasonableness finding

P Bd. of Educ. of Yorktown Cent. Sch. Dist. v. C.S., 990 F.3d 152, 78 IDELR ¶ 91 (2d Cir. 2021)
- ruled that, contrary to the dicta in R.E., the IDEA does not permit a school district to amend an IEP unilaterally during the 30-day resolution period, particularly in a tuition reimbursement case

P Perkiomen Valley Sch. Dist. v. R.B. (supra)
- ruled that (a) transition program at a university was not primarily postsecondary and, thus, was not disqualified, and (b) parent was entitled to full reimbursement, including the equities of parental participation and the expenses for the residential component and travel as necessary for FAPE

P/S M.D. v. Colonial Sch. Dist. (supra)
- awarded parents one of two years of $80,000 tuition reimbursement upon concluding that the unilateral placement was appropriate but the parents did not cooperate sufficiently

P Wake Cnty. Bd. of Educ. v. S.K. (supra)
- awarded full reimbursement ($66K+ $160K in attorneys' fees) for private school that did not offer special education but met the child's needs for small setting and particular accommodations

S R.G. v. N.Y.C. Dep't of Educ., 585 F. Supp. 3d 524, 81 IDELR ¶ 84 (S.D.N.Y. 2022)
- upheld, based on balance of the equities, denial of the two months of tuition reimbursement at issue

P Falmouth Sch. Dep't v. Doe (supra)
- upheld full reimbursement based the unilateral placement's provision of some element of the special education services missing from the public alternative so that the placement is reasonably calculated to enable the child to receive educational benefit regardless of LRE

P/S Doe v. Newton Pub. Schs. (supra)
- upheld reimbursement award for the three years of tuition without the travel and boarding costs of the unilateral residential placement, because student needed therapeutic but not residential placement

(*P*) A.C. v. Henrico Cnty. Bd. of Educ., __ F. Supp. 3d __, 82 IDELR ¶ 3 (E.D. Va. 2022); Navarro-Villanueva v. Puerto Rico, __ F. Supp. 3d __, 81 IDELR ¶ 253 (D.P.R. 2022)
- denied dismissal of parent's appeal of IHO decision that found denial of FAPE but rejected tuition reimbursement at appropriateness step for private school – aggrieved party

B. COMPENSATORY EDUCATION

(*P*) Ridgewood Bd. of Educ. v. N.E. (supra)
- compensatory education requires an inappropriate education, not necessarily an inappropriate IEP, and it accrues where the district knows or should know that the child is being denied FAPE

P Wayne Cnty. Reg'l Educ. Serv. Agency v. Pappas, 56 F. Supp. 2d 807, 30 IDELR 868 (E.D. Mich. 1999)
- upheld compensatory education award beyond age 21 for FAPE denial prior to age 21

(*P*) Sabatini v. Corning-Painted Post Area Sch. Dist., 78 F. Supp. 2d 138, 31 IDELR ¶ 183 (W.D.N.Y. 1999)
- granted preliminary injunction to require, as compensatory education, district to "front" tuition at college for student with multiple disabilities to obtain a high school diploma

S Wenger v. Canastota Cent. Sch. Dist., 979 F. Supp. 147, 26 IDELR 1128 (N.D.N.Y. 1997), aff'd, 181 F.3d 84, 32 IDELR ¶ 64 (2d Cir. 2000)
- denied compensatory education under IDEA where denial of FAPE (lack of implementation) did not result in regression (equitable remedy—deference to state-level review officer)

P Unified Sch. Dist. No. 1 v. Conn. Dep't of Educ., 780 A.2d 154, 35 IDELR ¶ 30 (Conn. Ct. App. 2001)
- upheld award of one year of compensatory education, rejecting laches (where no prejudice), incompetency and evidentiary defenses

(*P/S*) Montour Sch. Dist. v. S.T., 805 A.2d 29, 37 IDELR ¶ 93 (Pa. Commw. Ct. 2002)
- mixed results for whether the limitations period for compensatory education is one year statute for filing for due process hearing (except two years where mitigating circumstances) or that it does not being to run until child reaches age 21

P/S Susquehanna Twp. Sch. Dist. v. Frances J., 823 A.2d 249, 39 IDELR ¶ 5 (Pa. Commw. Ct. 2003)
- upheld compensatory education at post-graduation college prep school for failure to implement transition plan calling for application to said school, but modified the award from open-ended to one-year period on grounds of exceeding the denial of FAPE

(*P*) Lewis Cass Intermediate Sch. Dist. v. M.K., 290 F. Supp. 2d 832, 40 IDELR ¶ 8 (W.D. Mich. 2003)
- parents' move to residency elsewhere does not moot their claim for compensatory education for alleged denial of FAPE when they were residents of defendant district

P Mr. R. v. Me. Sch. Admin. Dist. No. 35, 295 F. Supp. 2d 113, 40 IDELR ¶ 93 (D. Me. 2003)
- ruled that compensatory education applies to stay-put where denial of FAPE

P Evanston Cmty. Consol. Sch. Dist. No. 65 v. Michael M., 356 F.3d 798, 40 IDELR ¶ 175 (7th Cir. 2004)
- upheld compensatory education and OT award for lack of licensed occupational therapist

(*P*) Barnett v. Memphis City Sch. Sys., 294 F. Supp. 2d 924, 42 IDELR ¶ 56 (W.D. Tenn. 2003)
- rejected mootness of compensatory education claim where student, now age 24, had received special, but not general, education diploma (and the district allegedly forced him out, thus engaging in disability harassment)

P Argueta v. District of Columbia, 355 F. Supp. 2d 408, 42 IDELR ¶ 268 (D.D.C. 2005)
- upheld three-year compensatory education for district's failure to provide the special education and related services in the child's IEP

S Shawsheen Valley Reg'l Vo-Tech. Sch. Dist., 367 F. Supp. 2d 44, 43 IDELR ¶ 109 (D. Mass. 2005)
- compensatory education is not available for purely or de minimis procedural violations

S Park v. Anaheim Union High Sch. Dist., 464 F.3d 1025, 46 IDELR ¶ 151 (9th Cir. 2006)
- upheld compensatory education for training for teachers to meet student's particular needs where speculative that student would benefit from such services directly

P Keystone Cent. Sch. Dist. v. E.E., 438 F. Supp. 2d 519, 46 IDELR ¶ 16 (E.D. Pa. 2006)
- upheld compensatory education award that was on a day-for-day basis and that left implementation to the parents' choices

(*P*) Bd. of Educ. v. L.M., 478 F.3d 307, 47 IDELR ¶ 122 (6th Cir. 2007)[49]; Reid v. District of Columbia, 401 F.3d 516, 43 IDELR ¶ 32 (D.C. Cir. 2005); see also Branham v. District of Columbia, 427 F.3d 7, 44 IDELR ¶ 149 (D.C. Cir. 2005); Thomas v. District of Columbia, 407 F. Supp. 2d 102, 44 IDELR ¶ 246 (D.D.C. 2005); B.C. v. Penn Manor Sch. Dist., 906 A.2d 642, 46 IDELR ¶ 135 (Pa. Commw. Ct. 2006)
- rejected mechanical "cookie cutter" counting approach for compensatory education (here one-hour per day for resource room denial), requiring instead equitable approach qualitatively based on "specific educational deficits resulting from [the child's] loss of FAPE"

P/S Heather D. v. Northampton Area Sch. Dist., 511 F. Supp. 2d 549, 48 IDELR ¶ 67 (E.D. Pa. 2007)[50]
- ruled in favor of an education fund of $182,000, representing 2,428 hours (hour-for-hour partial approach) x $75 (based on parent- rather than district-determined rate), whereas parents had sought approximately 7,000 hours x $132 per hour

[49] Upon remand, the federal district court ordered the review officer—not the state education department, which the parents requested—to determine the amount of services owed to the child per the Sixth Circuit's ruling. Bd. of Educ. v. L.M., 48 IDELR ¶ 97 (E.D. Ky. 2008).

[50] In a subsequent, unpublished decision, the court approved an attorneys' fees award, reduced from the requested $175,000 to $147,000.

P Draper v. Atlanta Indep. Sch. Dist., 518 F.3d 1275, 49 IDELR ¶ 211 (11th Cir. 2008)
- upheld, as compensatory education under qualitative standard, approximately five years of private placement at its full cost ($34,000 per year plus any increases to $38,000 per year) based on denial of FAPE to student with dyslexia

P P. v. Newington Bd. of Educ. (supra). But cf. J.A. v. E. Ramapo Cent. Sch. Dist. (supra) (gross-violation standard applies generally)
- upheld compensatory education award of inclusion consultant for LRE violation, interpreting Second Circuit's gross violation standard to apply only to plaintiff students who are, at the remedial stage, over age 21

S Garcia v. Bd. of Educ., 520 F.3d 1116 (10th Cir. 2008)
- upheld, as within equitable discretion of lower court, denial of compensatory education to student who had dropped out and was unlikely to take advantage of the services

(*P*) Tereance D. v. Sch. Dist. of Phila., 570 F. Supp. 2d 739, 50 IDELR ¶ 248 (E.D. Pa. 2008)
- held that the two-year limitation period under IDEA 2004, in this case for compensatory education, does not apply to claims arising, or accruing, before the July 1, 2005 effective date of these amendments regardless of whether the parents filed for a due process hearing after that date

P/S Streck v. Bd. of Educ., 642 F. Supp. 2d 105, 52 IDELR ¶ 285 (N.D.N.Y. 2009), modified, 408 F. App'x 411, 55 IDELR ¶ 216 (2d Cir. 2010)
- ordered escrow account for $37,778 for compensatory reading services in addition to partial reimbursement for tuition (and laptop) at postsecondary institution for reading and writing remediation—in contrast with the parents' requested past and prospective reimbursement of $150,000 for tuition, room and board

P/S Hogan v. Fairfax Cnty. Sch. Bd. (supra)
- ruled that the balancing of the equities applies in compensatory education cases, here revising the award from nothing to six weeks of summer programming for a year's denial of FAPE

S P.P. v. W. Chester Area Sch. Dist. (supra)
- ruled that compensatory education is not available for a unilaterally placed private school student

(*P*) Stanton v. District of Columbia, 680 F. Supp. 2d 201, 53 IDELR ¶ 314 (D.D.C. 2010)
- upheld child's entitlement to compensatory education for failure to implement counseling and tutoring provisions of IEP but remanded to hearing officer to justify the amount of the award (via qualitative approach)

P/S Breanne C. v. S. York Cnty. Sch. Dist., 732 F. Supp. 2d 474, 54 IDELR ¶ 47 (M.D. Pa. 2010)
- upheld reduction of compensatory education award from three hours to one hour per day for child with SLD based on the extent of her special education program

P Ferren C. v. Sch. Dist. of Phila., 612 F.3d 712, 54 IDELR ¶ 274 (3d Cir. 2010)
- upheld district court's order, as unusual equitable remedy, for the school district to provide the three-year entitlement of compensatory education of 23-year-old student in the form of an IEP (with dicta suggesting qualitative approach)

P/S Steven I. v. Cent. Bucks Sch. Dist., 618 F.3d 411, 55 IDELR ¶ 35 (3d Cir. 2010)
- held that IDEA 2004 statute of limitations applies to cases filed before effective date of these amendments

(*P/S*) Banks v. District of Columbia, 720 F. Supp. 2d 83, 54 IDELR ¶ 282 (D.D.C. 2010)[51]; see also Walker v. District of Columbia (2011 – supra)
- remanded to IHO to determine whether implementation failure met applicable standard for denial of FAPE and, if so, to apply qualitative approach for reasonably crafting award, including additional fact-finding if necessary

P/S Dracut Sch. Comm. v. Bureau of Special Educ. Appeals, 737 F. Supp. 2d 35, 55 IDELR ¶ 66 (D. Mass. 2010)
- upheld entitlement to compensatory education, including consultant services, for denial of transition services before issuance of diploma to child with Asperger Disorder, but not as extension of eligibility after diploma and not to hire parents' experts as the consultants

S Gill v. District of Columbia, 751 F. Supp. 2d 104, 55 IDELR ¶ 191 (D.D.C. 2010), further proceedings, 770 F. Supp. 2d 112, 56 IDELR ¶ 129 (D.D.C. 2011); cf. Henry v. District of Columbia, 750 F. Supp. 2d 94, 53 IDELR ¶ 187 (D.D.C. 2010) (seemingly rejecting burden of proof rationale for denying compensatory education, remanded to hearing officer for crafting an award)
- after IHO found denial of FAPE, but refused compensatory education based on parents' failure to provide sufficient factual foundation, court allowed parent limited opportunity via its authority to hear additional evidence; however, the additional evidence was "sketchy and patently insufficient"

P B.H. v. W. Clermont Bd. of Educ. (supra)
- upheld compensatory education award of two years of PT and OT and, retrospectively, two of his three years of private placement

[51] After remind, the court upheld the IHO's ruling that the district's incomplete implementation did not constitute the requisite material failure to establish denial of FAPE. Banks v. District of Columbia, 811 F. Supp. 2d 242 (D.D.C. 2011).

S French v. N.Y. State Educ. Dep't, 476 F. App'x 468, 57 IDELR ¶ 241 (2d Cir. 2011)
- rejected compensatory education where gross denial of FAPE was due to parent's obstructionist actions rather than district's procedural violations

(*S*) Dep't of Educ., Haw. v. M.F. (supra)
- remanded to apply the equities to compensatory education (not only tuition reimbursement)

P Brooks v. District of Columbia, 841 F. Supp. 2d 253, 58 IDELR ¶ 103 (D.D.C. 2012)
- obligation to provide compensatory education continues, rather than is moot, upon the student's graduation

S T.G. v. Midland Sch. Dist. (supra)
- upheld specified reading/writing services, including order for evaluator, under deferential qualitative approach (but parent challenged the award, seeking more)

P Woods v. Northport Pub. Sch. (supra)
- upheld 758-hour compensatory education award for two-year denial of FAPE (12 hours for each of 64 weeks of denial) for the child to "reasonably recover" in light of potentially closing window of opportunity, plus upheld requirement that the delivery be via a teacher with autism certification due to this provision in the IEP

P Ravenswood City Sch. Dist. v. J.S. (supra)
- upheld, as compensatory education, placement at unapproved private school for three years, including summers, and 600 hours of tutoring for three-year denial of FAPE

P Cousins v. District of Columbia, 880 F. Supp. 2d 142, 59 IDELR ¶ 125 (D.D.C. 2012)
- reversed IHO's award of no compensatory education, concluding instead that the experts had provided sufficient evidence for each of the Reid factors for the qualitative approach

(*P*) D.F. v. Collingswood Borough Bd. of Educ., 694 F.3d 488, 59 IDELR ¶ 211 (3d Cir. 2012)
- ruled that move out of state does not moot the issue of compensatory education, but remanded the matter to determine whether denial of FAPE and, if so, amount of compensatory education[52]

(*P*) L.R.L. v. District of Columbia, 896 F. Supp. 2d 69, 59 IDELR ¶ 273 (D.D.C. 2012)
- ruled that student moving to another district does not moot the claim for compensatory education against the original district

[52] After the remand, the Third Circuit ended the "tortured proceedings" by upholding the rejection of compensatory education because it had already decided the merits of the first filing for due process and the insufficiency of the second filing. D.F. v. Collingswood Borough Bd. of Educ., 596 F. App'x 49, 64 IDELR ¶ 261 (3d Cir. 2015).

P Reg'l Sch. Unit. 51 v. Doe (supra)
- upheld one-year award of tuition reimbursement as compensatory education at residential placement for denial of FAPE in earlier years

S Phillips v. District of Columbia, 932 F. Supp. 2d 42, 60 IDELR ¶ 277 (D.D.C. 2013)
- upheld denial of compensatory education after extensive and expensive remand process based on ultimate conclusion that the child's "current difficulties do not stem from the original denial of a FAPE"

P Tyler W. v. Upper Perkiomen Sch. Dist. (supra)
- ruled that child was entitled to full days while the child was in partial hospitalization due to entire lack of implementation of IEP, resulting in 420 hours of compensatory education, and no reduction for reasonable rectification where the district knew well in advance of the violation

(*S*) District of Columbia v. Masucci, 13 F. Supp. 3d 33, 62 IDELR ¶ 228 (D.D.C. 2014)
- granted stay of IHO's order of private school placement as compensatory education due to likelihood of success on appeal that it did not meet qualitative approach

(*P*) Fullmore v. District of Columbia, 40 F. Supp. 3d 174, 63 IDELR ¶ 94 (D.D.C. 2014)
- ruled that IHO's granting of parent's other requested remedy of an IEE does not moot the claim for compensatory education to the extent that the challenged reevaluation was inappropriate and resulted in denial of FAPE

(*P*) Morris v. District of Columbia, 38 F. Supp. 3d 57, 63 IDELR ¶ 99 (D.D.C. 2014)
- ruled that student's placement in juvenile detention center does not moot the claim for compensatory education

S R.L. v. Miami Dade Cnty. Sch. Bd. (supra)
- upheld denial of compensatory education based on equitable factor of parents' failure to consider less restrictive unilateral placement

(*P*) D.E. v. Cent. Dauphin Sch. Dist., 765 F.3d 260, 64 IDELR ¶ 1 (3d Cir. 2014)
- ruled that IDEA provides avenue for enforcement of IHO decision in favor of parent (here, 10,000 hours of compensatory education) without exhaustion

P Jana K. v. Annville-Cleona Sch. Dist. (supra)
- applied full-day quantitative approach as default for qualitative approach

(*S*) Cupertino Union Sch. Dist. v. K.A. (supra)
- vacated and remanded IHO's award of award of "essentially day-for-day compensatory education to achieve an undefined level of 'educational progress' [that] lacks support in the evidence"—recommending possible delegation to IEP team and focus on child's present needs and warranted rectification[53]

(*P*) Copeland v. District of Columbia, 82 F. Supp. 3d 462, 65 IDELR ¶ 71 (D.D.C. 2015)
- ruled that IHO did not provide sufficient explanation for his compensatory education calculus

S Kelsey v. District of Columbia, 85 F. Supp. 3d 327, 65 IDELR ¶ 92 (D.D.C. 2015)
- rejected parent's challenge to IHO's compensatory education award of "1.5 hours of services for every hour of services she missed, provided by a professional speech language therapist who has experience with working with older students"—IHO's decision sufficiently explained in accordance with Reid qualitative approach

(*P*) Boose v. District of Columbia, 786 F. 3d 1054, 65 IDELR ¶ 191 (D.C. Cir. 2015)
- differentiating jurisdiction from the merits and retrospective from prospective relief, ruled that parent's child find claim for compensatory education is not moot where district eventually conducted the evaluation, found the child eligible, and provided an IEP

P Brown v. District of Columbia (supra)
- at least under the qualitative approach, compensatory education may be in the form prospective private placement in appropriately equitable circumstances

(*P*) B.D. v. District of Columbia, 817 F. 3d 792, 67 IDELR ¶ 135 (D.C. Cir. 2016)
- remanding IHO's compensatory education award of OT as not either addressing educational losses or providing reasoned explanation for failing to do so, with suggestion of an order for assessment if needed (and for updating or supplementing the award based on the assessment

(*P*) Lopez-Young v. District of Columbia, 211 F. Supp. 3d 42, 68 IDELR ¶ 186 (D.D.C. 2016)
- at least under the qualitative approach, the IHO has the authority to order an IEE to provide an assessment of the amount of compensatory education but the parent has the burden to show the necessity of this IEE

[53] More specifically, the court instructed: "the ALJ can develop evidence of [the child's] present needs and consider to what extent those needs were affected by the District's actual provision of instruction services from [for the period directly before the denial of FAPE via material non-implementation], and to what extent any regression is attributable to the failure of implementation as opposed to other factors such as [the child's] physical health or his removal from the school active learning environment."

