

# EDUCATION LAW INTO PRACTICE

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## JUDICIAL RULINGS FOR SUBSTANTIVE FAPE UNDER THE IDEA: COMPARING THOSE BEFORE WITH THOSE AFTER *ENDREW F.*\*

by

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The core obligation under the Individuals with Disabilities Education Act (IDEA) is the provision of a free appropriate public education (FAPE).<sup>1</sup> In *Board of Education v. Rowley*, the landmark 1982 decision under the IDEA, the Supreme Court delineated two dimensions of FAPE—procedural and substantive.<sup>2</sup> For the substantive side, the *Rowley* Court formulated the standard that the individualized education program (IEP) must be “reasonably calculated to enable the child to receive educational benefits.”<sup>3</sup>

Thirty-five years later, in *Endrew F. v. Douglas County School District RE-1*,<sup>4</sup> the Court revisited and refined the substantive standard for FAPE as requiring the IEP to be “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”<sup>5</sup>

A recent empirical analysis found that the judicial rulings in the most recent six full years, consistent with those of the first two years, after the March 22, 2017 issuance of *Endrew F.*, favored school districts over parents by a 4:1 ratio.<sup>6</sup> The analysis ended with a

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1. 20 U.S.C. §§ 1400 *et seq.* For the definition of FAPE, see *id.* § 1401(9).

2. Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., 458 U.S. 176, 207, 5 Educ. L. Rep. 34 (1982).

3. *Id.* Conversely, the Court most cryptically formulated the other side as requiring “compl[iance] with the procedures set forth in the Act.” *Id.*

4. 580 U.S. 386 (2017).

5. *Endrew F. v. Douglas Cnty Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017).

6. Perry A. Zirkel, *The Impact of Endrew F.: An Updated Analysis of Resulting Judicial Rulings*, 441

EDUC. L. REP. 21 (2026) [hereinafter Zirkel, *The Impact*]. More specifically, the outcomes distribution for a representative sample of ninety judicial rulings applying the *Endrew F.* substantive standard for FAPE was 79% (n=71) in favor of districts and 21% (n=19) in favor of parents. *Id.* at 27. Based on an earlier analysis, the outcomes distribution of a corresponding sample of judicial rulings for the first two years after *Endrew F.* was 82% (n=67) in favor of districts and 18% (n=15) in favor of parents. *Id.* at 24 n.22 (citing Perry A. Zirkel, *The Aftermath of Endrew F.: An Outcomes Analysis Two Years Later*, 364 EDUC. L. REP. 1, 3 (2019) [hereinafter Zirkel, *The Aftermath*]). As also reported in the literature review, another previous analysis found a similar outcomes distribution for the first three years after *Endrew F.* William Moran, Note, *The IDEA Demands More: A Review of FAPE Litigation after Endrew F.*, 22 N.Y.U. J. LEGAL & PUB. POL’Y 495, 510 (2020) (79% for districts and 21% for parents); cf. John P. Connolly & Lewis M. Wasserman, *Has Endrew F. Improved the Chances of Proving a FAPE Violation under the Individuals with Disabilities Education Act?* 18 J. ARTICLES SUPPORT NULL HYPOTHESIS 51 (2021) (sharing the conclusion of a nonsignificant outcomes effect of *Endrew F.* but limiting the rulings

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recommendation for a comparable outcomes analysis of the pre-*Andrew F.* judicial rulings under the *Rowley* formulation of the substantive FAPE standard.<sup>7</sup>

The purpose of the present analysis was to determine the outcomes distribution for a comparable sample of judicial rulings under *Rowley*'s substantive standard.<sup>8</sup> This baseline determination provided the basis for additionally addressing two overlapping research questions:

- (1) Whether there was a significant difference between the *Rowley* and *Andrew F.* outcomes distributions?
- (2) What was the overall pattern of the outcomes before and after *Andrew F.*?

### Method of the Analysis

Paralleling the framework of the predecessor article,<sup>9</sup> which provided the post-*Andrew F.* analysis, the starting point for the case selection consisted primarily of the substantive standard<sup>10</sup> and secondarily, the following selected dicta of the *Rowley* decision:<sup>11</sup>

Abbreviated Label in Appendix ( <i>infra</i> )	Specific Wording in <i>Rowley</i> Majority Opinion
not maximization	“[T]o require . . . the furnishing of every special service necessary to maximize each handicapped child's potential is, we think, further than Congress intended to go.” <sup>12</sup>
no guarantee	“[Congress expressly ‘recognize[d] that in many instances the process of providing special education and related services to handicapped children is not guaranteed to produce any particular outcome.... Thus, the intent of the Act was more to open the door of public education to handicapped children on appropriate terms than to guarantee any particular level of education once inside.” <sup>13</sup>
basic floor	“We therefore conclude that the ‘basic floor of opportunity’ provided by the Act consists of access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child.” <sup>14</sup>
grade advancement	“[I]f the child is being educated in the regular classrooms of the public education system, should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade” <sup>15</sup>
deference	“[T]he provision that a reviewing court base its decision on the ‘preponderance of the evidence’ is by no means an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review.” <sup>16</sup>

to federal district court decisions and using a different outcome metric).

