SPECIAL EDUCATION LEGAL UPDATE

Perry A. Zirkel
May 2026

This month's update identifies two recent decisions that both illustrate students' mental health challenges as well as related dual claims under the IDEA and Section 504. For related publications and special supplements, see **perryzirkel.com**

On February 11, 2026, the Sixth Circuit Court of Appeals issued an unofficially published decision in *G.E. v. Williamson County Board of Education*. In this case, upon his enrollment for 5th grade, G.E.'s parents filled out a health form indicating that he suffered from anxiety. His teachers did not notice any particular anxiety at school but expressed concern with his 41 absences and 17 tardies. The parents arranged for a private evaluation, which yielded diagnoses of anxiety disorder, panic attacks, and depression and a prescription for medication. They shared this information with school officials in March in discussions about his attendance issues and 2 incidents in which he was the victim of reported bullying. As a side effect of his doctors' resulting doubling of his anxiety-medication dosage, R.L. tripped in the hall at school, hitting his head and losing consciousness. Despite his continued attendance and mental health struggles in grade 6, he received passing grades. In the summer before 7th grade, his parents filed a due process complaint, alleging child find violations under the IDEA and Section 504. In response, the district initiated a comprehensive eligibility evaluation. The parents consented to the educational, but not psychological, part of the evaluation. Upon completion of the evaluation in September, the multidisciplinary team met and determined that G.E. did not qualify but agreed to another IDEA-eligibility meeting after the parents provided the private neuropsychologist's evaluation. The team agreed to separately determine eligibility under Section 504, but the parents did not agree to any of the successive offers of meeting dates/times and ultimately declined. Meanwhile, during 7th grade, G.E.'s mental health struggles escalated, causing partial hospitalization and resulting homebound instruction from October to February, followed by the pandemic. As part of the ongoing due process hearing, the district conducted the psychological part of the evaluation per hearing officer authorization, but the parents refused to participate in an IDEA- or Section 504-eligibility meeting, having unilaterally placed G.E. in a private school. After a 12-session hearing, the hearing officer ruled in the district's favor. After an initial remand, the district court affirmed, and the parents appealed to the Sixth Circuit.

Under Sec. 504, the parents alternatively argued that in grades 5–6 the district should have initiated a Sec. 504 evaluation or should have provided formal accommodations for G.E.'s school phobia.	The Sixth Circuit ruled that the district did not have reason to know G.E.'s attendance problems were due to anxiety, much less school phobia.
Under the IDEA, the parents argued that the district violated its child find obligation by not evaluating C.E. in grade 7 after the partial hospitalizations.	Rejecting this claim, the Sixth Circuit considered the district's actions reasonable in light of the recent evaluation and the parents' lack of responsiveness after filing for a hearing.
This decision reflects the ongoing increase of anxiety and other student mental health issues in recent years. Moreover, for related eligibility disputes, the fact-based determinations under the IDEA and Section 504 warn against over-generalization of the outcomes.	

On March 27, 2026, a federal district court issued an unofficially published decision in *Allen v. Lewisville Independent School District*. In 8th grade in Florida, R.A. had a 504 plan for ADHD and dysgraphia. His family moved to Texas in the summer before 9th grade. He continued to receive Section 504 accommodations, and received As, Bs, and Cs in a mix of class levels, including advanced placement (AP). In the first marking period of the second semester in 10th grade, he received failing grades in AP algebra and AP chemistry. When informed that the reasons were his failure to submit homework, attend tutoring, and make up tests, his parents had his medication adjusted, asked his football coach to resume the monitoring that was successful in the first semester. However, when R.A. continued to lack motivation, his parents reluctantly moved him into on-level algebra and chemistry classes, which he passed. He also passed the state proficiency exams. In 11th grade, his father died, and his mother asked the school counselor in addition to the football coach to "keep watch over" R.A. He passed all his classes except pre-calculus, in which he missed several assignments and was caught cheating on a test. He retook and passed pre-calculus in summer school. In the meanwhile, after a difficult Father's Day, his mother took him to a psychologist, who diagnosed him with depression and anxiety. She only shared this information with school officials, and then without documentation, in November of 11TH grade when they assigned him to a disciplinary alternative education program (DAEP) for 60 days for sending social-media messages implying impending violence at the school. The district conducted a threat assessment that concluded that R.A. did not pose a serious risk. The DAEP counselor reported that R.A. had expressed suicidal ideations, which was not unusual for students in the program. In the meantime, the district conducted a manifestation determination under Section 504, concluding that neither his ADHD nor his dysgraphia caused the violation of the school's code of conduct. His mother filed for separate due process hearings under IDEA and Sec. 504, which each ruled in the district's favor. In the meantime, the Section 504 committee met again and determined that his misconduct was not a manifestation of R.A.'s depression and anxiety, and his mother consented to an IDEA evaluation, which found R.A. eligible for special education. She then filed a lawsuit in federal court, alleging separate violations under the IDEA and Section 504.	
The parent's first claim was child find under the IDEA, contending that the district should have evaluated R.A. sooner during his high school career.	The court disagreed with the parent's claim, concluding that that district did not have reason to suspect the need for special education under the circumstances, including R.A.'s grades, his state proficiency assessments, his father's death, and his teachers' anecdotal reports.
The parent's second claim was the IDEA's "deemed to know" protection for manifestation determinations based on written parental concerns that the child needs special education.	Again disagreeing, the court concluded that the parent's expressions of concern in this case were not reasonably understood to be a request for an IDEA eligibility evaluation or, to the extent they were in writing, to specifically or sufficiently suggest the need for special education.
The parents' third claim was under Sec. 504, contending that the 504 plan was not appropriate.	Although acknowledging that district obligations are "less exacting" under Sec. 504, the court used IDEA standards for FAPE to conclude that the school's responses to R.A.'s struggles were reasonably calculated for academic advancement.
As in the first case, (1) student mental health struggles served as the overall stimulus; (2) the legal outcome for child find depended on multiple factors viewed with a lens that is less stringent than professional norms; and (3) the judicial analysis of Sec. 504 was not well-developed or consistent compared to that for the IDEA.	