P/S Brandywine Heights Area Sch. Dist. v. B.M. (supra)
- expanded start of compensatory education a few weeks to beginning of kindergarten and upheld its ending date a few weeks after revised BIP but rejected extending the award to the subsequent period because IEP then met the applicable substantive standard

P Doe v. E. Lyme Bd. of Educ., 262 F. Supp. 3d 11, 70 IDELR ¶ 99 (D. Conn. 2017)
- ruled that compensatory education services order (by Second Circuit) for "analogous services" referred to those based on the student's current needs rather than being limited to those in the child's prior, disputed IEP and that dollar-for-dollar Reid calculation for stay-put violation amounted to net award, after reimbursement, of $203.5K in an escrow account

(*P*) Butler v. District of Columbia, 275 F. Supp. 3d 1, 70 IDELR ¶ 149 (D.D.C. 2017)
- rejecting IHO's refusal to award compensatory education based on insufficient expert evidence, remanding to the IHO the requisite qualitative calculation via (a) allowing the parties to submit additional evidence and/or (b) ordering assessments needed to make this determination

(*P*) S.C. v. Chariho Reg'l Sch. Dist. (supra)
- after upholding IHO ruling that parents' proposed residential placement was not sufficiently tailored to the individual needs of this middle school student with ED, remanded to the IHO to determine the amount of compensatory education that is due taking into account the two periods of denial of FAPE and the conduct of the parties (including parents' walking out of IEP meeting with their attorney)

P/S Somberg v. Utica Cmty. Sch., 908 F.3d 162, 73 IDELR ¶ 88 (6th Cir. 2018)
- upheld award of 1200 hours for one-year denial of FAPE calculated via special master and, based on mutual hostility, payable via him rather than provided directly by district and upheld rejection of extending the award to the previous three years

(*P*) Z.J. v. Bd. of Educ. of Chi. Dist. 299 (supra)
- remanded to determine the amount of compensatory education, if any, to which the student is entitled per the qualitative approach for the child find violation

S Morales v. Newport-Mesa Unified Sch. Dist., 768 F. App'x 717, 74 IDELR ¶ 91 (9th Cir. 2019)
- upheld, against the appeal of the parents of a high school senior who qualified as TBI as a result of a car accident, the hearing officer's decision that awarded only limited compensatory education (and ruled that waiver of graduation requirements was beyond IDEA's adjudicative jurisdiction)

P Preciado v. Bd. of Educ. of Clovis Mun. Sch. (supra)
- upheld IHO award of one year of compensatory education for two-year denial of FAPE (in response to district's appeal, seeking none), concluding that detailed analysis of the denial of FAPE sufficed as the requisite explanation

P R.S. v. Bd. of Directors of Woods Charter Sch. Co., 806 F. App'x 229, 76 IDELR ¶ 205 (4th Cir. 2020)
- brief decision affirming "direct funding" compensatory education award with parents' choice of licensed providers at reasonable rates

P Indep. Sch. Dist. No. 283 v. E.M.D.H. (supra)
- ruling that high school student, as a result of child find and eligibility violations, was entitled to not only IEE and tutoring reimbursement, but also private tutoring as compensatory education "so long as the Student suffers from a credit deficiency caused from the years she spent without a FAPE"

P Doe v. E. Lyme Bd. of Educ., 962 F.3d 649, 76 IDELR ¶ 233 (2d Cir. 2020) (Doe III)[54]
- with the limited exceptions of the escrow agent's delegated authority (Reid) and parents' portion of the maintenance fee ("free" in FAPE), rejected the parents' various challenges to provisions for the requested escrow account, the calculation of prejudgment interest, and the previous substantive rulings (including the unchanged effect of the Supreme Court's intervening decision in Endrew F.)

P/S J.T. v. District of Columbia (supra)
- denying compensatory education for the first five weeks in reasonable delay of private placement but awarding compensatory education as determined via IEE (including prospective continuation if not promptly rectified) for indefinite failure to provide such a placement for at least the following year

S P.P. v. Nw. Indep. Sch. Dist. (supra)
- upheld denial of compensatory education for child find violation in grade 4 based on student's progress in district's dyslexia services, which met state standards

S Johnson v. Charlotte-Mecklenburg Schs. Bd. of Educ., 20 F.4th 835, 80 IDELR ¶ 33 (4th Cir. 2021)
- ruled that parents' request for compensatory education in her due process hearing complaint but lacking in her subsequent complaint to court rendered this relief moot

C. OTHER INJUNCTIVE REMEDIES (INCLUDING IEE REIMBURSEMENT)

S Krista P. v. Manhattan Sch. Dist., 255 F. Supp. 2d 873, 38 IDELR ¶ 239 (N.D. Ill. 2003)
- rejected parents' claim for IEE at public expense, concluding that district's reevaluation the previous year was appropriate, that there was no need for another reevaluation at this time, and that the district did not violate its child find obligation

[54] In an intervening decision, the Second Circuit issued a summary order dismissing the parents' earlier appeal as premature, pending the district court's final decision, including calculation of prejudgment interest. Doe v. E. Lyme Bd. of Educ., 747 F. App'x 30 (2d Cir. 2019) (Doe II).

P Harris v. District of Columbia, 561 F. Supp. 2d 63, 50 IDELR ¶ 194 (D.D.C. 2008)
- ruled that FBA was an "educational evaluation" (and thus an IEE) under the IDEA and that the failure to fund the requested IEE in this case, where the child "languished for over two years with an IEP that may not be sufficiently tailored to her special needs" amounted to a denial of FAPE

P/S J.P. v. Anchorage Sch. Dist., 260 P.3d 285, 57 IDELR ¶ 169 (Alaska 2011)
- for child ultimately determined to be ineligible (because, although SLD, he did not need special education), upheld IEE reimbursement, based on child find theory where district delayed its evaluation and relied on the parent's IEE, but rejected tutoring reimbursement (due to noneligibility)

P Phillip C. v. Jefferson Cnty. Bd. of Educ., 701 F.3d 691, 60 IDELR ¶ 30 (11th Cir. 2012)
- upheld the validity of the IDEA regulation providing for IEEs at public expense

P M.Z. v. Bethlehem Area Sch. Dist., 521 F. App'x 74, 60 IDELR ¶ 273 (3d Cir. 2013)
- upon finding the district's evaluation was not appropriate, the IHO was w/o authority to order curative measures for the evaluation, instead being obligated under the IDEA to approve the parent's request for an IEE at public expense

P Jefferson Cnty. Bd. of Educ. v. Lolita S. (supra)
- upheld reimbursement of IEE where district did not file for impartial hearing to show that its evaluation was appropriate

S S. Kingstown Sch. Comm. v. Joanna S., 773 F.3d 344, 64 IDELR ¶ 191 (1st Cir. 2014); Council Rock Sch. Dist. v. Bolick, 462 F. App'x 212, 58 IDELR ¶ 122 (3d Cir. 2012); cf. A.L. v. Jackson Cnty. Sch. Bd. (supra) (parent "sabotaged" process by not accepting district's reasonable cost and distance limits)
- ruled that parents were not entitled to reimbursement of their IEE where the district's evaluation had been appropriate

S T.P. v. Bryan Cnty. Sch. Dist., 794 F.3d 1284, 65 IDELR ¶ 254 (11th Cir. 2015)
- ruled that request for IEE reimbursement, analyzed as a procedural violation allegedly impeding meaningful parental participation, was moot upon expiration of the three-year period for reevaluation

P Jason O. v. Manhattan Sch. Dist. No. 41 (supra)
- ruled that IEE reimbursement is, under the equitable circumstances, the pre-, not post-, insurance amount

(*P*)/(*S*) Seth B. v. Orleans Parish Sch. Bd., 810 F.3d 961, 67 IDELR ¶ 2 (5th Cir. 2016)
- ruled that district's failure to be the filing party in IEE reimbursement case did not constitute a waiver if it showed noncompliance with its criteria (or the appropriateness of its evaluation) without unnecessary delay but the parents are entitled to reimbursement within the reasonable cap if they are in substantial compliance with the criteria for the district's own evaluations

P Q.C-C. v. District of Columbia, 164 F. Supp. 3d 35, 67 IDELR ¶ 60 (D.D.C. 2016)
- ruled that child with SLD (dyslexia) was entitled to the remedy of continuing in private school in the wake of district's inappropriate proposed placement based on D.C. Circuit's multi-factor test for prospective placements in Branham, which includes severity of child's needs, the private school's linkage with those needs, and the LRE

(*P*) M.S. v. Utah Sch. for the Deaf, 822 F.3d 1128, 67 IDELR ¶ 195 (10th Cir. 2016)
- ruled that remedy of remanding placement decision to IEP team was improper delegation of IHO's authority (extending Reid and L.M.)

P/S Genn v. New Haven Bd. of Educ. (supra)
- awarded reimbursement for general IEE where the hearing officer denied it based on incorrect finding that the parents had not provided the requisite disagreement with the district's evaluation but denied reimbursement for the other, S/L IEE where the parent did not afford the district the opportunity to complete the corresponding evaluation first

S Avila v. Spokane Sch. Dist., 686 F. App'x 384, 69 IDELR ¶ 204 (9th Cir. 2017); see also R.Z.C. v. N. Shore Sch. Dist. (supra)
- ruled that the parent was not entitled to IEE at public expense where the district's evaluation was appropriate, here specifically that reevaluation of child with autism

S E.P. v. Howard Cnty. Pub. Sch. Sys., 727 F. App'x 55, 72 IDELR ¶ 114 (4th Cir. 2018)
- brief affirmance of ruling that district's evaluation, which determined non-eligibility, was appropriate, thus denying IEE at public expense

S B.G. v. Bd. of Educ. of Chi., 901 F.3d 903, 72 IDELR ¶ 231 (7th Cir. 2018)
- upheld IHO's denial of IEEs at public expense based on rulings that the district's various evaluations of bilingual child (e.g., PT, OT, and AT) were appropriate

S A.H. v. Colonial Sch. Dist., 779 F. App'x 90, 74 IDELR ¶ 219 (3d Cir. 2019)
- ruled that district's evaluation was appropriate and, thus, that parents were not entitled to IEE at public expense—upholding superior familiarity of district personnel with the child than that of parent's expert, who authored the IEE

S M.S. v. Hillsborough Twp. Pub. Sch. Dist., 793 F. App'x 91, 75 IDELR ¶ 212 (3d Cir. 2019)
- denied IEE at public expense to parents because they had not expressed disagreement with the district's reevaluation (distinguishing Third Circuit's Warren G. decision as focusing on when, not whether)

(*P*) L.C. v. Alta Loma Sch. Dist., 849 F. App'x 678, 78 IDELR ¶ 271 (9th Cir. 2021**)**
- ruled that district did not engage in unnecessary delay in relation to parents' request for IEE reimbursement until filing for impartial hearing

S Heather H. v. Nw. Indep. Sch. Dist., 529 F. Supp. 3d 636, 78 IDELR ¶ 199 (E.D. Tex. 2021)[55]
- ruled that district's evaluation was appropriate under the IDEA and, thus, that the parent was not entitled to an IEE at public expense

D. TORT-TYPE DAMAGES[56]

P Goleta Union Elementary Sch. Dist. v. Ordway, 248 F. Supp. 2d 936, 38 IDELR ¶ 64 (C.D. Cal. 2002); see also P.N. v. Greco, 282 F. Supp. 2d 221, 40 IDELR ¶ 9 (D.N.J. 2003)
- held special education director personally liable under Sec. 1983/IDEA for changing child to inappropriate placement without investigating its appropriateness – no heightened standard of culpability required

(*P*) Roe v. Nevada, 332 F. Supp. 2d 1331, 41 IDELR ¶ 266 (D. Nev. 2004); Zearley v. Ackerman, 116 F. Supp. 2d 109, 33 IDELR ¶ 156 (D.D.C. 2000); R.B. v. Bd. of Educ., 99 F. Supp. 2d 411, 32 IDELR ¶ 226 (S.D.N.Y. 2000); L.C. v. Utah State Bd. of Educ., 57 F. Supp. 2d 1214, 30 IDELR 961 (D. Utah 1999); Cappillino v. Hyde Park Cent. Sch. Dist., 40 F. Supp. 2d 513, 30 IDELR 253 (S.D.N.Y. 1999); cf. B.H. v. Southington Bd. of Educ., 273 F. Supp. 2d 194, 40 IDELR ¶ 36 (D. Conn. 2003); M.H. v. Bristol Bd. of Educ., 169 F. Supp. 2d 21, 36 IDELR ¶ 123 (D. Conn. 2001); Butler v. South Glens Falls Cent. Sch. Dist., 106 F. Supp. 2d 414, 33 IDELR ¶ 3 (N.D.N.Y. 2000)
- upheld possibility of compensatory damages under Sec. 1983/IDEA

[55] The Fifth Circuit affirmed in an unpublished decision. Heather H v. Nw. Indep. Sch. Dist., 81 IDELR ¶ 32 (5th Cir. 2022).

[56] For a well-publicized but now legally inconsequential state trial court decision, see Doe v. Withers, 20 IDELR 422 (W. Va. Cir. Ct. 1993).

S C.O. v. Portland Pub. Sch., 679 F.3d 1162, 58 IDELR ¶ 272 (9th Cir. 2012); Chambers v. Sch. Dist., 587 F.3d 176, 53 IDELR ¶ 139 (3d Cir. 2009); Diaz-Fonseca v. Commonwealth of Puerto Rico, 451 F.3d 13, 45 IDELR ¶ 268 (1st Cir. 2006); Ortega v. Bibb Cnty. Sch. Dist., 397 F.3d 1321, 42 IDELR ¶ 200 (11th Cir. 2005); Polera v. Bd. of Educ., 288 F.3d 478 (2d Cir. 2002); Wolverton v. Doniphan R-1 Sch. Dist., 16 F. App'x 523, 34 IDELR ¶ 261 (8th Cir. 2001); Wenger v. Canastota Cent. Sch. Dist. (supra); Thompson v. Bd. of Educ., 144 F.3d 574, 28 IDELR 173 (8th Cir. 1998); Sellers v. Sch. Bd., 141 F.3d 524, 27 IDELR 1060 (4th Cir. 1998); J.L. v. Ambridge Area Sch. Dist., 622 F. Supp. 2d 257, 49 IDELR 224 (W.D. Pa. 2008); A.A. v. Bd. of Educ., 196 F. Supp. 2d 259, 36 IDELR ¶ 239 (S.D.N.Y. 2002); Butler v. South Glens Falls Sch. Dist. (supra); Wayne Cnty. Reg'l Educ. Serv. Agency v. Pappas (supra); cf. A.W. v. Jersey City Pub. Sch., 486 F.3d 791, 47 IDELR ¶ 282 (3d Cir. 2007); Padilla v. Sch. Dist. No. 1, 233 F.3d 1268, 33 IDELR ¶ 217 (10th Cir. 2000) (not via § 1983); Blanchard v. Morton, 509 F.3d 934, 49 IDELR ¶ 96 (9th Cir. 2007) (not via § 1983 for parent's lost earnings and suffering); L.M.P. v. Sch. Bd., 516 F. Supp. 2d 1305, 48 IDELR ¶ 249 (S.D. Fla. 2007) (no individual liability via §§ 1983 or 1985). But cf. C.B. v. Bd. of Educ. of Chi. Dist. 299, __ F. Supp. 3d __, 81 IDELR ¶ 184 (N.D. Ill. 2022) (declined dismissal based on uncertain effect of 7th Circuit's decision in Stanek)
- no compensatory damages under IDEA

V. OTHER, IDEA-RELATED ISSUES

S Indep. Sch. Dist. No. 432 v. J.H., 8 F. Supp. 2d 1166, 28 IDELR 427 (D. Minn. 1998)
- where school district agreed to conduct an evaluation and IEP, parents' request for a due process hearing was premature and thus beyond hearing officer's jurisdiction

(*P*) Armijo v. Wagon Mound Pub. Sch., 159 F.3d 1253, 29 IDELR 593 (10th Cir. 1998); cf. Sutton v. Utah Sch. for the Deaf, 173 F.3d 1226, 30 IDELR 12 (10th Cir. 1999)
- possible liability under 14th Amendment (SDP) for suicide of special education student in wake of suspension in violation of school rules—danger-creation actions may have "shocked the conscience"

S Michael C. v. Radnor Twp. Sch. Dist., 202 F.3d 642, 31 IDELR ¶ 184 (3d Cir. 2000); cf. Ms. S v. Vashon Island Sch. Dist., 337 F.3d 1115, 39 IDELR ¶ 154 (9th Cir. 2003) (same for in-state move if special circumstances)
- held that a district in one state is not required to implement an IEP developed by a district in the child's previous state of residence [tuition reimbursement case]

S In re Arons, 756 A.2d 867, 32 IDELR ¶ 253 (Del. 2000); cf. L.L. v. Vineland Bd. of Educ., 128 F. App'x 916, 43 IDELR ¶ 83 (3d Cir. 2005) (disputed issues of unauthorized practice of law and consultation v. advocacy)
- interpreted the IDEA, in the absence of state law authorization, as prohibiting nonlawyers from representing parents of students with disabilities at due process hearings

S Hooks v. Clark Cnty. Sch. Dist., 228 F.3d 1036, 33 IDELR ¶ 120 (9th Cir. 2000); cf. Forstrom v. Byrne, 775 A.2d 65, 34 IDELR ¶ 260 (N.J. Super. Ct. App. Div. 2001)
- states have discretion to determine whether home education constitutes an IDEA-qualifying private school

P Sackets Harbor Cent. Sch. Dist. v. Munoz, 725 N.Y.S.2d 119, 34 IDELR ¶ 227 (N.Y. Sup. Ct. App. Div. 2001)
- held that when IEP teams decide matters by vote, all members are entitled to vote, including those invited by the parents or district who have special knowledge or special expertise regarding the child

(*S*) Rene v. Reed, 751 N.W.2d 736, 34 IDELR ¶ 284 (Ind. Ct. App. 2001)
- upheld denial of preliminary injunction for students with disabilities who sought exemption, as a class, from state's graduation requirement examination