7. Zirkel, *The Impact*, *supra* note 6, at 29.

8. For purposes of comparability for the longest alternative period, the closest fit for combination with the six-year period of the predecessor analysis (Zirkel, *The Impact*, *supra* note 6) among the three earlier analyses was the prior two-year period (Zirkel, *The Aftermath*, *supra* note 6). However, none of those three analyses used sampling criteria that specifically matched those identified above. Although the two-year

analysis fit well in terms of both time-period sequence and outcomes scale, it—like the other two analyses— included a selection criterion keyed to the timing or outcome of a hearing/review officer decision.

9. *Id.* at 25–27.

10. *Supra* text accompanying note 3.

11. The role of the selected dicta is only incidental as background for the potentially weightier role of their counterparts in the *Andrew F.* analysis. Zirkel, *The Impact*, *supra* note 6, at 28.

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### [The preceding image contains references for footnotes <sup>12, 13, 14, 15, 16</sup>]

A Boolean search of the Westlaw database using a search string starting with “Rowley” and “reasonably calculated to enable” for the eight-year period from March 22, 2009 to March 21, 2017, which was the day before the *Andrew F.* decision, yielded an initial pool of 704 decisions.<sup>17</sup>

Next, the author reviewed each decision identified by a random number generator to identify the decisions that specifically included and conclusively applied the *Rowley* substantive standard until reaching a number of rulings equivalent to the total for the eight years post-*Andrew F.*, which was 120.<sup>18</sup> This step reduced the total pool from 704 to 465 decisions based on the false-positives being almost twice as frequent as the qualifying decisions.<sup>19</sup> Thus, the final sample consisted of 116 decisions, which amounted to 25% of the 465 decisions, yielding the 120 relevant rulings.<sup>20</sup>

The final step for the data collection was to record for each of the 116 decisions the following information into a table, which is the Appendix for this article: the citation, any of the aforementioned five dicta mentioned in the court’s opinion, the outcome for the substantive FAPE ruling,<sup>21</sup> and optional clarifying comments.<sup>22</sup> The ruling entry did not take into consideration the court’s determination of any other issues in the case. Moreover, the

12. *Bd. of Educ. v. Rowley*, 458 U.S. at 199; *see also id.* at 189–90 (“Certainly the language of the statute contains no requirement like the one imposed by the lower courts—that States maximize the potential of handicapped children ‘commensurate with the opportunity provided to other children.’”); *id.* at 198 ([The FAPE obligation] generates no additional requirement that the services so provided be sufficient to maximize each child’s potential “commensurate with the opportunity provided other children.”); *id.* at 200 (“The District Court and the Court of Appeals thus erred when they held that the Act requires New York to maximize the potential of each handicapped child commensurate with the opportunity provided non-handicapped children.”).

13. *Id.* at 192.

14. *Id.* at 201.

15. *Id.* at 204.

16. *Id.* at 206; *see also id.* at 207 (“In assuring that the requirements of the Act have been met, courts must be careful to avoid imposing their view of preferable educational methods upon the States.”); *id.* at 207–08 (“In the face of such a clear statutory directive, it seems highly unlikely that Congress intended courts to overturn a State’s choice of appropriate educational theories. . . .”).

17. The added search terms were “Individuals with Disabilities Education Act” and (“appropriate!” OR “adequacy” OR “substantive”).

18. The post-*Andrew F.* total consisted of (a) the ninety rulings for the six-year period of the predecessor analysis (Zirkel, *The Impact*, *supra* note 6) plus (b) an

adjusted number of thirty rulings for the prior two-year period of the earlier analysis (Zirkel, *The Aftermath*, *supra* note 6). This adjustment was to proportionally reduce the original total of eight-two rulings for the initial two-year period to equate to the average of fifteen rulings per year for the six-year period. The weighting factor for the proportional adjustment was  $30 (2 \text{ years} \times 15)/82$  (two-year total) = .366. The resulting adjusted outcomes distribution for the initial period was five rulings for parents and twenty-five rulings for districts, thus yielding an eight-year total of twenty-four rulings for parents (20%) and ninety-six rulings for districts (80%).

19. The bulk of the false-positives, meaning the decisions that did not specifically apply the *Rowley* substantive standard, were (a) those that recited the standard solely as background, with the rulings on the merits limited to other issues, such as eligibility, procedural FAPE, or threshold adjudicative issues (e.g., statute of limitations or mootness), or, in second place, (b) those that were earlier or later decisions in the same case that were not the final rulings that specifically applied *Rowley*’s substantive standard. A few decisions were excluded based on lack of conclusively addressing the substantive FAPE issue, such as decisions limited to additional evidence and those remanded for further proceedings.

20. The difference is attributable to the relatively few decisions with “mixed” rulings. *Infra* note 23 and accompanying text.

21. The two outcome categories of the rulings were abbreviated as P (in favor of the parents) and SD (in favor of the school district).