S Saucon Valley Sch. Dist. v. Jason O., 785 A.2d 1069, 35 IDELR ¶ 209 (Pa. Commw. Ct. 2001); see also Hempfield Sch. Dist. v. Barry M., 38 IDELR ¶ 68 (Pa. Commw. Ct. 2003) (reevaluation); cf. Mifflin Cnty. Sch. Dist. v. Special Educ. Due Process Appeals Bd., 800 A.2d 1010, 37 IDELR ¶ 39 (Pa. Commw. Ct. 2002) (IDEA case)
- held that second tier appeals panel lacked remedial authority (in gifted child's case) to order inservice training of IEP team, contracting of outside expert for IEP and student's graduation without requisite credits

(*P/S*) Navin v. Park Ridge Sch. Dist., 270 F.3d 1147, 35 IDELR ¶ 239 (7th Cir. 2001), after remand, 49 F. App'x 69 (7th Cir. 2003); cf. Taylor v. Vermont Dep't of Educ., 313 F.3d 768, 38 IDELR ¶ 32 (2d Cir. 2002); Schares v. Katy Indep. Sch. Dist., 252 F. Supp. 2d 364, 39 IDELR ¶ 156 (S.D. Tex. 2003)
- noncustodial parent has standing to file for a due process hearing unless the divorce decree expressly eliminates all rights in educational matters or custodial parent's exercise of decreed rights trumps it

S Ullmo v. Gilmour Acad., 273 F.3d 671, 35 IDELR ¶ 240 (6th Cir. 2001)
- private or parochial school is not an LEA under the IDEA and thus is not subject to an IDEA suit

(*P/S*) Chapman v. Cal. Dep't of Educ., 229 F. Supp. 2d 981, 36 IDELR ¶ 91 (C.D. Cal. 2002), rev'd in part sub nom Smiley v. Cal. Dep't of Educ., 37 IDELR ¶ 219 (9th Cir. 2002), dismissed for lack of standing, 40 IDELR ¶ 45 (N.D. Cal. 2003)
- postponed preliminary injunction to enforce the accommodations and alternative-assessment requirement of the IDEA—and the accommodations requirement of § 504—in relation to the state's high stakes test

S S.C. v. Deptford Twp. Bd. of Educ., 213 F. Supp. 2d 452, 37 IDELR ¶ 155 (D.N.J. 2002). But cf. Asbury Park Bd. of Educ. v. Hope Acad. Charter Sch., 278 F. Supp. 2d 417, 39 IDELR ¶ 213 (D.N.J. 2003) (no standing to challenge placement by charter schools to private special education schools)
- defendant district may file third-party complaint against other agencies for reimbursement under IDEA's interagency cooperation provisions[57]

S Great Valley Sch. Dist. v. Douglas M., 807 A.2d 315, 37 IDELR ¶ 214 (Pa. Commw. Ct. 2002)
- ruled that district has no duty to evaluate a child under the IDEA while s/he remains outside the state in a unilateral placement

S Eric H. v. Methacton Sch. Dist., 265 F. Supp. 2d 513, 38 IDELR ¶ 182 (E.D. Pa. 2003)
- ruled that refusal to provide videoconferencing to homebound student (with leukemia) did not violate the IDEA's FAPE and LRE requirements

S Zasslow v. Menlo Park City Sch. Dist., 60 F. App'x 27, 38 IDELR ¶ 187 (9th Cir. 2003); see also M.T.V. v. DeKalb Cnty. Sch. Dist., 446 F.3d 1153, 45 IDELR ¶ 177 (11th Cir. 2006) (evaluator); B.V. v. Dep't of Educ., 451 F. Supp. 2d 1113, 45 IDELR ¶ 10 (D. Haw. 2005), aff'd mem., 514 F.3d 384 (9th Cir. 2008) (special education teacher)
- brief ruling that despite turnover, district provided qualified speech therapist, thus supporting proposition that parents do not have the right to select service deliverer

S Slama v. Indep. Sch. Dist. No. 2580, 259 F. Supp. 2d 880, 39 IDELR ¶ 3 (D. Minn. 2003)
- district's change in child's aide does not deny FAPE where the IEP does not clearly require a particular individual to serve in said capacity

S In re D.D., 788 N.E.2d 10, 39 IDELR ¶ 68 (Ill. Ct. App. 2003); see also Antioch Cmty. High Sch. Dist. 17 v. Bd. of Educ., 868 N.E.2d 1068 (Ill. Ct. App. 2007); cf. In re Doe Children, 93 P.3d 1145, 41 IDELR ¶ 151 (Haw. 2004) (family court)
- ruled that juvenile court lacked authority to order school district to pay for educational component of out-of-state placement it ordered for delinquent student with a disability

(*P*) Hornstine v. Twp. of Moorestown, 263 F. Supp. 2d 887, 39 IDELR ¶ 64 (D.N.J. 2003)
- granted preliminary injunction for student classified as IDEA-eligible to be sole class valedictorian, preventing school board from retroactively changing its policy that did not allow co-valedictorians

P Cartwright v. District of Columbia, 267 F. Supp. 2d 83, 39 IDELR ¶ 94 (D.D.C. 2003)
- ruled that IDEA regulations required reevaluation upon parental request without having to be warranted

[57] However, in this case, the Division of Developmental Disabilities escaped liability on 11th Amendment grounds. S.C. v. Deptford Twp. Bd. of Educ., 248 F. Supp. 2d 368 (D.N.J. 2003). For the main issue, the court upheld the parents' proposed residential placement of the child with severe autism rather than the day placement where the district had placed the child.

(*P*) Blackman v. District of Columbia, 277 F. Supp. 2d 71, 39 IDELR ¶ 241 (D.D.C. 2003)
- as part of long-running class action litigation, granted preliminary injunction for reimbursement and private placement subject to prompt due process hearing after the district failed to convene the hearing within the 45-day "window"

S Reid L. v. Ill. State Bd. of Educ., 358 F.3d 511, 40 IDELR ¶ 177 (7th Cir. 2004)
- held that students with disabilities and their teachers lacked standing to challenge state's new, cross categorical special education teacher certification rules adopted as result of Corey H. settlement agreement (antiquated categories with inadequate training impermissibly permitted categorical segregation of students with disabilities)

(*P*) E.W. v. Sch. Bd., 307 F. Supp. 2d 1363, 40 IDELR ¶ 257 (S.D. Fla. 2004)
- ruled that child who had never enrolled in public school was only entitled to service plan requirements of IDEA, as determined by state complaint procedure rather than by IHO

S Gary S. v. Manchester Sch. Dist., 374 F.3d 15, 41 IDELR ¶ 118 (1st Cir. 2004)
- IDEA's differential treatment of students in parochial schools does not violate 1st Amendment free exercise clause, 14th Amendment due process and equal protection clauses, or Religious Freedom Restoration Act

S Schuylkill Haven Area Sch. Dist. v. Rhett P., 857 A.2d 226, 41 IDELR ¶ 269 (Pa. Commw. Ct. 2004)
- ruled that a district is not obligated under state law to honor IEPs from private schools

(*P*) In re C.M.T., 861 A.2d 348, 42 IDELR ¶ 63 (Pa. Super. Ct. 2004)
- ruled that in dependency hearing for habitual truancy of special education student in juvenile court, the relationship between the child's disability and her absenteeism, including evidence as to the availability of services that would facilitate her school attendance, is necessary to prove dependency

S Veazey v. Ascension Parish Sch. Bd., 121 F. App'x 552, 42 IDELR ¶ 140 (5th Cir. 2005); Gore v. District of Columbia, 67 F. Supp. 3d 147, 64 IDELR ¶ 41 (D.D.C. 2014). But cf. Eley v. District of Columbia, 47 F. Supp. 3d 1, 63 IDELR ¶ 165 (D.D.C. 2014) (location as vital part of placement for stay-put determination)
- moving the location alone (here from one school site to another for implementing same IEP) is not a change in placement

S Herbin v. District of Columbia, 362 F. Supp. 2d 254, 43 IDELR ¶ 110 (D.D.C. 2005)
- four-month delay in responding to request for reevaluation after recently completed evaluation did not violate IDEA

(*P/S*) Pardini v. Allegheny Intermediate Unit, 420 F.3d 181, 44 IDELR ¶ 30 (3d Cir. 2005). But see D.P. v. Sch. Bd. of Broward Cnty., 483 F.3d 725, 47 IDELR ¶ 181 (11th Cir. 2007), cert denied, 552 U.S. 1142 (2008); Johnson v. Special Educ. Hearing Office, 287 F.3d 1176 (9th Cir. 2002)[58]
- split as to whether "stay-put" applies in transitioning from an IFSP to an IEP

S Schaffer v. Weast, 546 U.S. 49, 44 IDELR ¶ 150 (2005); cf. L.E. v. Ramsey Bd. of Educ., 435 F.3d 384, 44 IDELR ¶ 269 (3d Cir. 2006) (extends to LRE); Antoine M. v. Chester Upland Sch. Dist., 420 F. Supp. 2d 396, 45 IDELR ¶ 120 (E.D. Pa. 2006) (extends to eligibility); W. Platte R-II Sch. Dist. v. Wilson, 439 F.3d 782, 45 IDELR ¶ 88 (8th Cir. 2006); Gagliardo v. Arlington Cent. Sch. Dist., supra (interpreted Schaffer as putting burden of proof on both Burlington factors on—in almost every case—the parents)
- ruled that the burden of proof (specifically, burden of persuasion) in a case challenging the appropriateness of an IEP is on the challenging party

P Fitzgerald v. Camdenton R-111 Sch. Dist., 439 F.3d 773, 45 IDELR ¶ 59 (8th Cir. 2006); Durkee v. Livonia Cent. Sch. Dist., 487 F. Supp. 2d 313, 47 IDELR ¶ 161 (W.D.N.Y. 2007)
- ruled that a school district may not compel the special education eligibility evaluation of a home-schooled child where the parent has refused or not provided consent[59]

S Stringer v. St. James R-1 Sch. Dist., 446 F.3d 799, 45 IDELR ¶ 179 (8th Cir. 2006)
- upheld dismissal where parent did not connect alleged IDEA harassment claim to FAPE and state department's refusal to provide parent with audio-tape, rather than official transcript, of the due process hearing was harmless error

S Shelby S. v. Conroe Indep. Sch. Dist., 454 F.3d 450, 45 IDELR ¶ 269 (5th Cir. 2006)
- upheld district's request for medical IEE, despite lack of parental consent, of medically fragile child under reevaluation circumstances of conflicting information and constraining parent

[*S*] Ariz. State Bd. for Charter Sch. v. Leona Group Ariz., 464 F.3d 1003, 46 IDELR ¶ 153 (9th Cir. 2006)
- held that for-profit charter schools were not entitled to IDEA funding

(*P*) D.D. v. N.Y.C. Bd. of Educ., 465 F.3d 503, 46 IDELR ¶ 181 (2d Cir. 2006), amended, 480 F.3d 138 (2d Cir. 2007)
- rejected substantial-compliance standard for "as soon as possible" requirement for implementing students' IEPs—factors include length of delay, reasons for delay, and steps to overcome it—and rejected incorporation of state 30-day standard

[58] For the current rule, see 34 C.F.R. § 300.518(c) (stay-put does not apply except, if district determines child is eligible, for services not in dispute).

[59] The IDEA regulations subsequently changed to generalize this ruling, extending it to parentally placed private school children and to re-evaluation. 34 C.F.R. § 300.300(c)(4).

(*P*) Smith v. Guilford Bd. of Educ., 226 F. App'x 58, 48 IDELR ¶ 32 (2d Cir. 2007)
- disability-based peer harassment could constitute denial of FAPE

P/S Andrew M. v. Del. Cnty. Office of MH/MR, 490 F.3d 337, 48 IDELR ¶ 30 (3d Cir. 2007)
- upheld tuition reimbursement and compensatory education for child with developmental delay under Part C based on the private preschool being the natural environment for social interaction, but reversed the award of attorneys' fees under § 504 due to failure to meet the causality ("sole reason") criterion

(***P***) Winkelman v. Parma City Sch. Dist., 550 U.S. 516, 47 IDELR ¶ 281 (2007). But cf. KLA v. Windham Se. Supervisory Union, 348 F. App'x 604, 54 IDELR ¶ 112 (2d Cir. 2010) (not for representing IDEA rights of their child, who in this case was incompetent adult)
- parents may proceed pro se in federal court to enforce their independent rights under the IDEA

(*P*) District of Columbia v. Abramson, 493 F. Supp. 2d 80, 48 IDELR ¶ 96 (D.D.C. 2007)
- ruled that IDEA's child find responsibility of district where the private school is located does not relieve district of residence of its obligation to conduct an initial evaluation of the student upon parental request (but remanded for determination of whether the parents are entitled to tuition reimbursement)

S Bd. of Educ. v. Johnson, 543 F. Supp. 2d 351, 50 IDELR ¶ 33 (D. Del. 2008)
- hearing officer exceeded IDEA authority by ordering ASL interpreter for parentally placed private school student with hearing impairment

(*P*) Fuentes v. Bd. of Educ., 540 F.3d 145, 51 IDELR ¶ 4 (2d Cir. 2008), further proceedings, 569 F.3d 46, 52 IDELR ¶ 152 (2d Cir. 2009)[60]
- held that whether noncustodial parent retains the right to participate in educational decisions of his/her child with a disability where the divorce decree grants exclusive custody to the other parent but, as a matter of state law, is silent on the matter of educational decision-making and affirmed the dismissal of the father's FAPE action based on the New York highest court's answer[61] that said parent had no right to make education decisions (as compared with the right to receive education information)

[60] For a subsequent unpublished court decision ruling that New York's interpretation of "parent" did not violate the 14th Amendment's equal protection clause, see Fuentes v. N.Y.C. Dep't of Educ., 58 IDELR ¶ 212 (E.D.N.Y. 2012).

[61] Fuentes v. Bd. of Educ., 879 N.Y.S.2d 818, 52 IDELR ¶ 164 (2009).

(*P*) Disability Law Ctr. of Alaska, Inc. v. Anchorage Sch. Dist., 581 F.3d 936, 53 IDELR ¶ 2 (9th Cir. 2009); Disability Rights Wis., Inc. v. Wis. Dep't of Pub. Instruction, 463 F.3d 719, 46 IDELR ¶ 122 (7th Cir. 2006); cf. Conn. Office of Protection & Advocacy for Persons with Disabilities v. Hartford Bd. of Educ., 464 F.3d 229, 46 IDELR ¶ 121 (2d Cir. 2006) (interviews and observations)
- held that advocacy organization may obtain access for certain personally identifiable information about students with disabilities as part of its investigation of alleged violations of IDEA

P Sch. Bd. of Manatee Cnty. v. L.H., 666 F. Supp. 2d 1285, 53 IDELR ¶ 149 (M.D. Fla. 2009)
- ruled that parents' private evaluator was entitled to classroom observation (here, for two hours) as part of IEE process

S Bethlehem Area Sch. Dist. v. Zhou, 976 A.2d 1284, 53 IDELR ¶ 24 (Pa. Commw. Ct. 2009); see also D.Z. v. Bethlehem Area Sch. Dist., 2 A.3d 712, 54 IDELR ¶ 323 (Pa. Commw. Ct. 2010) (rejecting parent's various due process challenges to IHO's conduct of the hearing based on abuse of discretion/actual prejudice standard)
- ruled that parent is not entitled to a translated transcript of the due process hearing absent binding legal authority (here under the state's regulations for gifted education)

(*P*) Kalbfleisch v. Columbia Cmty. Sch. Dist., 644 F. Supp. 2d 1084, 53 IDELR ¶ 12 (S.D. Ill. 2009), further proceedings, 53 IDELR ¶ 57 (Ill. Cir. Ct. 2009); see also K.D. v. Villa Grove Cmty. Unit Sch. Dist., 936 N.E.2d 690, 55 IDELR ¶ 78 (Ill. Ct. App. 2010)
- after federal court rejected removal, state trial court granted preliminary injunction to child with autism to be accompanied by service dog based on Illinois state law specific to this issue[62]

S Horen v. Bd. of Educ., 655 F. Supp. 2d 794, 53 IDELR ¶ 79 (N.D. Ohio 2009)
- summarily rejected parents' various legal claims (including § 504/ADA) on behalf of student with SLD, including their purported IDEA right to record the IEP meeting

P Compton Unified Sch. Dist. v. Addison, 598 F.3d 1191, 54 IDELR ¶ 71 (9th Cir. 2010)
- rejected district's argument that child find claims are not cognizable due to the scope of the procedural safeguards and the lack of clear notice in the IDEA

S N.D. v. Haw. Dep't of Educ., 600 F.3d 1104, 54 IDELR ¶ 111 (9th Cir. 2010), vacated as moot, 469 F. App'x 570, 58 IDELR ¶ 121 (9th Cir. 2012)
- system-wide layoffs that affect students with disabilities and those without disabilities alike are not changes in educational placement and thus are not subject to the IDEA stay-put provision

[62] The newly amended regulations of the ADA have largely resolved the service animal school-access issue in favor of students with disabilities. For a preliminary injunction enforcing this ADA regulation for a student with autism, see C.C. v. Cypress Sch. Dist., 56 IDELR ¶ 295 (C.D. Cal. 2011).