22. The mere mention of these dicta sufficed because it

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three cases that had a mix of different rulings for substantive FAPE, such as a ruling that one IEP met the *Endrew F.* standard but another ruling that the next two IEPs did not meet this standard, were disaggregated into their separate outcome rulings.<sup>23</sup>

The data analysis was to compile and compare the outcomes distributions for the rulings under the *Rowley* and *Endrew F.* substantive standards, with the statistical analysis being a chi square ( $X^2$ ) test.<sup>24</sup>

**Findings and Discussion**

Table 1 provides the resulting outcomes distribution for the *Rowley* rulings and, for comparison purposes, that found in the predecessor article for the corresponding *Endrew F.* rulings.<sup>25</sup>

Table 1: Outcomes Distribution for Respective Eight-Year Periods

	For Parents	For Districts	
<i>Rowley</i> Progeny	78% (n=93)	22% (n=27)	$\chi^2 = .64$ ns
<i>Endrew F.</i> Progeny	80% (n=96)	20% (n=24)	

ns = not statistically significant

Review of Table 1 as well as its alternate six-year analysis<sup>26</sup> reveals that (a) there is no statistically significant difference in the outcomes distribution between the pre-*Endrew F.* (i.e., *Rowley* progeny) and post-*Endrew F.* (i.e., *Endrew F.* progeny) substantive FAPE rulings, and (b) the overall pattern has been district-“dominated” for substantive FAPE rulings both before and after *Endrew F.*<sup>27</sup>

The lack of a significant difference in the outcomes distribution of the *Rowley* progeny with that of the *Endrew F.* progeny is consistent with the previous empirical analyses that found a nonsignificant impact via various pre/post comparisons for a much more limited period of time and using the hearing officer decision as the starting point.<sup>28</sup> The present analysis extended to (a) a sixteen- or, alternatively, a twelve-year period, which ended in March 2025 and consisted of the two equal intervals on each side of the March 2017 date of the *Endrew F.* decision, and (b) a straightforward comparison baseline for the pre-*Endrew F.* interval consisting of the directly corresponding substantive FAPE rulings under the *Rowley*

was infeasible to reliably determine whether it was merely background or played a direct decisional role in the ruling.

the results are not due to random chance or measurement error. *Id.*

**23.** Two of these three decisions had one additional relevant ruling, and the other one had two additional relevant rulings, thus resulting in a difference of four between the final decisions and the final rulings in the sample.

**25.** Zirkel, *The Impact*, *supra* note 6.

**24.** The chi-square test is the generally accepted inferential statistic for frequency distributions of nominal data, indicating whether the difference between the two distributions is likely to be generalizable to the accessible population. *See, e.g.,* Meredith Gall et al., EDUCATIONAL RESEARCH 325–27 (2007). For inferential analysis the conventional minimum level of probability ( $p$ ) is  $p < 0.5$ , representing a 95% probability that

**26.** The alternative of limiting the comparison to the most recent six years before and after *Endrew F.* due to the arguably different selection process for the first two years (*supra* note 8) yields the same nonsignificant difference. More specifically the outcomes distribution for the respective six-year periods was as follows:

	For Parents	For Districts
<i>Rowley</i> progeny (3/21/11–3/21/17)	21% (n=17)	79% (n=65)
<i>Endrew F.</i> progeny (3/22/19–3/21/25)	21% (n=19)	79% (n=71)

**27.** Moran, *supra* note 6, at 516.

**28.** *Supra* note 6 and accompanying text.

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standard. Thus, although parents and practitioners may perceive *Endrew F.* as significantly elevating the substantive standard for FAPE, which thus far is without empirical validation,<sup>29</sup> it is increasingly clear that the courts view it without significant distinction from *Rowley*'s relatively relaxed substantive standard.<sup>30</sup>

The overlapping finding of a not just stable but pronounced pro-district skew in the outcomes both before and after *Endrew F.* is likely attributable to the unchanged “reasonably calculated” and semantically equivalent “benefit”-“progress” elements in the successive formulation of the substantive standard; the malleability of these terms along with “appropriate” and the inertia of precedent within the continuing tradition of judicial deference.<sup>31</sup>

Although rather incidental here as the foundation for the potentially significant dicta in *Endrew F.*, approximately one-fourth (n=31) of the 116 decisions in the *Rowley* sample did not even mention any of the five selected dicta. For the remaining decisions, the frequency of each was as follows in descending order: deference (n=55), not maximization (n=46), basic floor (n=18), grade advancement (n=9), and no guarantee (n=6). The first two factors, which were far more frequent than the other dicta, generally squared with the *Rowley* Court's relatively relaxed and thus district-favorable view of the substantive, as compared with procedural, dimension of FAPE.<sup>32</sup> They also serve as the springboard for the *Endrew F.* Court's refined reiteration as well as expansion of the potentially outcome-influencing dicta.<sup>33</sup>

In sum, this analysis provides one more objective piece to the substantive legal meaning of the “A” in the IDEA's core obligation of FAPE. Further research is welcome in extending the exploration to the resulting perceptions and practices of providing IEPs that are judiciously and, on a differentiated basis, professionally appropriate.