S D.C. v. Klein Indep. Sch. Dist., 711 F. Supp. 2d 739, 54 IDELR ¶ 187 (S.D. Tex. 2010)
- ruled, among other things, that district did not have duty under IDEA to convene IEP team for annual review where the parent had unilaterally placed the child outside the district

(*P*) Kalliope R. v. N.Y. State Educ. Dep't, 827 F. Supp. 2d 130, 54 IDELR ¶ 253 (S.D.N.Y. 2010)
- denied dismissal of class action suit claiming that state policy prohibiting the use of a particular student-teacher ratio violated IDEA (and § 504)

S A.P. v. Woodstock Bd. of Educ., 370 F. App'x 202, 55 IDELR ¶ 61 (2d Cir. 2010). But cf. El Paso Indep. Sch. Dist. v. Richard R., 567 F. Supp. 2d 918, 50 IDELR ¶ 256 (W.D. Tex. 2008) (consecutive NCLB test failures plus ineffective § 504 accommodations)
- rejected parent's child find claim when district first provided general education interventions (via child study team) prior to evaluation for special education on individualized, not absolute, basis and promptly initiated the evaluation upon the parents' presentation of an IEE diagnosis of nonverbal learning disability

S C.W v. Rose Tree Media Sch. Dist., 395 F. App'x 824, 55 IDELR ¶ 123 (3d Cir. 2010)
- ruled that district's delay for more than one year to process parent's due process request in case where the ultimate determination was that the district had provided the child with FAPE, did not justify either tuition reimbursement or compensatory education, which are for the remediation of denials of FAPE and not to punish districts

P Indep. Sch. Dist. No. 12 v. Minn. Dep't of Educ., 788 N.W.2d 907, 55 IDELR ¶ 140 (Minn. 2010)
- ruled that IEP requirement for extracurricular and nonacademic activities, including identification of the appropriate supplementary aids and services necessary, is not limited to those activities needed for FAPE

(*S*) Comb v. Benji's Special Educ. Acad., 745 F. Supp. 2d 755, 55 IDELR ¶ 162 (S.D. Tex. 2010)
- denied preliminary injunction for parents' claim of lack of prior individualized notice for closing of charter special education school—failure to show that change in location (transfer to other schools) constituted change in placement (noncontinuity of IEPs) plus failure to show exception to exhaustion requirement

S Doe v. Todd Cnty. Sch. Dist., 625 F.3d 459, 55 IDELR ¶ 185 (8th Cir. 2010)
- ruled that school board's refusal to hold a hearing regarding disciplinary change in placement of student with disability after parent challenged or revoked her consent to the change did not violate 14th Amendment procedural due process—she should have resorted instead to IDEA IEP and impartial hearing processes

[*S*] Lake Washington Sch. Dist. No. 414 v. Office of the Superintendent, 634 F.3d 1065, 56 IDELR ¶ 61 (9th Cir. 2011)
- held that school district does not have standing to challenge state education department under the IDEA (in this case regarding enforcement of 45-day rule)

P Linda E. v. Bristol Warren Reg'l Sch. Dist., 758 F. Supp. 2d 75, 56 IDELR ¶ 218 (D.R.I. 2010)
- upheld, in eligibility/FAPE case, hearing officer's decision that the child with multiple diagnoses relating to her behavior was entitled to therapeutic residential placement and 21 weeks of compensatory education

S Nelson v. District of Columbia, 811 F. Supp. 2d 508, 57 IDELR ¶ 192 (D.D.C. 2011)
- reversed and remanded the parts of the IHO's private placement order, in wake of denial of FAPE, that 1) effectively eliminated the district's representative on the IEP team; 2) required sufficient services/supports for student to graduate; 3) effectively limited the team's duties to revise the IEP annually or as otherwise needed; and (4) to change the placement of the student in accordance with LRE

[*S*] Orange Cnty. Dep't of Educ. v. Cal. Dep't of Educ., 668 F.3d 1052, 58 IDELR ¶ 1 (9th Cir. 2011)
- after state supreme court decline to answer this certified question, held that 1) the agency responsible for funding a special education student's education at an out-of-state residential treatment facility is the school district in which the student's parent, as defined by 2007 and 2009 versions of applicable state legislation, resides; and 2) this special education student's former foster parent was student's parent under 2007 and 2009 versions of applicable statute though not under 2005 version

(*S*) L.A. Unified Sch. Dist. v. Garcia, 669 F.3d 956, 58 IDELR ¶ 62 (9th Cir. 2012)
- certified to state supreme court whether the state legislation generally providing that for qualifying children ages 18 to 22 the school district where child's parent resided was responsible for providing special education services applies to children incarcerated in county jails[63]

S Bryant v. N.Y. State Educ. Dep't, 692 F.3d 202, 59 IDELR ¶ 151 (2d Cir. 2012)
- ruled that state regulation banning aversives did not violate the IDEA, § 504 or the 14th Amendment (due process and equal protection clauses)

S D.K. v. Abington Sch. Dist. (supra); see also W. H. v. Schuykill Valley Sch. Dist. (supra)
- strictly construed the IDEA statute of limitations' exceptions and rejected the alternative of equitable tolling

[63] Relying on the state supreme court's subsequent ruling, the Ninth Circuit decided that the resident district was responsible. L.A. Unified Sch. Dist. v. Garcia, 741 F.3d 922, 62 IDELR ¶ 221 (9th Cir. 2014).

P/S Lauren G. v. W. Chester Area Sch. Dist. (supra)
- applied statute of limitations period in relation to when parents knew or had reason to know of the "injury"

S District of Columbia v. Pearson, 923 F. Supp. 2d 82, 60 IDELR ¶ 194 (D.D.C. 2013)
- invalidated IHO remedial order in the absence of 1) issue/ruling of denial of FAPE; and 2) reasonable evidentiary basis

[*Pr*] Barton v. State Bd. of Educator Certification, 382 S.W.3d 405 (Tex. App. 2012)
- reversed, on technical grounds, professional practice board's reprimand of principal who modified IEPs of various students with disabilities to improve NCLB test scores with oral consent but not prior written notice of their parents

S Smith v. Henderson, 982 F. Supp. 2d 32, 61 IDELR ¶ 65 (D.D.C. 2013)
- denied preliminary injunction, ruling that closing of multiple schools for under-enrollment did not violate the IDEA (or the ADA) where the reassigned schools offered the students the same services

S Driessen v. Miami-Dade Cnty. Sch. Bd., 520 F. App'x 912, 61 IDELR ¶ 95 (11th Cir. 2013)
- upheld sua sponte dismissal for frivolousness where parent lacked standing as having legal guardianship of her children

S Chigano v. City of Knoxville, 529 F. App'x 753, 61 IDELR ¶ 154 (6th Cir. 2013)
- affirmed rejection of 14th Amendment SDP liability claim challenging school officials' failure to inform police officer, called in response to high school student's disruptive conduct, of her disability (autism)

S R.B. v. Mastery Charter Sch., 532 F. App'x 132, 61 IDELR ¶ 183 (3d Cir. 2013)
- ruled that charter school's disenrollment of IEP student, which was purportedly based on truancy, violated stay-put even though parent filed for due process after the disenrollment (last agreed upon IEP standard)

S Am. Nurses Ass'n v. Torlakson, 304 P.3d 1038, 61 IDELR ¶ 230 (Cal. 2013)
- ruled that state nurse practice act allows school personnel who are not licensed nurses to administer insulin to children with diabetes per the child's IEP or § 504 plan where specifically authorized by physician's prescription

S E.R.K. v. Haw. Dep't of Educ., 782 F.3d 982, 61 IDELR ¶ 241 (9th Cir. 2013)
- ruled that a state law that ends eligibility for both special ed and general ed students at their 20th birthday violates the IDEA where it offers public education for adults—in this case, GED and competency-based programs

P A.S. v. Office for Dispute Resolution, 88 A.3d 256, 62 IDELR ¶ 239 (Pa. Commw. Ct. 2014)
- ruled that 1) IHO had authority under IDEA to determine whether a valid settlement agreement existed between the parties and 2) settlement agreement was the result of a unilateral mistake on part of school district, rather than a mutual mistake, thus being valid

(*P/S*) Everett v. Dry Creek Joint Elementary Sch. Dist., 5 F. Supp. 3d 1184, 63 IDELR ¶ 5 (E.D. Cal. 2014)[64]
- dismissed § 1983 liability claims against individual defendants based on IDEA, § 504, and ADA, but preserved the corresponding claims against the local and state education agencies on behalf of child with multiple disabilities, including autism, allegedly subjected to severe retaliatory physical and mental abuse

S Blunt v. Lower Merion Sch. Dist., 767 F.3d 247, 64 IDELR ¶ 32 (3d Cir. 2014)
- ruled that plaintiff-parents failed to establish prima facie claim of disproportionate minority placement in special education under Title VI or § 1983 (14th Amendment equal protection) via circumstantial, including statistical, evidence of the requisite intentional discrimination

P Colon-Vazquez v. Dep't of Educ. of Puerto Rico, 46 F. Supp. 3d 132, 64 IDELR ¶ 108 (D.P.R. 2014), permanent injunction, 79 F. Supp. 3d 382, 64 IDELR ¶ 312 (D.P.R. 2015)
- granted preliminary injunction, under express threat of contempt, to implement IHO orders based on likelihood of success of FAPE development and implementation claim on behalf of fifth grader with ADHD-related health issues associated with Down syndrome

T[65] Pittsburgh Bd. of Pub. Educ. v. Pittsburgh Fed'n of Teachers, 105 A.3d 847 (Pa. Commw. Ct. 2014)
- upheld grievance arbitration award that district violated the collective bargaining agreement's "sole[ly]" seniority criterion by furloughing special education teachers who had not attained "highly qualified teacher" status under the IDEA (and NCLB), rejecting the district's arguments based on the deferential "essence" review standard and—because the district had not yet reached the three-consecutive-year deadline—alleged conflicting law or public policy

(*P)/S* Foster v. Bd. of Educ. of Chi., 611 F. App'x 874, 65 IDELR ¶ 161 (7th Cir. 2015)
- ruled that under Winkelman the parent may not proceed pro se to appeal to court the IHO decision concerning her daughter's IDEA rights but, based on her liberally read pleading for compensatory education she qualified as a "party aggrieved" to proceed pro se with regard to her own rights under the IDEA

[64] The court subsequently denied dismissal of the parents' direct IDEA claims against the state. Everett H. v. Dry Creek Joint Elementary Sch. Dist., 63 IDELR ¶ 39 (E.D. Cal. 2014).

[65] In the absence of the parent(s) as a party in this case, "T" represents the teachers whom the union represented.

S Z.H. v. N.Y.C. Dep't of Educ., 107 F. Supp. 3d 369, 65 IDELR ¶ 235 (S.D.N.Y. 2015)
- ruled that under New York law IHO lacks authority to order IEP team to place student prospectively in a non-approved private school (distinguishing tuition reimbursement cases)

P/(S) DL v. District of Columbia, 109 F. Supp. 2d 12, 65 IDELR ¶ 226 (D.D.C. 2015)
- ruled in class action case that prior to 2007 district failed to provide proper transition from Part C to Part B and violated child find and FAPE for children ages 3-5 and that for the subsequent period (2008–2011) the issue merited further proceedings[66]

S B.S. v. Anoka-Hennepin Sch. Dist., 799 F.3d 1217, 66 IDELR ¶ 61 (8th Cir. 2015)
- upheld IHO's reasonable limit, per unpromulgated best practices rule, on the length of the hearing

(*P*) G.L. v. Ligonier Valley Sch. Dist. Auth., 802 F.3d 601, 66 IDELR ¶ 91 (3d Cir. 2015); Avila v. Spokane Sch. Dist., 852 F.3d 936, 69 IDELR ¶ 204 (9th Cir. 2017); Damarcus S. v. District of Columbia (supra) (two years forward from KOSHK, or discovery, date of violation, not action or omission)
- ruled that the IDEA statute of limitations is two years from the date that the parent "knew or should have known" (KOSHK) of the alleged violation but this limit does not apply to the remedy, which should be to make the child whole for the deprivation (as far back as it goes)

(*P*) T.R. v. Sch. Dist. of Phila., 223 F. Supp. 3d 321, 69 IDELR ¶ 34 (E.D. Pa. 2016)
- denied dismissal of class action based on IDEA and other laws (e.g., § 504/ADA), on behalf of English-Language Learner parents of students with disabilities who sought translation of IEP documents and interpreters for IEP meetings

(*P*) Fry v. Napoleon Cmty. Schs., 580 U.S. 154, 69 IDELR ¶ 116 (2017); cf. J.M. v. Francis Howell Sch. Dist., 850 F.3d 944 (8th Cir. 2017) (denial of FAPE for money damages)
- ruled, in a student's ADA service-dog suit for money damages, that parents must exhaust the impartial hearing procedures of the IDEA if the "gravamen" (i.e., crux) of their claim is FAPE, reserving the issue of money damages for a future case where the gravamen is FAPE and remanding this case to apply this new exhaustion standard

P DL v. District of Columbia, 860 F.3d 713, 70 IDELR ¶ 59 (D.C. Cir. 2017)
- in the latest in a long-standing class-action case challenging the district's child find practices, rejected the district's challenges of mootness, class certification (four subclasses), and the injunctive relief (in terms of both legal authorization and evidentiary support)

[66] For the latest in these ongoing proceedings, see infra.

S L.M.P. v. Sch. Bd. of Broward Cnty., 879 F.3d 1274, 71 IDELR ¶ 101 (11th Cir. 2018)
- affirmed that the parents of triplets with autism lacked standing to challenge, as a procedural violation of predetermination, the alleged district policy of not including ABA services in IEPs because their children's IEP provided for PECS, an ABA-based intervention

(*S*) Adams v. District of Columbia, 285 F. Supp. 3d 381, 71 IDELR ¶ 151 (D.D.C. 2018)
- denying parents' motion for preliminary injunction for prospective private placement, concluding that the likelihood was that they would not succeed in reversing IHO's delegation to IEP team to review and revise the IEP, including identification of a suitable school to implement it (in addition to the IHO's unchallenged award of compensatory education)

S I.L. v. Tenn. Dep't of Educ., 739 F. App'x 319, 72 IDELR ¶ 113 (6th Cir. 2018)
- ruled that parents failed to provide evidence for their claim that the SEA's complaint procedures were not open to FAPE claims

S Burnett v. San Mateo-Foster City Sch. Dist. (supra)
- ruled that emails that were not printed out and placed in student's file were not education records under IDEA-FERPA

(*P*) S.P. v. Knox Cnty. Bd. of Educ., 329 F. Supp. 3d 594, 72 IDELR ¶ 269 (E.D. Tenn. 2018)
- denied both the district's and the SEA's summary judgment motions, concluding that material factual issues remained as to whether the district's policy for school assignment of students and the SEA's supervision violated the IDEA

[***P***] Tex. Educ. Agency v. U.S. Dep't of Educ., 908 F.3d 127, 73 IDELR ¶ 87 (5th Cir. 2018)
- ruled that state's weighting funding formula violated the IDEA's maintenance-of-state-support requirement, thus upholding the proposed determination of ineligibility for $33 million of future grants

P Council of Parent Attorneys & Advocates v. DeVos, 365 F. Supp. 3d 28, 74 IDELR ¶ 13 (D.D.C. 2019)
- vacated U.S.D.E.'s two-year delay of significant disproportionality regulation for failure to provide reasoned explanation for the delay and to consider its costs

P Wimbish v. District of Columbia, 381 F. Supp. 3d 22, 74 IDELR ¶ 65 (D.D.C. 2019) (Wimbish III)
- replaced IHO's restrictive remedy with order for full evaluation in wake of uncontested ruling that district exited student from eligibility w/o such an evaluation

S V.D. v. N.Y., 403 F. Supp. 3d 76, 74 IDELR ¶ 279 (E.D.N.Y. 2019)
- held that the IDEA's stay-put provision did not preclude the state from enforcing the revised vaccination requirement—removal of religious exemption did not amount to a change in placement

(*P*) del Rosario v. Nashoba Reg'l Sch. Dist., 419 F. Supp. 3d 210, 75 IDELR ¶ 222 (D. Mass. 2019)[67]
- granted parents' requested preliminary injunction for their choice of entity to conduct transitional evaluation in cooking and baking that the IHO ordered for 22-year-old with autism, without addressing the parents' appeal of the IHO's decision that upheld the district's provision of FAPE and, thus, denied compensatory education

S Duncan v. Eugene Sch. Dist. 4J, 431 F. Supp. 3d 1193, 75 IDELR ¶ 248 (D. Or. 2020)
- rejected minority tolling and student's (rather than parent's) KOSHK date for IDEA's statute of limitations

(*P*/*S*) R.S. v. Highland Park Indep. Sch. Dist. (supra)
- although finding it unnecessary to determine in this case, concluded that the KOSHK date in a substantive FAPE challenge to an IEP generally accrues immediately after the district's action resulting in the alleged deficiency but is a fact-intensive inquiry as to its sufficient apparentness upon such a challenge to a series of IEPs

S Ventura de Paulino v. N.Y.C. Dep't of Educ., 959 F.3d 519, 76 IDELR ¶ 173 (2d Cir. 2020)
- stay-put applies to the school district's, not the parents', choice to move the child to another location or school that provides substantially similar services

[*S*] Chi. Teachers Union v. DeVos, 468 F. Supp. 3d 974, 76 IDELR ¶ 237 (N.D. Ill. 2020)
- denied teacher union's motion for preliminary injunction against alleged order to review all IEPs before the end of the school year – lack of standing under APA against USDE for lack of waiver recommendation and unlikelihood of success under APA against both USDE and school district

S D.S. v. Trumbull Bd. of Educ., 975 F.3d 152, 77 IDELR ¶ 122 (2d Cir. 2020)
- ruled that an FBA is not an evaluation under the IDEA and that the statute of limitations for challenging an evaluation is until the next evaluation is scheduled to occur

S J.T. v. de Blasio, 500 F. Supp. 3d 137, 77 IDELR ¶ 252 (S.D.N.Y. 2020), aff'd sub nom. K.M. v. Adams, 81 IDELR ¶ 214 (2d Cir. 2022)
- upheld dismissal of COVID-19 national class action shotgun suit (including stay-put) on behalf of students with disabilities on jurisdictional grounds with the partial exception of those in N.Y.C., who were subject to the exhaustion prerequisite of IDEA due process hearings

P/S Dervishi v. Dep't of Special Educ., 653 F. App'x 55, 78 IDELR ¶ 62 (2d Cir. 2021)
- interpreted settlement agreement for district's reimbursement of ABA services by a qualified provider to apply only to services provided by BCBA, not those by the parents (7,000 hours=$400,000) or the YMCA

[67] The court subsequently rejected the parents' § 1983 money damages claims under § 504 and the 14th amendment. del Rosario v. Nashoba Reg'l Sch. Dist., 502 F. Supp. 3d 623, 78 IDELR ¶ 242 (D. Mass. 2020).