29. See, e.g., Leah Bueso, *Challenging Objectives: A Legal and Empirical of the Substantive Standard for FAPE after Endrew F.* 89, 93–95 (2019) (Ph.D. dissertation, UCLA), <https://escholarship.org/uc/item/6pv5p6sb> (finding that almost all of the special education supervisors and specialists interviewed in a large urban district in California were not familiar with either *Rowley* or *Endrew F.* and the majority's perception with the applicable substantive standard for FAPE was not aligned with either of these Supreme Court decisions); Karin M. Fisher et al., *Parent Knowledge of the Definition of FAPE in Light of the Endrew F. v. Douglas County School Board Decision*, 9 J. SPECIAL EDUC. APPRENTICESHIP 1, 6 (Jan. 2020), <https://scholarworks.lib.csusb.edu/josea/vol9/iss1/3/> (finding, in a national survey, that the majority of 108 parents with disabilities, who were disproportionately white and higher SES, had never heard of *Endrew F.*).

30. For recognition of the relatively low substantive standard under *Rowley*, see Jacqueline Chovanes et al., *The Endrew F. Decision and the Future of IEPs and FAPE*, in 31 THE NEXT BIG THING IN LEARNING AND BEHAVIORAL DISABILITIES 12 (Bryan G. Cook et al., eds. 2021) (“The clear lack of any substantive standards for FAPE combined with the *Cadillac v. Chevrolet*

perspective facilitated a basic or minimalist view of the substantive education students with disabilities is entitled to receive and lowered expectations for eligible students.”). This source also recognized that the corresponding crystallization of the *Endrew F.* standard would require years of federal court rulings. *Id.* at 24.

31. Yet, “deference” in this context may be to school districts or to hearing officers as representing “school authorities” and “states.” *Supra* note 16 and accompanying text. Other more limited contributing factors include (a) the skewing effect of settlement, which is partially offset by not only abandonments and settlements but also other settlement factors beyond outcome odds, and the so-called “snapshot approach,” which only three circuit courts of appeal had adopted before the period of the *Rowley* sample in this analysis.

32. *Bd. of Educ. v. Rowley*, 458 U.S. at 206 (interpreting the IDEA intending “that adequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP”).

33. Zirkel, *The Impact*, *supra* note 6, at 26, 28.

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Appendix: Summary of the Random Sample of 116 Court Decisions for the Eight Years from March 22,  
2009 to March 21, 2017

	Case Name	Citation	Identified Features (and Other Factors)	Outcome	Comments
1	Poway Unified Sch. Dist. v. K.C.	2013 WL 990837 (S.D. Cal. Mar. 13, 2013)	• deference • basic floor • grade advancement	SD	CART - separate stay for ADA claim
2	Ricci v. Beech Grove City Schs.	2016 WL 4088204 (S.D. Ind. Aug. 1, 2016)		SD	
3	J.K. v. Council Rock Sch. Dist.	833 F. Supp. 2d 436 (E.D. Pa. 2011)	• deference (to IHO)	SD	
4	Forest Grove Sch. Dist. v. Student	665 F. App'x 612 (9th Cir. 2016)	• basic floor	SD	
5	D.A.B. v. N.Y.C. Dep't of Educ.	973 F. Supp. 2d 344 (S.D.N.Y. 2013)*	• deference • not maximization	SD	*aff'd, 630 F. App'x 73 (2d Cir. 2015)
6	Annette K. v. State of Haw.	2013 WL 1213118 (D. Haw. Mar. 22, 2013)	• deference • not maximization	P	ESY
7	M.T. v. N.Y.C. Dep't of Educ.	200 F. Supp. 3d 447 (S.D.N.Y. 2016)	• deference • not maximization	SD	
8	J.L. v. Haw. Dep't of Educ.	2011 WL 3861421 (D. Haw. Aug. 31, 2011)	• basic floor	SD	
9	Frontera Gonzalez v. Dep't of Educ.	2011 WL 3961825 (D.P.R. June 28, 2011)	• not maximization	SD	separate rulings re related services
10	Coleman v. Pottstown Sch. Dist.	581 F. App'x 141 (3d Cir. 2014)	• basic floor	SD	
	Case Name	Citation	Identified Features (and Other Factors)	Outcome	Comments
11	A.M. v. District of Columbia	933 F. Supp. 2d 193 (D.D.C. 2013)	• not maximization	SD	
12	J.F. v. Shirvell	2012 WL 3560911 (D. Conn. Aug. 6, 2013)	• deference	SD	
13	J.W. v. Governing Bd. of E. Whittier City Sch. Dist.	473 F. Appx 531 (9th Cir. 2012)	• not maximization • basic floor	SD	
14	Anchorage Sch. Dist. v. M.P.	689 F.3d 1047 (9th Cir. 2012)	• not maximization • grade advancement	P	
15	M.C. v. Starr	2014 WL 7404576 (D. Md. Dec. 29, 2014)	• not maximization	SD	
16	Torda v. Fairfax Cnty. Sch. Bd.	2012 WL 2370631 E.D. Va. June 21, 2012)*	• deference	SD	*aff'd, 517 F. Appx. 162 (4th Cir 2013)
17	David G. v. Council Rock Sch. Dist.	2012 WL 1231812 (E.D. Pa. Apr. 12, 2012)		SD	
18	S.M. v. Haw. Dep't of Educ.	808 F. Supp. 2d 1269 (D. Haw. 2011)	• not maximization • basic floor	SD	
19	M.M. v. Foose	165 F. Supp. 2d 365 (D. Md. 2015)	• basic floor	SD	
20	T.C. v. Lewisville Indep. Sch. Dist.	2016 WL 705930 (E.D. Tex. Feb. 23, 2016)*	• deference	SD	*adopted, 2016 WL 1077717 (E.D. Tex. Mar. 17, 2016) Michael F. 4-factor analysis