(*S*) Borishkevich v. Springfield Pub. Schs. Bd. of Educ., 541 F. Supp. 3d 969, 78 IDELR ¶ 277 (W.D. Mo. 2021)
- dismissed shotgun suit against district's COVID-19 reentry plan, which only gradually provided for full in-person instruction, including the IDEA and § 504/ADA claims for lack of exhaustion

P E.E. v. Norris Sch. Dist., 4 F.4th 866, 79 IDELR ¶ 32 (9th Cir. 2021)
- rejected, in COVID-19 context, asserted public-policy exception to stay-put for cases in which the parent challenges the then current placement as a failure to offer FAPE – the stay-put is the last implemented, not the future proposed, IEP

P A.R. v. Conn. State Bd. of Educ., 5 F.4th 155, 79 IDELR ¶ 34 (2d Cir. 2021); K.L. v. R.I. Bd. of Educ., 907 F.3d 639, 73 IDELR ¶ 61 (1st Cir. 2018)
- ruled that the IDEA exception for providing FAPE to age 21 (here interpreted as until the student's 22nd birthday), which is where the state does not provide "public education" beyond age 18, does not apply where the state provides adult education for that period

(*S*) Martinez v. Newsom, 46 F.4th 865, 81 IDELR ¶ 181 (9th Cir. 2021); see also Brach v. Newsom, 38 F.4th 6, 81 IDELR ¶ 62 (9th Cir. 2022) (mootness – dramatically changed conditions)
- rejected IDEA, § 504, and 14th Amendment challenges to statewide change to distance learning due to lack of exhaustion – narrow scope of "systemic" exception

S Special Educ. Complaint 22-027C, 981 N.W.2d 201, 82 IDELR ¶ 11 (Minn. Ct. App. 2022)
- reversed state complaint decision that interpreted the requirement for districts to "provide" all their eligible students with special education and related services as meaning to "receive" these services, ruling instead the district fulfilled its obligation by making FAPE available to parents, who refused to send their child back to school upon resumption of in-person instruction with a mask and refused the various district proposals for instruction in the home

VI. § 504/ADA ISSUES

S Bercovitch v. Baldwin Sch., 133 F.3d 141, 27 IDELR 357 (1st Cir. 1998)
- refused, based on arbitration remedy in enrollment contract, to enjoin dismissal from private school of student with ADHD for behavior relating to his disability

S Davis v. Francis Howell Sch. Dist., 138 F.3d 754, 27 IDELR 811 (8th Cir. 1998); DeBord v. Board of Educ. of Ferguson-Florissant Sch. Dist., 126 F.3d 1102, 26 IDELR 1133 (8th Cir. 1997)
- ruled that district's refusal to have the school nurse administer prescribed medication for student with ADHD that far exceed the generally recommended maximum dosage, instead offering the parent to do so at school, was not a violation of § 504 or the ADA

S Crisp Cnty. Sch. Dist. v. Pheil, 498 S.E.2d 134, 27 IDELR 1033 (Ga. Ct. App. 1998)
- no liability under § 504 for failure to reasonably accommodate headaches and allergies of student who fatally fell while changing classes—district did not know she needed accommodation with respect to class changes

P Borough of Palmyra Bd. of Educ. v. F.C., 2 F. Supp. 2d 637, 28 IDELR 12 (D.N.J. 1998)
- granted preliminary injunction for tuition reimbursement for "pure" § 504 student where accommodation plan failed to address impact of ADHD on his written and organizational skills

S A.W. v. Marlborough Co., 25 F. Supp. 2d 27, 29 IDELR 189 (D. Conn. 1998)
- ruled that § 504 regulations (here, grievance procedure regulation) cannot be the basis of suit and, in any event, that a FAPE violation under § 504 requires bad faith or poor misjudgment

S Jensen v. Reeves, 45 F. Supp. 2d 1265, 30 IDELR 368 (D. Utah 1999)
- district's 10-day suspension of student with ADHD did not violate § 504 where parents had not signed consent for evaluation after receiving IDEA procedural safeguards notice

P/S Axelrod v. Philips Acad., 46 F. Supp. 2d 72, 30 IDELR 516 (D. Mass. 1999), further proceedings, 74 F. Supp. 2d 106, 31 IDELR ¶ 135 (D. Mass. 1999)
- ADHD student whom private residential school had academically dismissed was not "otherwise qualified" under ADA for injunctive relief, but court preserved parents' claim for money damages

S Timothy H. v. Cedar Rapids Sch. Dist., 178 F.3d 968, 30 IDELR 535 (8th Cir. 1999)
- district's failure to provide transportation for student with mobility disabilities in connection with intradistrict transfer program that was based on parental preference did not violate § 504

P Alvarez v. Fountainhead, Inc., 55 F. Supp. 2d 1048, 30 IDELR 584 (N.D. Cal. 1999)
- granted preliminary injunction ordering private (Montessori) preschool to enroll asthmatic child, allow him to have access to his Albuterol asthma inhaler and to arrange for reasonable relevant training of its staff

P/S Washington v. Ind. High Sch. Athletic Ass'n, 181 F.3d 840, 31 IDELR ¶ 6 (7th Cir. 1999); Bingham v. Or. Sch. Activities Ass'n, 60 F. Supp. 2d 411, 30 IDELR 20 (D. Or. 1999), vacated as moot, 35 IDELR ¶ 219 (9th Cir. 2001)
- majority view that enforcement of interscholastic rule that limited eligibility to eight consecutive semesters, without exceptions for disabled students, violates § 504/ADA

(*P*) Baird v. Rose, 192 F.3d 462, 31 IDELR ¶ 105 (4th Cir. 1999)
- preserved for trial whether exclusion of student diagnosed with depression from school's show choir constituted discrimination, ruling that the Title VII "motivating factor" standard applied to the ADA rather than the § 504 "solely by reason of" standard for causation

S Doe v. Eagle-Union Cmty. Sch. Corp., 101 F. Supp. 2d 707, 32 IDELR ¶ 117 (S.D. Ind. 2000); cf. Sonkowsky v. Board of Educ., 327 F.3d 675, 39 IDELR ¶ 2 (8th Cir. 2003) (state statute parallel to ADA)
- rejected § 504 suit where plaintiff-student failed to show causal connection between his disability and the decision not to select him for basketball team

S J.D. v. Pawlet Sch. Dist. (supra)
- held that proposed IEP for student determined ineligible under IDEA was a reasonable accommodation under § 504

S Long v. Bd. of Educ., 167 F. Supp. 2d 988, 34 IDELR ¶ 232 (N.D. Ill. 2001)
- rejected restraining order for student dismissed from lacrosse and football teams for disability-related violations of code of conduct

(*P*) Cruz v. Pennsylvania Interscholastic Athletic Ass'n, 157 F. Supp. 2d 485, 34 IDELR ¶ 290 (E.D. Pa. 2001); see also Baisden v. W. Va. Secondary Sch. Activities Comm'n, 568 S.E.2d 32, 39 IDELR ¶ 67 (W. Va. 2002). But see McFadden v. Grasmick, 485 F. Supp. 2d 642, 34 NDLR ¶ 203 (D. Md. 2007) (wheelchair racers' team points)
- enjoined enforcement of age 19 rule pending development and implementation of a waiver procedure to determine whether requested modification was reasonable, necessary and would fundamentally alter the outcome of the competition (based on PGA Tour, Inc. v. Martin)

(*P*) Weixel v. Bd. of Educ., 287 F.3d 138, 36 IDELR ¶ 152 (2d Cir. 2002)
- preserved for trial whether school officials' actions, including refusal to evaluate child with CFS and fibromyalgia, violated § 504/ADA (and IDEA)

S Molly L. v. Lower Merion Sch. Dist., 194 F. Supp. 2d 422, 36 IDELR ¶ 182 (E.D. Pa. 2002)
- held that district's proposed 19-point § 504 plan for child who was severely asthmatic and had physical sensitivity and motor problems, but did not need special education, provided FAPE utilizing combination of IDEA appropriateness and § 504 reasonable accommodation standards

S N.L. v. Knox Cnty. Pub. Sch. (supra)
- seemed to suggest that a student duly determined ineligible under the IDEA is also ineligible under § 504

S Campbell v. Bd. of Educ., 58 F. App'x 162, 38 IDELR ¶ 154 (th Cir. 2003)
- ruled that parents failed to prove that § 504 student with dyslexia required Orton Gillingham, as compared with district's use of Project Read, as FAPE under § 504 ("reasonable access to education similar, relative to his or her individual academic potential …, to that available to average fellow student") and discriminatory

(*P*) M.P. v. Indep. Sch. Dist. No. 721, 326 F.3d 975, 38 IDELR ¶ 262 (8th Cir. 2003), further proceedings, 439 F.3d 865, 45 IDELR 87 (8th Cir. 2006)
- remanded for determination of bad faith or gross misjudgment the parents' § 504 claim that after giving their schizophrenic child a 504 plan, district officials failed to take appropriate action to protect the child's academic and safety interests in response to peer harassment, which arose from the district's disclosure of his medication information

S Power v. Sch. Bd., 276 F. Supp. 2d 515, 39 IDELR ¶ 214 (E.D. Va. 2003)
- § 504 provides no individual right to sue to enforce its procedural safeguards regulation

(*P*) P.N. v. Greco (supra)
- possible liability of public school official for discrimination and, separately, of private school official for retaliation under § 504 and the ADA

(*P*)/*S* K.M. v. Hyde Park Cent. Sch. Dist., 381 F. Supp. 2d 343, 44 IDELR ¶ 37 (S.D.N.Y. 2005). But see S.S. v. E. Kentucky Univ., 532 F.3d 445, 50 IDELR ¶ 91 (6th Cir. 2008); Werth v. Bd. of Directors of the Pub. Sch., 472 F. Supp. 2d 1113 (E.D. Wis. 2007)
- mixed results on whether district was liable for student-to-student disability harassment

S Alex G. v. Bd. of Trustees, 387 F. Supp. 2d 1119, 44 IDELR ¶ 130 (E.D. Cal. 2005)
- held that district officials' restraint, transfer and filing for Honig injunction of escalating disruptive 3rd grader with autism did not violate § 504 in terms of discrimination against student or retaliation against parents

S Janet G. v. Haw. Dep't of Educ., 410 F. Supp. 2d 958, 45 IDELR ¶ 5 (D. Haw. 2005)
- rejected, in response to § 504 claim, tuition reimbursement (under IDEA regulation) for student with dyslexia whom the district had found ineligible for special education

(*P*) Indiana Area Sch. Dist. v. H.H., 428 F. Supp. 2d 361, 45 IDELR ¶ 155 (W.D. Pa. 2006); cf. Breanne C. v. S. York Cnty. Sch. Dist., 665 F. Supp. 2d 504, 53 IDELR ¶ 191 (M.D. Pa. 2009) (money damages available under § 504, not IDEA)[68]
- possible compensatory damages for pain and suffering under § 504/ADA where IDEA claim for compensatory education failed

[68] However, in a subsequent ruling (732 F. Supp. 2d 474 (M.D. Pa. 2010)), the court concluded that the compensatory education award under the IDEA sufficed in this case.

S Vives v. Fajardo, 472 F.3d 19, 47 IDELR ¶ 1 (1st Cir. 2007); see also Hesling v. Seidenberger, 286 F. App'x 773 (3d Cir. 2008)
- rejected retaliation claim of parent of child with autism, finding lack of requisite connection between her OCR complaints (as compared with concerns with child's health) and the district's filing of child neglect charges

S Lauren W. v. DeFlaminis, 480 F.3d 259, 47 IDELR ¶ 183 (3d Cir. 2007)
- in complicated case with various issues, rejected parents' § 504 retaliation claim that district had required a waiver because they had advocated on behalf of their child

S Benedict v. Cent. Catholic High Sch., 511 F. Supp. 2d 854, 48 IDELR ¶ 213 (N.D. Ohio 2007)
- parents failed to show that parochial school's refusal to reenroll former special education (SLD and ADHD) student who had voluntarily withdrawn upon facing expulsion for possession of marijuana on campus was a discriminatory pretext

P Lower Merion Sch. Dist. v. Doe, 931 A.2d 640, 48 IDELR ¶ 255 (Pa. 2007)
- held that § 504 student in private school was entitled to OT from the district, corresponding to IDEA precedent in Veschi, premised on dual enrollment

(*P*) L.M.P. v. Sch. Bd. of Broward Cnty., 516 F. Supp. 2d 1294, 49 IDELR ¶ 14 (S.D. Fla. 2007)
- preserved for trial whether district's alleged policy predetermining segregated placement of triplets with autism violated § 504, including requisite proof of intentional discrimination

(*P*) Mark H. v. LeMahieu, 513 F.3d 922, 49 IDELR ¶ 91 (9th Cir. 2008), further proceedings sub nom. Mark H. v. Hamamoto, 620 F.3d 1090, 55 IDELR ¶ 31 (9th Cir. 2010)[69]; cf. Wiles v. Dep't of Educ., Haw., 555 F. Supp. 2d 1143, 50 IDELR ¶ 64 (D. Haw. 2008) (alleged violation of § 504 legislation, not its regulations, suffices)[70]; D.L. v. Waukee Cmty. Sch. Dist., 578 F. Supp. 2d 1178, 51 IDELR ¶ 67 (S.D. Iowa 2008) (money damages claim under § 504 in wake of successful IDEA claim for compensatory education)
- held that § 504 provides a money damages remedy for failure of a district to provide FAPE to special education students (here two children with autism, for which the district spends approximately $250,000 per year as a result of losing the due process hearing) if they prove: 1) failure to provide "meaningful access" (i.e., reasonable accommodation/commensurate opportunity); and 2) deliberate indifference on the part of the school authorities

[69] On remand, the district court denied the plaintiff-parents' motion for summary judgment, preserving for further proceedings whether the district engaged in deliberate indifference. Mark H. v. Hamamoto, 849 F. Supp. 2d 990 (D. Haw. 2012), reconsideration denied, 58 IDELR ¶ 222 (D. Haw. 2012). Subsequently, the state reportedly agreed to a $4.4 million settlement subject to approval by its legislature. Mary Vorsino, State to Pay 4.4 Million in Landmark Settlement, HONOLULU STAR ADVERTISER, Aug. 29, 2012, http://www.staradvertiser.com/s?action=login&f=y&id=167809065

[70] However, the court ultimately upheld the jury's verdict in favor of the school authorities on both the FAPE/accessibility and retaliations claims. Wiles v. Dept. of Educ., 593 F. Supp. 2d 1176, 51 IDELR ¶ 212 (D. Haw. 2008.)

(*P*) M.G. v. Crisfield, 547 F. Supp. 2d 399 49 IDELR ¶ 217 (D.N.J. 2008)
- denied dismissal of claim that conditioning return of student with disability from suspension on the parents' consent for special education services—possible violation of § 504 "regarded as" prong

(P)/S A.P. v. Anoka-Hennepin Sch. Dist. No. 1, 538 F. Supp. 2d 1125, 49 IDELR ¶ 245 (D. Minn. 2008)
- summarily denied parents claim that district's refusal to train staff members to administer a diabetic child's glucagon injections violated § 504/ADA, but preserved for trial whether its refusal to assist the child with his blood testing and insulin pump operation violated § 504/ADA—reasonable accommodation and deliberate indifference issues

S Robinson v. District of Columbia, 535 F. Supp. 2d 38, 49 IDELR ¶ 252 (D.D.C. 2008); see also Williams v. District of Columbia, 771 F. Supp. 2d 29, 56 IDELR ¶ 164 (D.D.C. 2011)
- alleged failure to comply with FAPE settlement did not rise to § 504 violation in the absence of bad faith or gross misjudgment

(*P*) M.M.R.-Z. v. Commonwealth of Puerto Rico, 528 F.3d 9, 50 IDELR ¶ 61 (1st Cir. 2008)
- preserved for trial retaliation claim of parents of a child with cerebral palsy

(*P*) Alston v. District of Columbia, 561 F. Supp. 2d 29, 50 IDELR ¶ 152 (D.D.C. 2008)
- ruled contrary to some jurisdictions (e.g., 4th Circuit) that individual school officials could be personally liable for retaliation under § 504/ADA

(P)/S Centennial Sch. Dist. v. Phil L., 559 F. Supp. 2d 634, 50 IDELR ¶ 153 (E.D. Pa. 2008)
- seemed to rule that § 504 requires procedural safeguards, including an impartial hearing, but not a manifestation determination

(*P*) D.G. v. Somerset Hills Sch. Dist., 559 F. Supp. 2d 484, 50 IDELR ¶ 70 (D.N.J. 2008)
- ruled, in child find case, that parents stated claim for money damages under § 504, although not under IDEA

S M.Y. v. Special Sch. Dist. No. 1, 544 F.3d 885, 51 IDELR ¶ 1 (8th Cir. 2008)
- although IDEA exhaustion requirement did not apply to parent's § 504 money damages claim, district's refusal to provide transportation to and from summer school did not deny FAPE to child with a disability where the IEP showed child was not entitled to ESY

(P)/S Derrick F. v. Red Lion Area Sch. Dist., 568 F. Supp. 2d 282, 51 IDELR ¶ 120 (M.D. Pa. 2008)
- rejected § 504 retaliation claim, but postponed judgment on intertwined IDEA (FAPE) and § 504 (discrimination) lack of implementation claims

(*P*) Spann v. Word of Faith Christian Ctr. Church, 559 F. Supp. 2d 759, 51 IDELR ¶ 186 (S.D. Miss. 2008)
- church preschool program was subject to § 504 based on parents' use of federally funded day care vouchers for their son's tuition

(*P*)/*S* S.L.-M. v. Dieringer Sch. Dist. No. 343, 614 F. Supp. 2d 1152, 50 IDELR ¶ 97 (W.D. Wash. 2008)
- preserved for trial: 1) whether student with hypospadias was eligible under § 504; and, if so, 2) which accommodations were warranted (via interactive process); 3) whether the asserted § 504 regulations were valid basis for damages claim and, if so, whether the district officials had been deliberately indifferent; and 4) only one of three retaliation claims

S Miller v. Bd. of Educ., 565 F.3d 1232, 52 IDELR ¶ 61 (10th Cir. 2009); see also Ellenberg v. New Mexico Mil. Inst., 572 F.3d 815, 52 IDELR ¶ 181 (10th Cir. 2009) (eligibility)
- ruled that violation of IDEA is not necessarily a § 504 violation, instead additionally requiring proof of eligibility and discrimination

S P.P. v. W. Chester Area Sch. Dist. (supra)
- ruled that statute of limitations under § 504 is the same as under IDEA, i.e., two years

(*P*) Franchi v. New Hampton Sch., 656 F. Supp. 2d 252 (D.N.H. 2009)
- rejected dismissing student's ADA suit against private school that allegedly expelled student for an eating disorder, applying the ADAAA's liberalizing rules of construction and preserving for trial whether her disorder "substantially limited" the major life activity of eating

S Torrence v. District of Columbia, 669 F. Supp. 2d 68, 53 IDELR ¶ 223 (D.D.C. 2009)
- rejected claim under § 504 that district did not conduct timely evaluation of IDEA-covered child due to programmatic failure or discrimination beyond denial of FAPE

(P)/S United States v. Nobel Learning Communities, Inc., 676 F. Supp. 2d 379 (E.D. Pa. 2009)
- dismissed ADA pattern or practice claims against private charter school operator with regard to its daycare, elementary and secondary programs, but not with regard to its preschool programs because 11 of the 12 plaintiff children with disabilities had been "disenrolled" or denied admission at the preschool level, but only one at the other levels—also dismissed parents' associated discrimination claim because the association between the two entities was only indirect

S Doe v. Wells-Ogunquit Cmty. Sch. Dist., 698 F. Supp. 2d 219, 54 IDELR ¶ 120 (D. Me. 2010)
- dismissed § 504 retaliation claim that mirrored the parents' IDEA FAPE claim

(*P*) Celeste v. E. Meadow Union Free Sch. Dist., 373 F. App'x 85, 54 IDELR ¶ 142 (2d Cir. 2010)
- upheld jury verdict under the ADA for district's denial of meaningful facilities access to student with cerebral palsy, but vacated its damages award for retrial due to excessiveness

S K.R. v. Sch. Dist. of Phila., 373 F. App'x 204, 54 IDELR ¶ 144 (3d Cir. 2010)
- upheld jury verdict in favor of district under § 504/ADA when student with autism challenged the behavioral and social support services and peer harassment

(*P*) Bishop v. Children's Ctr. for Developmental Enrichment, 618 F.3d 533, 55 IDELR ¶ 32 (6th Cir. 2010)
- borrowed Ohio's minority tolling statute to apply § 504 limitations period for child with autism

S J.D.P. v. Cherokee Cnty. Sch. Dist., 735 F. Supp. 2d 1348, 55 IDELR ¶ 44 (N.D. Ill. 2010)
- rejected § 504 failure-to-train money damages claim on behalf of child with autism and other disabilities (who had IEP plus, for after-school program, § 504 plan)—deliberate indifference standard

(*P*) Taylor v. Altoona Area Sch. Dist., 737 F. Supp. 2d 474, 55 IDELR ¶ 65 (W.D. Pa. 2010)
- while rejecting liability under IDEA child find and § 1983 constitutional claims, preserved for trial § 504/ADA (and § 1983 due process) claims on behalf of child with asthma who died in school allegedly due to refusal to provide him with reasonable accommodation

(*P*) D.R. v. Antelope Valley Union High Sch. Dist., 746 F. Supp. 2d 1132, 55 IDELR ¶ 163 (C.D. Cal. 2010)
- granted preliminary injunction to high school student with physical disabilities to have an elevator key (while also concluding that she did not qualify under the IDEA—disagreeing with Yankton regarding the need for special education)

S Brown v. Dist. 299-Chi. Pub. Sch., 762 F. Supp. 2d 1076, 55 IDELR ¶ 283 (N.D. Ill. 2010)
- ruled that even if the failing grades of a high school student with SLD showed denial of access to education, the parent failed to provide evidence that they were attributable to the alleged denial of FAPE (via non-implementation)

(*P*) Ms. H. v. Montgomery Cnty. Bd. of Educ., 784 F. Supp. 2d 1247, 56 IDELR ¶ 268 (M.D. Ala. 2011)
- preserved for trial whether district's purported failure to evaluate and update student's 504 plan constituted deliberate indifference, which is the standard for money damages under § 504 in the Eleventh Circuit

(*P*)/*S* Centennial Sch. Dist. v. Phil L., 799 F. Supp. 2d 473, 56 IDELR ¶ 289 (E.D. Pa. 2011)
- ruled that student with ADHD was, pre-ADAAA and contrary to the district's evaluation, eligible under § 504 before, but not after, taking medication and that compensatory education was available for this period if the parents' proved that the lack of a § 504 plan, despite informal accommodations, constituted a denial of FAPE under § 504

S Dutkevitch v. Pa. Cyber Charter Sch., 439 F. App'x 177, 57 IDELR ¶ 32 (3d Cir. 2011), vacatur denied, 439 F. App'x 177, 59 IDELR ¶ 184 (3d Cir. 2012)
- upheld dismissal of parent's § 504/ADA claim for money damages against school district and vocational-technical school, because their respective decisions not to recommend or admit the student, who had an IEP, was not based on his disability

S Doe v. Big Walnut Sch. Dist. Bd. of Educ., 837 F. Supp. 2d 742, 57 IDELR ¶ 74 (S.D. Ohio 2011)
- rejected ADA (and 14th Amendment substantive due process) claim of parent on behalf of student with a disability who had been the target of bullying—lack of objective component of severe or pervasive element and of deliberate indifference

S Zachary M. v. Bd. of Educ., 829 F. Supp. 2d 650, 57 IDELR ¶ 244 (N.D. Ill. 2011)
- rejected various § 504 claims including alleged district policy denying 504 plans to students with good grades and, due to lack of proof of deliberate indifference, liability for money damages

(P) A.B. v. Adams-Arapahoe 28J Sch. Dist., 831 F. Supp. 2d 1226, 58 IDELR ¶ 14 (D. Colo. 2011)
- preserved for trial § 504 money damages claim as whether district's use of restraint chair constituted discrimination and, if so, whether district was deliberately indifferent to its use

S A.M. v. N.Y.C. Dep't of Educ., 840 F. Supp. 2d 660, 58 IDELR ¶ 67 (E.D.N.Y. 2012), aff'd sub nom. Moody v. N.Y.C. Dep't of Educ., 513 F. App'x 95, 60 IDELR ¶ 211 (2d Cir. 2013)
- ruled that requested accommodation of heating up the homemade food of student with diabetes was preferential, not necessary, for meaningful access to lunch, and in any event the district was not deliberate indifferent—also rejected retaliation claim for lack of evidence and § 504 procedural claims based on harmless error approach

S Weidow v. Scranton Sch. Dist., 460 F. App'x 181, 58 IDELR ¶ 93 (3d Cir. 2012)
- rejected disability-harassment claim of former student with bipolar disorder for failure to prove its substantial limitation on social interaction (pre-ADAAA)

(*P*) I.H. v. Cumberland Valley Sch. Dist. (supra)
- expert witness fees are available to prevailing parents under § 504

(*S*) R.N. v. Cape Girardeau 63 Sch. Dist., 858 F. Supp. 2d 1025, 58 IDELR ¶ 193 (E.D. Mo. 2012)
- granted district's motion for summary judgment for § 504/ADA suit (pre-ADAAA) by student in wheelchair for Perthes Disease of the hip, which healed within 2-3 years, because student had failed to exhaust hearing under IDEA (although no IEP) and/or his impairment was not permanent or sufficiently long-term

S D.B. v. Esposito (supra)
- ruled that § 504 1) has additional FAPE element of "disability-based animus," thus not being coextensive with IDEA FAPE claim; and 2) like the ADA, provides for an independent retaliation claim—parent failed to prove either one in this case

S Ridley Sch. Dist. v. M.R. (supra)
- ruled that 504 plan for child with food allergies (as well as SLD) provided reasonable accommodations and that parent's request to be allowed to prepare snacks for the entire class that met her dietary needs was a substantial modification, which is beyond § 504's scope

(*P*) Sher v. Upper Moreland Sch. Dist., 481 F. App'x 762, 58 IDELR ¶ 273 (3d Cir. 2012)
- vacated and remanded denial of dismissal of parents' § 504 claim for money damages for discriminatory discipline—sufficient exhaustion and coverage

(*P*) Preston v. Hilton Cent. Sch. Dist., 876 F. Supp. 2d 235, 59 IDELR ¶ 99 (W.D.N.Y. 2012)
- denied dismissal of parents' § 504 claim that district officials were deliberately indifferent to continuing disability-based peer harassment[71]

S I.A. v. Seguin Indep. Sch. Dist., 881 F. Supp. 2d 770, 59 IDELR ¶ 133 (W.D. Tex. 2012)
- dismissed ADA accessibility § 504 accommodation claims of student with paraplegia for lack of deliberate indifference

(*P*) Nixon v. Greenup Cnty. Sch. Dist., 890 F. Supp. 2d 753, 59 IDELR ¶ 215 (E.D. Ky. 2012)
- denied summary judgment based on factual issue whether incomplete implementation of § 504 plan for second grader with diabetes constituted deliberate indifference—same for retaliation claim

[71] In another recent case concerning disability-based peer harassment, the Fifth Circuit initially distinguished bad faith/gross misjudgment from deliberate indifference for liability under § 504, but subsequently vacated this opinion, remanding the case for resolution of the exhaustion issue. Stewart v. Waco Indep. Sch. Dist., 711 F.3d 513, 60 IDELR ¶ 241 (5th Cir. 2013), vacated and remanded, 599 F. App'x 534, 61 IDELR ¶ 92 (5th Cir. 2013).

P Lauren G. v. W. Chester Area Sch. Dist. (supra)
- granted tuition reimbursement under § 504 for residential placement in the wake of conflated child find and eligibility violations, using the statute of limitation cut-off as a significant equitable consideration due to parents' mediation efforts (and while denying the same relief under the IDEA for three of the four months based on other equitable considerations)

(*P*) Braden v. Mountain Home Sch. Dist., 903 F. Supp. 2d 729, 60 IDELR ¶ 16 (W.D. Ark. 2012)
- denied district's motion for summary judgment of parent's § 504 claim based on bullying and sexual assault of student with a disability by another student in middle-school alternative education program—genuine issue of bad faith or gross misjudgment

S Greer v. Richardson Indep. Sch. Dist., 472 F. App'x 287 (5th Cir. 2012), further proceedings, 471 F. App'x 336 (5th Cir. 2012) (upheld attorneys' fees sanctions under 28 U.S.C. § 1927 for unreasonable and vexatious conduct)
- held that district's provision of alternative seating section in front of or immediately adjacent to the general seating section met the ADA standard for program accessibility for "existing" structures

S D.L. v. Balt. City Bd. of Sch. Comm'rs, 706 F.3d 256, 60 IDELR ¶ 121 (4th Cir. 2013)
- held that § 504 does not compel public schools to provide FAPE to children with disabilities in private schools (and that having a prerequisite that they enroll in public schools does not violate their 1st Amendment freedom of religion)

S J.P.M. v. Palm Beach Cnty. Sch. Bd., 916 F. Supp. 2d 1314, 60 IDELR ¶ 158 (S.D. Fla. 2013)
- granted district's motion for summary judgment on § 504 liability claim of parent of student with autism allegedly subject to physical restraint 89 times (27 prone) in 14 months for aggressive and self-injurious behaviors—lack of intentional discrimination (i.e., deliberate indifference)

(*P*) D.A. v. Meridian Joint Sch. Dist. No. 2, 289 F.R.D. 614, 60 IDELR ¶ 192 (D. Idaho 2013)
- denied district's motion for summary judgment of parent's § 504 liability claim based on bullying of student on 504 plan for high-functioning Asperger disorder (who sought IEE and eligibility under IDEA in separate proceeding)

S Kimble v. Douglas Cnty. Sch. Dist. RE-1, 925 F. Supp. 2d 1176, 60 IDELR ¶ 221 (D. Colo. 2013)
- issued summary judgment for district that offered § 504 plan identical to the IEP the parent revoked, interpreting § 504 as permitting but not requiring, district to offer other educational modification or accommodations[72]

(P) A.C. v. Shelby Cnty. Bd. of Educ., 711 F.3d 687, 60 IDELR ¶ 271 (6th Cir. 2013)
- preserved for trial § 504 retaliation claims of parent who filed OCR complaint on behalf of elementary school child with peanut allergy, diabetes and learning problems—genuine factual issues as to whether the principal's reporting of the parent for child abuse was retaliation for the parent's repeated requests for monitoring the child's glucose levels in the classroom rather than the school clinic

S G.C. v. Owensboro Pub. Sch., 711 F.3d 623, 60 IDELR ¶ 272 (6th Cir. 2013)
- rejected parent's child find claim under § 504 in absence of sufficient evidence of discrimination, i.e., bad faith or gross misjudgment

(*P*) Sutherlin v. Indep. Sch. Dist. No. 40, 960 F. Supp. 2d 1254, 61 IDELR ¶ 69 (N.D. Okla. 2013)
- denied dismissal of parent's § 504 claim that district was deliberately indifferent to disability-based bullying leading to suicidal depression of 13-year-old with SLD and Asperger disorder

S Long v. Murray Cnty. Sch. Dist., 522 F. App'x 576, 61 IDELR ¶ 122 (11th Cir. 2013)
- rejected § 504 liability suit filed on behalf of student with Asperger syndrome who committed suicide allegedly as a result of disability-based peer harassment—lack of deliberate indifference

(*P*) K.M. v. Tustin Unified Sch. Dist., 725 F.3d 1088, 61 IDELR ¶ 182 (9th Cir. 2013)
- preserved for further proceedings where high school students with hearing impairment were entitled to Communication Action Real Time Translation (CART) under Title II (public services) of the ADA even if not under the IDEA, ruling that a school district's compliance with its obligations to a deaf or hard-of-hearing child under the IDEA does not necessarily establish compliance with the ADA Title II effective communication regulation[73]

[72] For an unpublished decision that reached the same overall outcome but with different facts and a separate route, see Lamkin v. Lone Jack C-6 Sch. Dist., 58 IDELR ¶ 197 (W.D. Mo. 2012). For a more recent unpublished decision that reached a different result, see D.F. v. Leon County Sch. Bd., 62 IDELR ¶ 167 (N.D. Fla. 2014).

[73] Subsequently, the parties subsequently entered into a court-approved settlement for $198K, and the trial court awarded $370K (of the requested $443) in attorney's fees. K.M. v. Tustin Unified Sch. Dist., 78 F. Supp. 3d 1289, 65 IDELR ¶ 232 (C.D. Cal. 2015). In another unpublished decision, the district issued a preliminary injunction for CART for the student. D.H. v. Poway Unified Sch. Dist., 62 IDELR ¶ 176 (S.D. Cal. 2013).

S Mann v. Louisiana High Sch. Athletic Ass'n, 535 F. App'x 405, 61 IDELR ¶ 186 (5th Cir. 2013)
- ruled, in denying preliminary injunction that psychologist's diagnosis of anxiety disorder, standing alone with only a conclusory statement about ADA eligibility, does not suffice to establish that the student met the definition of disability under the ADA (as overlapping with but distinct from the definition under the IDEA)

S Starego v. N.J. Interscholastic Athletic Ass'n, 970 F. Supp. 2d 303, 61 IDELR ¶ 274 (D.N.J. 2013)
- denied preliminary injunction under the ADA for fifth year of high school football for student with autism who had qualitatively same four-year experience as nondisabled peers

S T.M. v. District of Columbia, 961 F. Supp. 2d 169, 61 IDELR ¶ 296 (D.D.C. 2013)
- rejected § 504 claim where allegations of bad faith or gross misconduct either amounted to repetition of denial of FAPE or speculation as to district's motives

(*P*) Chambers v. Sch. Dist. of Phila., 537 F. App'x 90, 62 IDELR ¶ 1 (3d Cir. 2013)
- ruled that district's repeated failure to implement OT and SLT provisions of IEP for student with autism, who had received an IHO award of $209,000 in compensatory education under the IDEA (in the form of a trust fund), could constitute deliberate indifference, thus liability for money damages, under § 504

S Pagan-Negron v. Seguin Indep. Sch. Dist., 974 F. Supp. 2d 1020, 62 IDELR ¶ 11 (W.D. Tex. 2013)
- rejected hostile environment claim under § 504/ADA based on principal's alleged disciplinary berating of student with SLI where the principal did not know of the child's behavior related disability until a diagnosis months later for Asperger disorder

S CG v. Pennsylvania Dep't of Educ.**,** 734 F.3d 224, 62 IDELR ¶ 41 (3d Cir. 2013)
- ruled that state's census-based funding formula for special education does not violate § 504 and the ADA—failure to prove that it denied the class members meaningful access (i.e., deprived them of "a program, benefit, or service that was provided to the disabled students who attend schools in the non-class districts")

S B.M. v. S. Callaway R-II Sch. Dist., 732 F.3d 882, 62 IDELR ¶ 42 (8th Cir. 2013)
- upheld summary judgment against parent's § 504/ADA claims, ruling that district's delay in evaluating and providing 504 plan for child with alternate diagnoses of ADHD and dysthymic disorder, including insisting on prerequisite of IDEA evaluation, did not constitute bad faith or gross misjudgment[74]

[74] Before filing suit, the parents received a ruling from OCR that the district violated § 504 for two of her twelve complaints, which both concerned discipline but not, for example, delayed evaluation or delayed FAPE.

S Estate of A.R. v. Muzyka, 543 F. App'x 363, 62 IDELR ¶ 43 (5th Cir. 2013)
- upholding rejection of liability lawsuit on 9-year-old child with disabilities who drowned while participating in summer enrichment program—lack of showing of bad faith, gross misjudgment, or deliberate indifference

(*P*) A. v. Hartford Bd. of Educ., 976 F. Supp. 2d 164, 62 IDELR ¶ 47 (D. Conn. 2013)
- ruled that § 504 is one means of enforcing (i.e., responding to non-implementation of) an IDEA hearing officer decision[75]

S A.G. v. Lower Merion Sch. Dist., 542 F. App'x 194, 62 IDELR ¶ 102 (3d Cir. 2013); see also S.H. v. Lower Merion Sch. Dist., 729 F.3d 248, 61 IDELR ¶ 271 (3d Cir. 2013)[76]
- upholding summary judgment against parent's § 504/ADA "regarded-as" money-damages claim for failure to show that alleged misidentification as a special education student (here SLD/SLI, including suspected ADHD) constituted deliberate indifference

(*P*) B.J. v. Homewood Flossmoor Cmty. High Sch. Dist., 999 F. Supp. 2d 1093, 62 IDELR ¶ 141 (N.D. Ill. 2013)
- denied dismissal based on lack of standing of child with OCD who alleged that state's policy for approved schools discriminated against an appropriate placement for him

S CTL v. Ashland Sch. Dist., 743 F.3d 524, 62 IDELR ¶ 252 (7th Cir. 2014)
- summarily rejecting § 504 suit of first-grade student with diabetes due to lack of intentional discrimination or reasonable accommodation—minor deviations in implementing 504 plan or doctor's orders that were not unsafe are not sufficient to meet these standards

S Estate of Lance v. Lewisville Indep. Sch. Dist., 743 F.3d 982, 62 IDELR ¶ 282 (5th Cir. 2014)
- summarily rejecting § 504 liability for suicide of child with disability—lack of proof of deliberate indifference of district in response to bullying, which had allegedly led to the suicide

S Moore v. Chilton Cnty. Bd. of Educ., 1 F. Supp. 3d 1281, 62 IDELR ¶ 286 (M.D. Ala. 2014)
- rejected, due to lack of deliberate indifference, parent's claim that district was liable for disability-based bullying leading to suicide of high school student with growth disorder

[75] In an unpublished decision, the court subsequently granted the defendant's motion for summary judgment based on lack of deliberate indifference. A. v. Hartford Bd. of Educ., 68 IDELR ¶ 40 (D. Conn. 2016).

[76] In S.H., the court also rejected an IDEA child find claim because, as both parties apparently agreed, the student did not qualify as having a disability.