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	<b>Case Name</b>	<b>Citation</b>	<b>Identified Features (and Other Factors)</b>	<b>Outcome</b>	<b>Comments</b>
21	S.B. v. Murfreesboro City Schs.	2016 WL 927441 (M.D. Tenn. Mar. 11, 2016)	• not maximization	P	
22	G.S. v. Cranbury Twp. Bd. of Educ.	450 F. App'x 197 (3d Cir. 2011)		SD	
23	E.M. v. N.Y.C. Dep't of Educ.	213 F. Supp. 3d 607 (S.D.N.Y. 2016)		P	
24	K.C. v. Nazareth Area Sch. Dist.	806 F. Supp. 2d 806 (E.D. Pa. 2011)	• not maximization • deference/methodology • no guarantee	SD	
25	Bohn v. Cedar Rapids Cmty. Sch. Dist.	2016 WL 6828207 (D. Iowa Nov. 18, 2016)	• basic floor • grade advancement • no guarantee	SD	
26	I.T. v. Dep't of Educ., Haw.	2012 WL 3985686 (D. Haw. Sept. 11, 2012)	• not maximization	Mix	2 IEPs did not meet std. but 3 <sup>rd</sup> did
27	Beckwith v. District of Columbia	208 F. Supp. 3d 304 (D.D.C. 2016)	• deference	SD	(separate procedural and FTI FAPE rulings for P)
28	Zachary v. Sch. Dist. No. 1 for Denver	2016 WL 5815283 (D. Colo. Oct. 5, 2016)		SD	
29	Doe v. Attleboro Pub. Schs.	960 F. Supp. 2d 286 (D. Mass. 2013)		SD	
30	R.B. v. N.Y.C. Dep't of Educ.	603 F. App'x 36 (2d Cir. 2015)		SD	

	<b>Case Name</b>	<b>Citation</b>	<b>Identified Features (and Other Factors)</b>	<b>Outcome</b>	<b>Comments</b>
	Educ.	2015)			
31	T.G. v. Midland Sch. Dist. 7	848 F. Supp. 2d 902 (C.D. Ill. 2012)	• not maximization • grade advancement	SD	(no appeal for IHO's ruling that 9 <sup>th</sup> grade IEP was not substantively appropriate)
32	B.O. v. Cold Spring Harbor Cent. Sch. Dist.	807 F. Supp. 2d 130 (E.D.N.Y. 2011)	• deference • not maximization	SD	
33	Avila v. Spokane Sch. Dist. #81	2014 WL 5585349 (E.D. Was. Nov. 3, 2014)*	• not maximization	SD	(*partially rev'd on other grounds, 852 F.3d 936 (9th Cir. 2017)
34	GB v. N.Y.C. Dep't of Educ.	145 F. Supp. 3d 230 (S.D.N.Y. 2015)		P	(only 1 of several substantive areas of the IEP)
35	Ms. S. v. Reg'l Sch. Unit 72	2015 WL 1486757 (D. Me. Mar. 31, 2015)*	• basic floor	SD	(*partially rev'd on other grounds, 829 F.3d 95 (1st Cir. 2016)
36	Bryant v. N.Y.S. Educ. Dep't	692 F.3d 202 (2d Cir. 2012)	• not maximization • no guarantee • deference (methodology)	SD	marginal – challenge to state reg.
37	A.D. v. N.Y.C. Dep't of Educ.	2013 WL 1155570 (S.D.N.Y. Mar. 19, 2013)	• not maximization • deference (methodology)	SD	

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	<b>Case Name</b>	<b>Citation</b>	<b>Identified Features (and Other Factors)</b>	<b>Outcome</b>	<b>Comments</b>
38	S.T. v. Howard Pub. Sch. Sys.	2015 WL 72233 (D. Md. Jan. 5, 2015), <i>aff'd</i> , 627 F. App'x 255 (4th Cir. 2016)		SD	
39	W.S. v. Nyack Union Free Sch. Dist.	2011 WL 1332188 (S.D.N.Y. Mar. 30, 2011)	• deference • not maximization	SD	
40	Moradnejad v. District of Columbia	177 F. Supp. 3d 260 (D.D.C. 2016)	• grade advancement • deference	SD	
41	L.R. v. Bellflower Unified Sch. Dist.	2012 WL 2501054 (C.D. Cal. June 27, 2012)		SD	
42	Long v. District of Columbia	780 F. Supp. 2d 49 (D.D.C. 2011)	• deference • grade advancement	SD	
43	Shafer v. Whitehall Dist. Schs.	2013 WL 1304920 (W.D. Mich. Mar. 28, 2013)	• not maximization • deference	SD	
44	N.T. v. Garden Grove Unified Sch. Dist.	2016 WL 2984192 (C.D. Cal. May 19, 2016)		SD	
45	S.H. v. Fairfax Cnty. Bd. of Educ.	875 F. Supp. 2d 633 (E.D. Va. 2012)	• grade advancement	SD	
46	Timothy O. v. Paso Robles Unified Sch. Dist.	2014 WL 1267521 (C.D. Cal. Apr. 21, 2014)*	• deference	SD	* <i>aff'd on other grounds</i> , 822 F.3d 1105 (9th Cir. 2016)
47	Blount Cnty. Bd. of Educ. v. BOWENS	929 F. Supp. 2d 1199 (N.D. Ala. 2013)		P	* <i>aff'd</i> , 762 F.3d 1242 (11th Cir. 2014)
48	W.W. v. N.Y.C. Dep't of Educ.	2014 WL 1330113 (S.D.N.Y. Mar. 31, 2014)	• not maximization • deference	SD	

	<b>Case Name</b>	<b>Citation</b>	<b>Identified Features (and Other Factors)</b>	<b>Outcome</b>	<b>Comments</b>
			(methodology)		
49	K.L. v. N.Y.C. Dep't of Educ.	2012 WL 4017822 (S.D.N.Y. Aug. 23, 2012)	• deference (methodology)	SD	
50	Z.C. v. Killeen Indep. Sch. Dist.	2015 WL 11123347 (W.D. Tex. Feb. 17, 2015)		SD	<i>Michael F.</i> 4-factor analysis
51	Jalen Z. v. Sch. Dist. of Phila.	104 F. Supp. 3d 660 (E.D. Pa. 2015)	• deference • no guarantee	SD	
52	DiRocco v. Bd. of Educ. of Beacon City Sch. Dist.	2013 WL 25959 (S.D.N.Y. Jan. 2, 2013)	• deference	SD	
53	E.C. v. Bd. of Educ. of City Sch. Dist. of New Rochelle	2013 WL 1091321 (S.D.N.Y. Mar. 15, 2013)	• deference	SD	
54	K.C. v. Mansfield Indep. Sch. Dist.	618 F. Supp. 2d 568 (N.D. Tex. 2009)	• deference • not maximization	SD	<i>Michael F.</i> , rejecting argument that 2004 amendments enacted outcomes>access std.
55	Richardson Indep. Sch. Dist. v. Michael Z.	580 F.3d 286 (5th Cir. 2009)	• basic floor • not maximization	P	<i>Michael F.</i>
56	Houston Indep. Sch. Dist. v. V.P.	582 F.3d 576 (5th Cir. 2009)	• basic floor • not maximization	P	<i>Michael F.</i>
57	J.A. v. E. Ramapo Cent. Sch. Dist.	603 F. Supp. 2d 684 (S.D.N.Y. 2009)		SD	
58	Jaccari J. v. Bd. of Educ. of Chi. Dist. 299	690 F. Supp. 2d 687 (N.D. Ill. 2009)		SD	+ likely to produce progress ( <i>Alex R.</i> )
59	J.D.G. v. Colonial Sch. Dist.	748 F. Supp. 2d 362 (E.D.	• deference	SD	

**JUDICIAL RULINGS FOR SUBSTANTIVE FAPE UNDER THE IDEA**

	Case Name	Citation	Identified Features (and Other Factors)	Outcome	Comments
		Pa. 2010)			
60	Hovem v. Klein Indep. Sch. Dist.	690 F.3d 390 (5th Cir. 2012)	<ul style="list-style-type: none"> <li>• not maximization</li> <li>• grade advancement</li> <li>• basic floor</li> <li>• deference</li> </ul>	SD	Michael F. 4-factor analysis
61	D.G. v. Cooperstown Cent. Sch. Dist.	746 F. Supp. 2d 435 (N.D.N.Y. 2010)	<ul style="list-style-type: none"> <li>• deference</li> <li>• not maximization</li> </ul>	SD	
62	D.B. v. Bedford Cnty. Sch. Bd.	708 F. Supp. 2d 564 (W.D. Va. 2010)	<ul style="list-style-type: none"> <li>• deference</li> <li>• not maximization</li> </ul>	P	
63	C.G. v. N.Y.C. Dep't of Educ.	752 F. Supp. 2d 355 (S.D.N.Y. 2010)	<ul style="list-style-type: none"> <li>• deference</li> <li>• not maximization</li> </ul>	SD	
64	E.S. v. Katonah-Lewisboro Sch. Dist.	487 F. App'x 619 (2d Cir. 2012)	<ul style="list-style-type: none"> <li>• deference</li> <li>• basic floor</li> </ul>	Mix	one IEP met standard but the next one did not
65	Bd. of Educ. of City Sch. Dist. of Cincinnati	689 F. Supp. 2d 970 (S.D. Ohio 2010)		P	
66	J.P. v. Enid Pub. Schs.	2009 WL 3104014 (W.D. Okla. Sept. 23, 2009)	<ul style="list-style-type: none"> <li>• not maximization</li> <li>• basic floor</li> </ul>	P	
67	M.F. v. Irvington Union Free Sch. Dist.	719 F. Supp. 2d 302 (S.D.N.Y. 2010)	<ul style="list-style-type: none"> <li>• deference</li> <li>• not maximization</li> </ul>	SD	
68	R.H. v. Plano Indep. Sch. Dist.	607 F.3d 103 (5th Cir. 2010)		SD	Michael F. 4-factor analysis
69	Kelsey v. District of Columbia	85 F. Supp. 3d 327 (D.D.C. 2015)	<ul style="list-style-type: none"> <li>• no guarantee</li> <li>• not maximization</li> </ul>	SD	
70	D.B. v. N.Y.C. Dep't of Educ.	966 F. Supp. 2d 315	<ul style="list-style-type: none"> <li>• not maximization</li> </ul>	SD	