P C.L. v. Scarsdale Union Free Sch. Dist. (supra)
- ruled that a § 504 claim may be predicated on the alleged denial of access to FAPE as compared to nondisabled students but it requires proof of bad faith or gross misjudgment

S M.A. v. New York Dep't of Educ., 1 F. Supp. 3d 125, 63 IDELR ¶ 18 (S.D.N.Y. 2014)
- summarily rejected parent's ADA retaliation claim for failure to show any causal connection between her advocacy on behalf of her daughter with autism and the paraprofessional's alleged abuse of child and supervisors' alleged failure to report it

S Estrada v. San Antonio Indep. Sch. Dist., 575 F. App'x 541, 63 IDELR ¶ 213 (5th Cir. 2014)
- in context of an employee's sexual assault on their son with cerebral palsy, rejected parents' ADA accessibility claims as devoid of factual foundation and their § 504 claims with regard to the IEP as procedural only lacking in requisite bad faith or gross misjudgment

S Shadie v. Hazleton Area Sch. Dist., 580 F. App'x 67, 64 IDELR ¶ 35 (3d Cir. 2014)
- upheld summary rejection of money damages suit under § 504 on behalf of student with autism, concluding the aide's three instances of inappropriate verbal and/or physical treatment did not amount to the requisite deliberate indifference

S B.D. v. District of Columbia, 66 F. Supp. 3d 75, 64 IDELR ¶ 46 (D.D.C. 2014)
- ruled that mandatory report to child welfare authorities for student's failure to attend school did not constitute retaliation under § 504

S T.F. v. Fox Chapel Area Sch. Dist., 589 F. App'x 584, 64 IDELR ¶ 61 (3d Cir. 2014)
- rejected parents' § 504 challenge to district's proposed 504 plan for student with severe tree-nut allergy, concluding that the multiple meetings and revised proposals, including the last one submitted to and approved by the child's physician, were reasonable even though they did not include the various additional accommodations that the parents wanted and the existing accommodations in the district-wide food allergy policy and training–oddly adding dicta that "the higher standard of proof for intentional discrimination applies here because [they] seek compensatory damages in the form of tuition reimbursement"

S K.K. v. Pittsburgh Pub. Sch., 590 F. App'x 148, 64 IDELR ¶ 62 (3d Cir. 2014)
- upheld summary rejection of money damages suit under § 504 on behalf of gifted graduate who had 504 plan for gastroparesis and, subsequently, anxiety disorder during senior year, concluding that the district's occasional lapses did not amount to the requisite deliberate indifference

(*S*) D.A.B. v. N.Y.C. Dep't of Educ., 45 F. Supp. 3d 400, 64 IDELR ¶ 69 (S.D.N.Y. 2014)
- rejected claim that the district excluded the child based on autism, as contrasted with its general vaccination requirement (with medical exemption), based on failure to exhaust this claim and, in any event, on lack of discrimination

S Lebron v. Commonwealth of Puerto Rico, 770 F.3d 25, 64 IDELR ¶ 95 (1st Cir. 2014)
- upheld dismissal of § 504/ADA money damages suit against SEA/LEA on behalf of IEP student with Asperger disorder whom the parents voluntarily had placed in a private school, ruling that SEA has no obligation under § 504/ADA for such students and, in any event, that the claim did not show any evidence of intentional discrimination or retaliation

S S.S. v. District of Columbia (supra)
- rejected § 504 bullying/FAPE claim for same reasons in this case as under the IDEA

(*P*) K.D. v. Starr, 55 F. Supp. 3d 782, 64 IDELR ¶ 107 (D. Md. 2014)
- preserved for trial whether district's actions, allegedly including repeatedly failing to adequately strengthen and consistently implement the 504 plan of middle school student with SLD upon her declining academic performance and evaluated need for special education, constituted bad faith or gross misjudgment, which does not require personal animosity, ill will, or malice

S Thomas v. Springfield Sch. Comm., 59 F. Supp. 3d 294, 64 IDELR ¶ 213 (D. Mass. 2014); see also Doe v. Torrington Bd. of Educ., 179 F. Supp. 3d 179, 67 IDELR ¶ 182 (D Conn. 2016); Zdrowski v. Rieck, 119 F. Supp. 3d 643, 66 IDELR ¶ 42 (E.D. Mich. 2015)
- dismissed ADA claim of peer harassment (i.e., bullying) of student with SLD (or other disability) where not based on student's disability

S G.M. v. Dry Creek Joint Elementary Sch. Dist. (supra); see also S.B. v. Bd. of Educ. of Harford Cnty., 819 F.3d 69, 67 IDELR ¶ 165 (4th Cir. 2016) (ADHD and SLD); Nevills v. Mart Indep. Sch. Dist., 608 F. App'x 217, 65 IDELR ¶ 164 (5th Cir. 2015) (Tourette syndrome)
- rejected § 504 bullying/FAPE claim of student with SLD (dyslexia) due to lack of deliberate indifference

S T.L. v. Sherwood Charter Sch., 68 F. Supp. 3d 1295, 64 IDELR ¶ 233 (D. Or. 2014)
- rejected ADA denial-of-reasonable-accommodation claim of student with diabetes at charter school, ruling that single failure to ensure he ate lunch did not amount to requisite exclusion from participation or denial of benefits, and rejected § 504 disability discrimination claim based on inadequate showing of requisite federal financial assistance in comparison to state statutes governing funding for charter schools coupled with the testimony of district business officials

P Alboniga v. Sch. Bd. of Broward Cty, 87 F. Supp. 3d 1319, 65 IDELR ¶ 7 (S.D. Fla. 2015)[77]
- interpreted the ADA Title II regulation for service dogs to enjoin the district from requiring the parents to maintain additional liability insurance, to obtain vaccinations beyond those required by state law, and to provide a handler for the dog—ordered the district, as a reasonable accommodation, to provide the assistance that the child required to provide his service animal with routine care such as feeding, watering, and walking

S Eskenazi-McGibney v. Connetquot Cent. Sch. Dist., 84 F. Supp. 3d 221, 65 IDELR ¶ 8 (E.D.N.Y. 2015)
- rejected 1) parents' peer-harassment claim based on lack of disability connection and 2) their retaliation claim based on lack of protected conduct

S Frank v. Sachem Sch. Dist., 84 F. Supp. 3d 172, 65 IDELR ¶ 9 (E.D.N.Y. 2015), aff'd mem., 633 F. App'x 14, 67 IDELR ¶ 30 (2d Cir. 2016). But cf. S.S. v. City of Springfield, 146 F. Supp. 3d 414, 66 IDELR ¶ 253 (D. Mass. 2015), further proceedings, 318 F.R.D. 210, 69 IDELR ¶ 65 (D. Mass. 2016) (court preserved ADA LRE claim after unsuccessful IDEA FAPE claim at IHO level, but denied class certification and required exhaustion)
- rejected claim that the district's placement of student with ED at residential treatment program violated the ADA integration mandate–lack of deliberate indifference

(*P*) Lee v. Natomas Unified Sch. Dist., 93 F. Supp. 3d 1160, 65 IDELR ¶ 41 (E.D. Cal. 2015); cf. Pollard v. Georgetown Sch. Dist., 132 F. Supp. 3d 208, 66 IDELR ¶ 98 (D. Mass. 2015) (student on 504 plan)
- preserved for trial whether district 's seeking of restraining order against parent to protect staff was pretext for retaliation for parent's advocacy on behalf of his child with SLI

S Ripple v. Marble Falls Indep. Sch. Dist., 99 F. Supp. 3d 662, 65 IDELR ¶ 98 (W.D. Tex. 2015)
- rejected money damages suit under § 504/ADA of high school graduate who experienced concussions and other injuries on the football team—failure to exhaust child find and accommodation claims and lack of bad faith or gross misjudgment for safety claim

S Schiffbauer v. Schmidt, 95 F. Supp. 3d 846, 65 IDELR ¶ 100 (D. Md. 2015)
- rejected § 504/ADA claim of hostile environment, based on alleged single incident of physical restraint and alleged peer bullying, due to lack of sufficient severity and pervasiveness

[77] For an unpublished decision that reached the opposite result based on the child's inability to control the service dog, see Riley v. Sch. Admin. Unit #23, 67 IDELR ¶ 8 (D.N.H. 2016).

(*P)/S* Stanek v. St. Charles Cmty. Unit Sch. Dist. No. 303 (supra)
- preserved for further proceedings parent's, not student's retaliation and student's discrimination (based on failure to implement IEP) claims under § 504 against the district, not its personnel

S DL v. District of Columbia (supra)
- denied § 504/ADA class action claim on behalf of preschool children, reasoning that "[a]lthough the District may still not be in compliance with federal and D.C. law, it is clear that vast improvements have been made—strongly suggesting a lack of bad faith"

(*P*) K.R.S. v. Bedford Cmty. Sch. Dist., 109 F. Supp. 3d 1060, 65 IDELR ¶ 272 (S.D. Iowa 2015)
- denied dismissal of § 504 claim that district was deliberately indifferent to pervasive disability-based bullying of student with SLD by other members of high school football team

(*P)/S* T.B. v. San Diego Unified Sch. Dist., 806 F.3d 451 (9th Cir. 2015)
- in latest decision in 10-year dispute for graduated 21-year-old student with multiple disabilities, affirmed summary judgment for district on § 504 g-tube and retaliation claims but denied summary judgment for district on § 504 g-tube nurse claim (re state law "qualified personnel" provision), all based on deliberate indifference standard

S Swanger v. Warrior Run Sch. Dist., 137 F. Supp. 3d 737 (M.D. Pa. 2015)
- rejected § 504 liability of school district for peer sexual abuse of special education student due to lack of deliberate indifference

***S*)** P.P. v. Compton Unified Sch. Dist., 135 F. Supp. 3d 1126, 66 IDELR ¶ 121 (C.D. Cal. 2015)
- denied preliminary injunction in § 504/ADA class action claim seeking system-wide training for student who have experienced complex trauma

P/S M.M. v. Sch. Dist. of Phila., 142 F. Supp. 3d 396, 66 IDELR ¶ 181 (E.D. Pa. 2015)
- upheld expert witness fees (approx. $10K) in addition to reduced attorneys' fees (approx. $130K) under § 504 as a consequence of denial of FAPE under IDEA for twice-exceptional child

S D.A.B. v. N.Y.C. Dep't of Educ. (supra)
- rejected § 504 discrimination claim of denial of access for student with autism based on lack of vaccination, because parent unilaterally placed the child and failed to apply for vaccination exemption

(*P*) D.N. v. Louisa Cnty. Pub. Sch., 156 F. Supp. 3d 767, 67 IDELR ¶ 12 (W.D. Va. 2016)
- refused dismissal of § 504 claim on behalf of student with autism, concluding that allegations of repeated nondisciplinary exclusions from IEP's general education placement and district denials of these exclusions at IEP meetings and involuntary mental health evaluation rather than appropriate private school placement met bad faith or gross misjudgment standard

S R.K. v. Bd. of Educ. of Scott Cnty., 637 F. App'x 933, 67 IDELR ¶ 29 (6th Cir. 2016)
- upheld summary judgment for district in dispute between parents' request for nursing services, including insulin pump monitoring, to kindergarten child with Type I diabetes in neighborhood school and district's offer to do so in another school –parents relocated, thus making injunctive relief moot, and failed to show deliberate indifference, thus not qualifying for money damages[78]

(*P*) A.G. v. Paradise Valley Unified Sch. Dist., 815 F.3d 1195, 67 IDELR ¶ 79 (9th Cir. 2016)
- reversed summary judgment for district, finding genuine issues as to the meaningful access and reasonable accommodation claims of middle school gifted student with autism and the deliberate indifference requisite for money damages—parents claimed that district was liable (after settling IDEA claim) for not providing FBA-BIP and 1:1 aide to child in middle school placement that included gifted program rather than changing the placement to private psychiatric school

(*P*) Beam v. W. Wayne Sch. Dist., 165 F. Supp. 3d 200, 67 IDELR ¶ 88 (M.D. Pa. 2016)
- failure to modify and implement student's 504 plan may fulfill the requisite liability standard of deliberate indifference under § 504 and the ADA (here for student who committed suicide after school's knowledge of his emotional state)

S C.C. v. Hurst-Euless-Bedford Indep. Sch. Dist., 641 F. App'x 423, 67 IDELR ¶ 111 (5th Cir. 2016)
- ruled that placement of special ed student with ADHD in 60-day interim alternate education setting after manifestation determination[79] did not constitute hostile environment under § 504 – lack of requisite deliberate indifference

S K.L. v. Mo. State High Sch. Athletic Ass'n, 178 F. Supp. 3d 792, 67 IDELR ¶ 171 (E.D. Mo. 2016)
- denied preliminary injunction for student with disabilities who competed in track with a racing wheelchair and who sought to earn team points and also to have them assessed against school teams w/o para-athletes—a fundamental alteration, or "affirmative action" relief, not cognizable under § 504 and the ADA

[78] In an earlier decision in this case, the Sixth Circuit required an individualized assessment per the § 504 evaluation regulation. R.K. v. Bd. of Educ. of Scott Cnty., 494 F. App'x 589, 59 IDELR ¶ 152 (6th Cir. 2012).

[79] Rejecting the broad assertion that ADHD's impairment of executive functioning caused the bathroom-photo incident, the appellate court reasoned that "any plaintiff with ADHD could attribute any misconduct, no matter how severe, to the disability."

S J.C. v. Cambrian Sch. Dist., 648 F. App'x 652, 67 IDELR ¶ 199 (9th Cir. 2016)
- brief decision affirming that charter school's denial of admission to nonresident second grader was due to lack of space, not student's disability, thus not violating § 504/ADA

S Thurmon v. Mount Carmel High Sch., 191 F. Supp. 3d 894, 68 IDELR ¶ 20 (E.D. Ill. 2016)
- dismissed § 504 claim of student with SLD suspended by parochial school – merely conclusory allegations that did not sufficiently meet standards for liability (including alternative of disproportionate impact)

(*P*) Spring v. Allegany-Limestone Sch. Dist., 655 F. App'x 25, 68 IDELR ¶ 34 (2d Cir. 2016)
- reversed dismissal of harassment (bullying) liability claim under § 504/ADA for student with Tourette Syndrome and ADHD who committed suicide after being bullied—acknowledged liberalizing eligibility standards under ADAAA

(*P*) United States v. Gates-Chili Cent. Sch. Dist., 198 F. Supp. 3d 228, 68 IDELR ¶ 70 (W.D.N.Y. 2016)
- agreed with district that the ADA did not obligate it to provide a handler for service dog for student with autism and seizure disorders but preserved the matter for further proceedings as to whether the student was able to "handle" the dog (including tether and untether it)

(*P*) Conklin v. Jefferson Cnty. Bd. of Educ., 205 F. Supp. 3d 797, 68 IDELR ¶ 122 (N.D. W. Va. 2016)
- denied § 504/ADA liability claims of student with disabilities (on IEP) who was excluded first from school (via homebound) and then from classroom (via school library) based on his fear of teacher who had physically assaulted him

S B.C. v. Mount Vernon Sch. Dist., 837 F.3d 152, 68 IDELR ¶ 151 (2d Cir. 2016)
- ruled, in finding the failure to establish the prima facie elements of a disparate impact case, that students with IEPs, i.e., eligible under the IDEA, do not necessarily qualify for eligibility under § 504/ADA due to triable issue of substantial limitation

(*P*) Chadam v. Palo Alto Unified Sch. Dist., 666 F. App'x 615, 69 IDELR ¶ 2 (9th Cir. 2016)
- reversed dismissal of § 504/ADA claim on behalf of student with genetic markers for cystic fibrosis whom district had excluded for two weeks based on perceived direct threat to other students w/o individualized medical assessment – "regarded as" prong

(*P*) Dorsey v. Pueblo Sch. Dist. 60, 215 F. Supp. 3d 1082 (D. Colo. 2016)
- denied dismissal where parents'§ 504 claims on behalf of student with 504 plan for various physical conditions, including hypoglycemia, sufficiently alleged deliberate indifference with regard to peer harassment, food snacks, and PE accommodations

S Todd v. Carstarphen, 236 F. Supp. 3d 1311, 54 NDLR ¶ 130 (N.D. Ga. 2017)
- ruling that district provided reasonable accommodation rather than blind parent's request for door-to-door transportation for her nondisabled child and that ADA Title II, contrary to its regulations, does not apply to associational claims of nondisabled child

S Doe v. Columbia-Brazoria Indep. Sch. Dist., 855 F.3d 681, 69 IDELR ¶ 262 (5th Cir. 2017)
- upheld dismissal of § 504/ADA peer-harassment liability claim of third grader with IEP– failure to show connection between the sexual assault (in the bathroom) and the disability (specifically, the testing accommodation outside the classroom)

S D.V. v. Pennsauken Sch. Dist., 247 F. Supp. 3d 464, 69 IDELR ¶ 250 (D.N.J. 2017)
- rejected parent's § 504/ADA retaliation claim for lack of causal link between bullying complaints and alleged adverse actions

S I.Z.M. v. Rosemount-Apple Valley-Eagan Pub. Sch. (supra)
- rejected § 504 and ADA claims of student with visual impairment as precluded by the IDEA ruling (despite "minor variations") and as lacking bad faith or gross misjudgment

(*P*) Luong v. E. Side Union High Sch. Dist., 265 F. Supp. 3d 1045, 70 IDELR ¶ 90 (N.D. Cal. 2017)
- denied dismissal of § 504/ADA money damages claim of twins with autism that failure to consider integrated placement amounted to deliberate indifference

(*P*)/*S* J.S. v. Hous. Cnty. Bd. of Educ., 877 F.3d 979, 70 IDELR ¶ 219 (11th Cir. 2017)
- preserved § 504/ADA claim to determine deliberate indifference with regard to removal of student with disabilities from the classroom but not with regard to resulting physical and verbal abuse in the weight room by PE teachers – issue of appropriate persons for actual notice for corrective action (and, if so, whether they had such notice)

S Scott v. City of Albuquerque, 711 F. App'x 871, 56 NDLR ¶ 42 (10th Cir. 2017)
- affirmed summary rejection of ADA claim of student with bipolar disorder because he did not show that the school resource officer arrested and handcuffed him because of his disability

(*P*)/*S* G. v. Fay Sch., 282 F. Supp. 3d 381, 70 IDELR ¶ 256 (D. Mass. 2017), *mooted*, 931 F.3d 1, 74 IDELR ¶ 216 (1st Cir. 2019)
- dismissed ADA failure-to-accommodate claim, but not ADA retaliation claim, on behalf of private school student who allegedly had Electromagnetic Hypersensitivity Syndrome caused by the school's Wi-Fi—mooted due to unavailability of money damages under ADA Title III

(P)/S A.V. v. Panama-Buena Vista Union Sch. Dist.*,* 292 F. Supp. 3d 992, 71 IDELR ¶ 29 (E.D. Cal. 2017)
- dismissed § 504 discrimination and retaliation claims against individual defendants but not against district for student with 504 plan whom the district expelled, after manifestation determination, for sexual battery of another student

S Doe v. Osseo Area Sch. Dist*.,* 296 F. Supp. 3d 1090, 71 IDELR ¶ 35 (D. Minn. 2017)
- upheld use of substantive standard of IDEA for manifestation determinations for a 504-only student where the district's policy provided for their use (but avoided more general resolution of the applicable standard), rejecting requirement of complete evaluation in the absence of the requisite causal connection

(P)/(D) Marshall v. N.Y.S. Pub. High Sch. Athletic Ass'n*,* 290 F. Supp. 3d 187, 71 IDELR ¶ 58 (W.D.N.Y. 2017), further proceedings, 374 F. Supp. 3d 276, 74 IDELR ¶ 45 (W.D.N.Y. 2019)
- denied dismissal and motion for preliminary injunction for student with POTS who sought exception to eight-semester eligibility rule for interscholastic basketball under Section 504, and subsequently reached mixed results for requested relief against state commissioner of education