	Case Name	Citation	Identified Features (and Other Factors)	Outcome	Comments
		(S.D.N.Y. 2013)			
71	L.I. v. Haw.	2011 WL 6002623 (D. Haw. Nov. 30, 2011)		SD	
72	James D. v. Bd. of Educ. of Aptakasic-Tripp Cmty. Consol. Sch. Dist. No. 102	602 F. Supp. 2d 804 (N.D. Ill. 2009)	<ul style="list-style-type: none"> <li>• deference (methodology)</li> </ul>	SD	
73	A.M. v. N.Y.C. Dep't of Educ.	845 F.3d 523 (2d Cir. 2017)	<ul style="list-style-type: none"> <li>• deference</li> </ul>	P	
74	S.A. v. Exeter Union Sch. Dist.	2010 WL 4942539 (E.D. Cal. Nov. 24, 2010)	<ul style="list-style-type: none"> <li>• deference</li> <li>• basic floor</li> </ul>	SD	
75	W.A. v. Patterson Joint Unified Sch. Dist.	2011 WL 22925393 (E.D. Cal. July 18, 2011)	<ul style="list-style-type: none"> <li>• deference</li> <li>• basic floor</li> </ul>	SD	
76	J.G. v. Kiryas Joel Union Free Sch. Dist.	777 F. Supp. 2d 606 (S.D.N.Y. 2011)	<ul style="list-style-type: none"> <li>• deference</li> <li>• not maximization</li> </ul>	SD	
77	Hupp v. Switzerland of Ohio Local Sch. Dist.	912 F. Supp. 2d 572 (S.D. Ohio 2012)	<ul style="list-style-type: none"> <li>• deference</li> </ul>	SD	
78	Plainville Bd. of Educ. v. R.N.	2012 WL 1094640 (D. Conn. Mar. 31, 2012)		P	
79	J.S. v. Frances Howell R-3 Sch. Dist.	693 F. Supp. 2d 1003 (E.D. Mo. 2010)	<ul style="list-style-type: none"> <li>• deference</li> </ul>	SD	
80	Lathrop R-II Sch. Dist. v. Gray	611 F.3d 419 (8th Cir. 2010)		SD	
81	Sytsema v. Acad. Sch. Dist. No. 20	2009 WL 3682221 (D. Colo. Oct. 30, 2009)		P	

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	<b>Case Name</b>	<b>Citation</b>	<b>Identified Features (and Other Factors)</b>	<b>Outcome</b>	<b>Comments</b>
82	Jordan S. v. Hewlett Woodmere Union Free Sch. Dist.	2010 WL 5067838 (E.D.N.Y. Dec. 1, 2010)	• deference	SD	
83	Dekalb Cnty. Bd. of Educ. v. Manifold	2015 WL 3752036 (N.D. Ala. June 16, 2015)		P	
84	M.H. v. N.Y.C. Dep't of Educ.	685 F.3d 217 (2d Cir. 2012)	• not maximization • deference	P	
85	Ruby v. Jefferson Cnty. Bd. of Educ.	122 F. Supp. 3d 1288 (N.D. Ala. 2015)		SD	
86	J.C. v. New Fairfield Bd. of Educ.	2011 WL 1322563 (D. Conn. Mar. 31, 2011)	• not maximization	SD	
87	M.L. v. N.Y.C. Dep't of Educ.	2014 WL 1301957 (S.D.N.Y. Mar. 31, 2014)	• not maximization	SD	+ likely to produce progress std.
88	I.M. v. Northampton Pub. Schs.	869 F. Supp. 2d 174 (D. Mass. 2012)	• deference	SD	
89	F.O. v. N.Y.C. Dep't of Educ.	976 F. Supp. 2d 499 (S.D.N.Y. 2013)	• not maximization • deference	P	(indirect)
90	Sebastian M. v. King Philip Reg'l Sch. Dist.	774 F. Supp. 2d 393 (D. Mass. 2011)*	• not maximization • deference	SD	* <i>aff'd</i> , 685 F.3d 79 (1st Cir. 2012) (indirect)
91	H.W. v. N.Y. State Educ. Dep't	2015 WL 1509509 (E.D.N.Y. 2015)	• deference	Mix	one year met the std. but the next one did not (indirect)
92	D.D-S. v. Southold Union	2011 WL 3919040	• deference	SD	* <i>aff'd on other</i>

	<b>Case Name</b>	<b>Citation</b>	<b>Identified Features (and Other Factors)</b>	<b>Outcome</b>	<b>Comments</b>
	Free Sch. Dist.	(E.D.N.Y. Sept. 2, 2011)*			<i>grounds</i> , 506 F. App'x 80 (2d Cir. 2012)
93	G.D. v. Wissahickon Sch. Dist.	832 F. Supp. 2d 455 (E.D. Pa. 2011)	• deference	P	
94	E.P. v. N.Y.C. Dep't of Educ.	2016 WL 3443647 (S.D.N.Y. June 10, 2016)	• deference	SD	
95	G.R. v. Dallas Sch. Dist. No. 2	823 F. Supp. 2d 1120 (D. Or. 2011)		SD	
96	R.P. v. Alamo Heights Indep. Sch. Dist.	703 F.3d 801 (5th Cir. 2012)	• not maximization	SD	<i>Michael F.</i> 4-factor analysis, including likely to produce progress std.
97	H.D. v. Cent. Bucks Sch. Dist.	902 F. Supp. 2d 614 (E.D. Pa. 2012)		SD	(indirect)
98	Munir v. Pottsville Sch. Dist.	723 F.3d 423 (3d Cir. 2013)	• not maximization	SD	
99	Rockwall Indep. Sch. Dist. v. M.C.	2014 WL 12642573 (N.D. Tex. Feb. 17, 2014)*		SD	* <i>aff'd on other grounds</i> , 816 F.3d 329 (5th Cir. 2016) <i>Michael F.</i> 4-factor analysis (indirect)
100	J.M. v. Morris Sch. Dist. Bd. of Educ.	2011 WL 6779546 (D.N.J. Dec. 23, 2011)	• not maximization • grade advancement	P	(indirect)
101	L.W. v. Norwood Bd. of Educ.	2012 WL 529582 (D.N.J. Feb. 17, 2012)		SD	(indirect)

**JUDICIAL RULINGS FOR SUBSTANTIVE FAPE UNDER THE IDEA**

	<b>Case Name</b>	<b>Citation</b>	<b>Identified Features (and Other Factors)</b>	<b>Outcome</b>	<b>Comments</b>
102	D.B. v. Ithaca City Sch. Dist.	2016 WL 4768824 (N.D.N.Y. Sept. 13, 2016)		SD	(indirect)
103	A.L. v. N.Y.C. Dep't of Educ.	812 F. Supp. 2d 492 (S.D.N.Y. 2011)	• deference	SD	(indirect)
104	A.P. v. N.Y.C. Dep't of Educ.	2015 WL 4597545 (S.D.N.Y. July 15, 2015)	• deference	SD	(indirect)
105	C.W.L. v. Pelham Union Free Sch. Dist.	149 F. Supp. 3d 451 (S.D.N.Y. 2015)	• deference • not maximization	SD	+ likely to produce progress std.
106	P.L. v. N.Y.C. Dep't of Educ.	56 F. Supp. 3d 147 (S.D.N.Y. 2014)		P	
107	Pohorecki v. Anthony Wayne Local Sch. Dist.	637 F. Supp. 2d 547 (N.D. Ohio 2009)		SD	
108	N.S. v. N.Y.C. Dep't of Educ.	2014 WL 2722967 (S.D.N.Y. June 16, 2014)	• deference	SD	(indirect)
109	N.Y.C. Dep't of Educ. v. V.S.	2011 WL 3273922 (S.D.N.Y. July 29, 2011)	• deference • not maximization	P	
110	T.G. v. N.Y.C. Dep't of Educ.	973 F. Supp. 2d 320 (S.D.N.Y. 2013)	• deference • not maximization	SD	
111	T.Y. v. N.Y.C. Dep't of Educ.	213 F. Supp. 2d 446 (S.D.N.Y. 2013)	• deference • not maximization	P	
112	Woods v. Northport Pub. Sch.	487 F. App'x 968 (6th Cir. 2012)	• no guarantee • not maximization	P	
113	R.B. v. N.Y.C. Dep't of Educ.	589 F. App'x 572 (2d Cir. 2014)	• deference	SD	

	<b>Case Name</b>	<b>Citation</b>	<b>Identified Features (and Other Factors)</b>	<b>Outcome</b>	<b>Comments</b>
114	Rachel G. v. Downingtown Area Sch. Dist.	2011 WL 2682741 (E.D. Pa. July 8, 2011)	• not maximization	SD	
115	Nalu v. Dep't of Educ., Haw.	858 F. Supp. 2d 1127 (D. Haw. 2012)	• basic floor	SD	
116	T.L. v. Lower Merion Sch. Dist.	2016 WL 3405453 (E.D. Pa. June 20, 2016)		SD	