S A.H. v. Ill. High Sch. Ass'n, 881 F.3d 587, 71 IDELR ¶ 121 (7th Cir. 2018)
- ruled that requested accommodations of high school runner with cerebral palsy for state athletic association, which concerned qualifying times for para-ambulatory athletes for state finals and establishing a para-ambulatory division for its annual 5K race, did not meet the applicable "but for" analysis and, in any event, was a fundamental alteration, rather than reasonable accommodation, under Section 504 and the ADA

S Estate of Barnwell v. Watson, 880 F.3d 998, 71 IDELR ¶ 122 (8th Cir. 2018)
- affirmed summary denial of § 504 liability claim of parents of student with disability who committed suicide in the wake of bullying—lack of bad faith/gross misjudgment and deliberate indifference, without deciding which of these two standards is applicable

S Pollack v. Reg'l Sch. Unit 75, 886 F.3d 75, 71 IDELR ¶ 206 (1st Cir. 2018)
- ruled that student with multiple disabilities, including autism, was not entitled to wear audio recording device in school under ADA's effective communication regulation based on the failure to prove the threshold necessary element of effectiveness, or demonstrable benefit

S/(P) Lawton v. Success Acad. Charter Sch., 323 F. Supp. 3d 353, 72 IDELR ¶ 176 (E.D.N.Y. 2018)
- dismissed § 504/ADA hostile environment claim but not § 504/ADA discrimination and retaliation claims on behalf of five kindergarten children with actual disabilities or perceived impairments ("regarded as" prong not requiring the other two elements of disability) who charter school barred from the classroom and put on Got-to-Go list based on behavioral violations to strict Code of Conduct

(*P*) Berardelli v. Allied Serv. Inst. of Rehab. Med., 900 F.3d 104, 72 IDELR ¶ 201 (3d Cir. 2018)
- reversed jury instructions, concluding that the ADA regulations for service animals apply as well under Section 504

(*P*) J.L. v. N.Y.C. Dep't of Educ. (supra)
- denied dismissal of § 504/ADA claims against district policies that systematically foreclosed current IEP related services for students with severe medical disabilities, concluding that bureaucratic incompetence morphed into requisite gross misjudgment or bad faith

(*P*) S.P. v. Knox Cnty. Bd. of Educ. (supra)
- preserved issue, due to material issues of fact, as to whether the district's policy of assigning students with seizure disorders to schools with nurses violated § 504 and the ADA

S Ashby v. Warrick Cnty. Sch. Corp., 908 F.3d 225 (7th Cir. 2018)
- adopting DOJ's fact-based spectrum conception, upheld the rejection of the § 504/ADA accessibility claim of a wheelchair-bound parent of a student member of an elementary school choir against a school district, concluding that the Christmas concert at a historic local museum was neither a "service, program, or activity of" nor "an activity provided or made available by" the district

S H.P. v. Naperville Cmty. Unit Sch. Dist., 910 F.3d 957, 73 IDELR ¶ 138 (7th Cir. 2018)
- rejected, due to lack of causal link, § 504/ADA refusal-to-accommodate claim of high school senior with IEP (for epilepsy, anxiety, stress, and depression) who sought to continue her attendance in the district after her residence changed—the reason was her non-residency, a fact unrelated to her disability

P Culley v. Cumberland Valley Sch. Dist. (supra)
- ruled that, despite providing accommodations subsequently without a 504 plan, district violated child find under § 504 by failing to conduct eligibility evaluation upon learning of the student's diagnosis of Crohn's disease—proactive rather than reactive obligation

S P.F. v. Taylor, 914 F.3d 467, 73 IDELR ¶ 167 (7th Cir. 2018)
- ruled that Wisconsin's open enrollment law, which limits transfers of students with disabilities on the capacity and resources of the nonresident district to comply with the child's IEP, does not violate the ADA—basis in actual, not stereotyped, attributes of disability

S Doe v. Pleasant Valley Sch. Dist., 745 F. App'x 658, 73 IDELR ¶ 171 (8th Cir. 2018)
- rejected parents' § 504/ADA challenge to IEP based on IEP not incorporating all of the IEE recommendations – parents must show bad faith or gross misjudgment, not just denial of FAPE

P K.N. v. Gloucester City Bd. of Educ., 379 F. Supp. 3d 334, 74 IDELR ¶ 73 (D.N.J.. 2019)
- ruled that third grader with autism was entitled to not only an aide but also a special education teacher for after-school program, which the child had in her school program, to provide meaningful access under § 504/ADA—reasonable, necessary, and not undue burden or fundamental alternation

S Morales v. Newport Mesa Unified Sch. Dist. (supra)
- upheld rejection of parent's § 504 claim on behalf of high school senior with TBI due to lack of deliberate indifference

(*P*) E.M. v. San Benito Indep. Sch. Dist., 374 F. Supp. 3d 616, 74 IDELR ¶ 106 (S.D. Tex. 2019)
- denied dismissal of FAPE (here, alleged unjustified removal of special education services and refusal to provide justifiable accommodations) and peer harassment claims of middle-school student with multiple disabilities—sufficient showing of possible deliberate indifference

S M.L. v. Williamson Cnty. Sch. Dist., 772 F. App'x 287, 74 IDELR ¶ 152 (6th Cir. 2019); cf. McKnight v. Lyon Cnty. Sch. Dist. (supra) (failure to show proffered reasons were pretext for retaliation for filing for a due process hearing)
- ruled that parents of hypersexual student with IEP failed to show sufficient evidence of the final pretext step for retaliation, i.e., that district's motive for reporting them for suspected child abuse was retaliation for their advocacy on behalf of their child

S L.G. v. Bd. of Educ. of Fayette Cnty., 775 F. App'x 227, 74 IDELR ¶ 193 (6th Cir. 2019)
- upheld dismissal of § 504/ADA retaliation claim of parent of middle school student with e-coli infection for lack of evidence of causal connection between parent's advocacy and truancy (and neglect) proceedings

S Camfield v. Bd. of Tr. of Redondo Beach Unified Sch. Dist., 800 F. App'x 491 (9th Cir. 2020)
- upheld rejection of ADA retaliation claim of parent of student with disability who received 24-hour notice letter for visits to her child's elementary school in the wake of her profanity-laced, disruptive on-campus communications with school staff – no evidence of pretext

(*P*) Duncan v. Eugene Sch. Dist. 4J (supra)
- ruled that minority tolling and student's KOSHK applied to the § 504/ADA hostile environment claims (unlike the IDEA claims), as does the continuing violations exception, thus preserving these claims for further proceedings

(*P*) I.M. v. City of N.Y., 111 N.Y.S.3d 273, 75 IDELR ¶ 161 (App. Div. 2019)
- rejected dismissal of § 504/ADA failure-to-accommodate claim on behalf of nonverbal student with autism that six-week transportation on full-size bus rather than IEP's provision for minibus, which was attributable to computer error and which resulted in the child's repeated behavioral incidents, met the required elements including gross misjudgment, bad faith, or deliberate indifference due to district's bureaucratic inaction in response to parents' complaints

(*P*) Jones v. Bd. of Educ. of Putnam Cnty., 432 F. Supp. 3d 635, 75 IDELR ¶ 247 (S.D. W. Va. 2020)
- denied dismissal of parent's ADA retaliation claim for advocacy for a lawful accommodation for their child with intellectual disabilities (here re. drop-off location at school)

S Powers v. Northside Indep. Sch. Dist., 951 F.3d 298, 76 IDELR ¶ 33 (5th Cir. 2020)
- upheld rejection of plaintiff-administrators' 1st Amendment and, after jury trial, state Whistleblower Law claims after the district fired them for over-identifying students under § 504 (for accommodations in state ESSA testing)

(*P*) Ga. Advocacy Off. v. Georgia, 447 F. Supp. 3d 1311, 76 IDELR ¶ 131 (N.D. Ga. 2020); see also United States v. Georgia, 461 F. Supp. 3d 1315, 76 IDELR ¶ 298 (N.D. Ga. 2020)
- denied dismissal of ADA Title II claims of integration violation and unequal education against state's administration of GNETS

S Richardson v. Omaha Sch. Dist., 957 F.3d 869, 76 IDELR ¶ 145 (8th Cir. 2020)
- upheld summary rejection of parents' bullying-based § 504 FAPE claim for failure to show requisite bad faith or gross misjudgment

S K.H. v. Antioch Unified Sch. Dist., 424 F. Supp. 3d 699, 76 IDELR ¶ 150 (N.D. Cal. 2020). But cf. Doe v. Alameda Cmty. Learning Ctr., 532 F. Supp. 3d 867, 78 IDELR ¶ 183 (N.D. Cal. 2021)
- rejected respondeat superior liability of school district under § 504 absent notice of private school's alleged inappropriate restraint of child with disability

S Wong v. Bd. of Educ. (supra)
- rejected retaliation claim of students based on legitimate nondiscriminatory reason for removal from National Honor Society

(*P*) Piotrowski v. Rocky Point Union Free Sch. Dist., 462 F. Supp. 3d 270, 76 IDELR ¶ 209 (E.D.N.Y. 2020)
- denied dismissal of parents' § 504/ADA money damages claim, concluding that district's alleged failure to provide accommodations for student's diabetes, punishment for using cellphone and going to nurse's office to check glucose levels, and failure to provide her IEP to her teachers met bad faith or gross misjudgment standard

S G.P. v. Claypool, 466 F. Supp. 3d 875, 76 IDELR ¶ 239 (N.D. Ill. 2020)
- ruled that district's transfer offer for student with severe mobility problems to another Montessori magnet school was not a violation of ADA Title II "program accessibility" requirements

S/P Reid-Witt v. District of Columbia, 486 F. Supp. 3d 1, 77 IDELR ¶ 102 (D.D.C. 2020)
- summarily rejected § 504 plan accommodations challenges of high school student with depression/anxiety and resulting attendance issues as not amounting to bad faith or gross misjudgment, but denied dismissal of her claim that district's practice of excluding special education students from selective high school met this standard (subject to further proceedings in which she may lack standing if open issue of IDEA eligibility is decided against her)

S S.S. v. Bd. of Educ. of Harford Cnty. (supra)
- rejected, based on lack of bad faith or gross misjudgment, liability claims of failure to sufficiently address escalating behaviors and physical harassment of child with autism

S Aponte v. Pottstown Sch. Dist., 842 F. App'x 806, 78 IDELR ¶ 31 (3d Cir. 2021)
- rejected parent's § 504 claim that district personnel's child abuse and child neglect reports was retaliation for her advocacy of FAPE for her child—lack of causal link

(*P*) R.D. v. Lake Washington Sch. Dist., 843 F. App'x 80, 78 IDELR ¶ 61 (9th Cir. 2021)
- preserved for trial issue of whether district failed to implement 504 plan of student with medical condition that provided for indoor supervised gross motor activity when classmates went outside for recess and, if so, whether this failure amounted to deliberate indifference

P E.P. v. Twin Valley Sch. Dist., 517 F. Supp. 3d 347, 78 IDELR ¶ 69 (E.D. Pa. 2021)
- ruled the district violated child find for gifted student with various physical and mental diagnoses from late kgn. through grade 3, resulting in order for IEE at district expense to determine the extent and nature of compensatory education

S Harrison v. Klein Indep. Sch. Dist., 856 F. App'x 480, 78 IDELR ¶ 212 (5th Cir. 2021)
- affirmed summary rejection of § 504/ADA failure-to-accommodate and hostile educational environment claims of elementary school student with multiple cognitive and physical disabilities for lack of deliberate indifference

(*P*) Round Rock Indep. Sch. Dist. v. Amy M., 540 F. Supp. 3d 679, 78 IDELR ¶ 285 (W.D. Tex. 2021)
- denied dismissal of § 504/ADA claims of high school student with TBI and OHI, finding requisite showing of gross misjudgment or bad faith in district's successive actions of refusing to adjust her IEP, subjecting her parent to truancy charges, and ultimately disenrolling her, and also finding that parent made sufficient showing of retaliation (same case has separate pending district appeal of tuition reimbursement ruling in favor of parent)

(*S*) S.T. v. L.A. Unified Sch. Dist., 545 F. Supp. 3d 840 (C.D. Cal. 2021)
- denied summary judgment to home-bound student with various health conditions that prevented in-person attendance – qualified under § 504 but material factual issue of whether the school district provided reasonable accommodations for meaningful access

S A.C. v. Owen J. Roberts Sch. Dist., 554 F. Supp. 620, 79 IDELR ¶ 94 (E.D. Pa. 2021)
- ruled that district's unilateral removal of 504 plan (and change in homebound services) for gifted student with complex medical conditions did not amount to denial of FAPE under § 504 in the absence of proof of connection between the removal and the student's progress or absences, although deliberate indifference is not required for injunctive relief in this jurisdiction

S Csutoras v. Paradise High Sch., 12 F.4th 960, 79 IDELR ¶ 152 (9th Cir. 2021)
- rejected § 504/ADA peer harassment (i.e., bullying) claim for money damages of student w. 504 plan based on deliberate indifference standard as foreclosing the 4-factor test in OCR guidance

(*S*) Hayes v. DeSantis, 561 F. Supp. 1187, 79 IDELR ¶ 198 (S.D. Fla. 2021)
- dismissed, for lack of IDEA exhaustion, § 504 challenge to governor's ban of COVID-19 mandatory masking

(*P*) E.E. v. Cal., 570 F. Supp. 759, 79 IDELR ¶ 273 (E.D. Cal. 2021)[80]
- granted TRO, based on § 504/ADA for students with disabilities against state law limiting virtual learning options to independent study during the pandemic closure

(*P*)/*S* R.K. v. Lee, 575 F. Supp. 3d 957, 80 IDELR ¶ 43 (M.D. Tenn. 2021), vacated for lack of standing, , 53 F.4th 995 (6th Cir. 2022); G.S. v. Lee, 558 F. Supp. 3d 601, 79 IDELR ¶ 159 (W.D. Tenn. 2021), dismissed for mootness, 81 IDELR ¶ 49 (W.D. Tenn. 2022)
- granted TRO under § 504/ADA for students with disabilities against governor's executive order requiring parental opt-out for any school district masking mandate

(*P*) C.G. v. Saucon Valley Sch. Dist., 571 F. Supp. 3d 430, 80 IDELR ¶ 11 (E.D. Pa. 2021)
- granted preliminary injunction, based on § 504/ADA, for access of service animal for student with disabilities – substantial likelihood of the dog meeting the criteria of a service animal

S Reinoehl v. St. Joseph Cnty. Health Dep't, 181 N.E.3d 341, 80 IDELR ¶ 51 (Ind. Ct. App. 2021)
- dismissed § 504/ADA challenge to order to switch back to partial remote instruction due to COVID-19 on behalf of two children with 504 plans – failure to show intentional discrimination and lack of reasonable accommodation

[80] After the judge granted a preliminary injunction in place of the TRO (80 IDELR ¶ 193), the Ninth Circuit granted the plaintiffs' motion for voluntary dismissal. 2022 WL 4096894 (Aug. 19, 2022).

S/P ARC of Iowa v. Reynolds, 24 F.4th 1162, 80 IDELR ¶ 91 (8th Cir. 2022), vacated as moot, 33 F.4th 1042 (8th Cir. 2022), further proceedings, __ F. Supp. 3d __, 82 IDELR ¶ 28 (D. Iowa 2022)
- modified preliminary injunction, based on § 504/ADA, against governor's order prohibiting school districts from mandating masks during COVID-19 – limited the relief to the schools and districts attended by the plaintiff students – vacated due to dramatically changed conditions – granted summary judgment for plaintiffs, ordering districts to permit universal masking as § 504/ADA reasonable accommodation/ modification based on exception in governor's order

S Disability Rights S.C. v. McMaster, 24 F.4th 893, 80 IDELR ¶ 92 (4th Cir. 2022)
- vacating preliminary injunction, based on § 504/ADA, against governor's order prohibiting school districts from mandating masks during COVID-19 – lack of standing (including conclusion that order allows for district exceptions)

P M.F. v. N.Y.C. Dep't of Educ., 582 F. Supp. 3d 49, 80 IDELR ¶ 96 (S.D.N.Y. 2022)
- ruled that school district's limited provisions for medication to students with diabetes on field trips and school buses were not a reasonable accommodation under § 504/ADA

(*S/P*) Doe 1 v. Upper Saint Clair Sch. Dist., 581 F. Supp. 3d 711, 80 IDELR ¶ 104 (W.D. Pa. 2022); Doe v. N. Allegheny Sch. Dist., 580 F. Supp. 3d 140, 81 IDELR ¶ 79 (W.D. Pa. 2022), vacated as moot, 2022 WL 2951467 (3d Cir. Mar. 1, 2022); cf. Doe 1 v. Del. Valley Sch. Dist., 572 F. Supp. 3d 38, 80 IDELR ¶ 16 (E.D. Pa. 2021) (granted requested accommodation of masked personnel)
- denied preliminary injunction for § 504/ADA challenge to school district change from universal to optional masking during COVID-19 – alternative grounds of standing (lack of concrete risk due to alternative mitigation measures), exhaustion (Fry criteria), and unreasonable accommodation (as compared to available alternatives)

(*P*)/*S* Doe 1 v. Perkiomen Valley Sch. Dist., 585 F. Supp. 3d 668, 80 IDELR ¶ 182 (E.D. Pa. 2022)[81]
- granted preliminary injunction for § 504/ADA challenge to school district change from universal to optional masking during COVID-19 – exception from exhaustion and requested reinstatement of universal masking is reasonable accommodation

S Goe v. Zucker, 43 F.4th 19, 81 IDELR ¶ 122 (2d Cir. 2022)
- affirmed § 504 (and 14th Amendment) challenge to tightened medical exemption for vaccine mandates generally – lack of causal element ("solely by reason of disability")

S E.T. v. Paxton, 41 F.4th 709, 81 IDELR ¶ 126 (5th Cir. 2022)
- vacated lower court's preliminary injunction, based on § 504/ADA, against governor's ban of district mask mandates during COVID-19 – students' alleged increased risk of suffering complications from contracting COVID-19 was not an injury in fact that could support Article III standing

[81] The court subsequently dissolved the preliminary injunction based on updated CDC guidance. Doe 1 v. Perkiomen Valley Sch. Dist., 80 IDELR ¶ 182 (E.D. Pa. 2022).

S D.M. v. Or. Scholastic Activities Ass'n, __ F. Supp. 3d __, 81 IDELR ¶ 215 (D. Or. 2022)
- denied TRO to student with 504 plan who sought exemption from interscholastic athletic organization's 8-semester rule that included an express disability exemption for students with IDEA IEPs

(P) L.E. v. Superintendent of Cobb Cnty. Sch. Dist., __ F. 4th__, 82 IDELR ¶ 79 (11th Cir. 2022)
- reversed and remanded denial of preliminary injunction to parents of students with disabilities § 504/ADA claim for mandatory masking and other pandemic safety procedures upon return to in-person instruction – failure to focus on in-person schooling rather than education in general and to address Olmstead unjustified isolation claim, which is independent of disparate treatment