SPECIAL EDUCATION LEGAL UPDATE

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This month's update identifies two recent decisions that respectively reflect the initial appearance of AI and the difficulties of IDEA discipline in the world of special education litigation. For related publications and special supplements, see **perryzirkel.com**

On May 14, 2026, the federal district court in Utah issued an unofficially published decision in *Wilkes v. Canyons School*. In this case, the school district first found a student eligible for special education in kindergarten under the IDEA classification of autism. Although the initial IEPs were successful, the child's progress stalled in grades 3 to 5. Yet, upon the transition to middle school for grade 6, the IEP team determined, despite the parents' objections, that he was no longer IDEA-eligible. Instead, the district provided him with a 504 plan. His decline worsened despite multiple revisions to this plan. In December of grade 6, the parents requested another IDEA evaluation, but the district refused. They also requested a functional behavioral assessment, which the district agreed, but failed, to do. In March, the parents hired an attorney, and the district assented to an IDEA evaluation. In late May, the IEP team determined that the student re-qualified under the IDEA. In August, the district held a meeting to develop the child's IEP for grade 7, but the parents expressed dissatisfaction with the meeting's brevity and the cursory consideration. In October, they filed for a due process hearing, alleging denial of FAPE extending back to grade 3. In March, the hearing officer issued a decision in favor of the district. In July, the parents filed an appeal with the federal district court based on multiple claims, including (1) Section 1983 for alleged violations of the Fourteenth Amendment; (2) Section 1983 for alleged violations of the IDEA, Section 504, and the Americans with Disabilities Act (ADA); and (3) the IDEA on its own. The district filed a motion to dismiss all the parents' claims except their appeal of the hearing officer's ruling for the two-year period within the IDEA's statute of limitations.	
The parents argued that the district was liable under Section 1983 for violations of the Fourteenth Amendment's due process and equal protection clauses.	The court dismissed this claim without prejudice (meaning that they could submit a revised version) because it unduly overlapped with their claims under the IDEA and Section 504/ADA.
The parents separately predicated Section 1983 claims on alleged violations of their child's rights under the IDEA, Section 504, and the ADA.	The court dismissed this claim with prejudice due to well-settled precedent that each of these statutes had their own comprehensive enforcement mechanisms.
The district's threshold challenge was to the notable part of the parents' IDEA claim that was beyond the two-year limitations period (reserving the rest of their challenge for further proceedings).	The court agreed with the district because for their statute of limitations argument the parents relied on artificial intelligence (AI)-hallucinated case citations.
The court held a follow-up show-cause hearing to determine whether the parents' use of nonexistent citations warranted sanctions.	The court ruled that the parents' attorney must pay $7,000 to the school district as reimbursement for legal expenses incurred as a result of the use of non-existent case law.
The primary, though not exclusive, lesson from this case is to beware of the misuse of AI in legal proceedings (as well as elsewhere).	

On April 20, 2026, a federal district court in Virginia issued an unofficially published decision in *Richmond City School Board v. V.B.* The child in this case, V.B., was a kindergartner with a history of serious behavior problems in daycare programs. Upon enrolling her in kindergarten, V.B.'s parents notified school officials that she had ADHD, although they did not provide documentation of the diagnosis. Despite some good days and apparent progress during the first several months of the school year, V.B.'s behavior was often problematic, including spitting on others, yelling and screaming, cursing, and physical aggression. Her teacher did not report her misbehaviors to the school administration until mid-November, which resulted in notification to the parents. The school implemented various interventions, including the teacher's color-coded behavioral system, check-ins by the school counselor and social worker, classroom breaks, and—after referral to the school-based intervention team—specific goals with related strategies. However, despite these efforts, V.B. received a one-day suspension on December 14, and on at least a weekly basis, the administration responded to her misconduct by having the parents pick her up long before the end of the school day. On January 11, the school's child find team referred V.B. for an IDEA evaluation. The parents consented, but well before the evaluation was completed, V.B. received two more one-day suspensions. On February 28, V.B. threw the contents of her desk on the floor, refused to pick them up, and when the teacher did so, V.B. hit her in the hip with a closed fist and said "that's what you get." As a result, the principal issued a ten-day suspension. On the second day of the suspension, the district held a manifestation determination meeting. The team determined that the punch was retaliatory rather than impulsive, thus not being caused by V.B.'s reported ADHD. Consequently, the matter proceeded to the regular district disciplinary procedure, which was formal notice of violation of the student code of conduct and a district hearing. The resulting decision was that V.B. could return to the school at the end of the suspension but that further serious infractions would result in her assignment to another district school. However, V.B. did not return, and the parents did not cooperate with the district's requests for them to make V.B. available for completion of the eligibility evaluation. In July, they filed for a due process hearing, with the advice of a lay advocate. After a 2-day hearing, the hearing officer ruled that the district violated the IDEA by not providing an earlier manifestation determination based on (a) the accumulated removals amounting to a disciplinary change in placement well before January 28, and (b) the "the teacher … express[ing] specific concerns about [the child's] pattern of behavior … directly to supervisory personnel" (§ 300.534). As the remedy, she ordered an independent evaluation to determine V.B.'s eligibility under the IDEA. The district appealed these rulings to the federal district court. Despite receiving several warnings from the court, the parents, who continued to proceed without an attorney, did not respond to the district's appeal.	
The district argued that the cumulative removals did not amount earlier to a disciplinary change in placement.	The court deferred to the hearing officer's factual finding and applied a general case law standard for a change in placement (ignoring § 300.536).
The district contended that the hearing officer wrongly invalidated its manifestation determination of "No."	The court deferred to the hearing officer's conclusions as meeting the jurisdiction's broad standard of being "regularly made."
The district argued that the remedy was improper under the IDEA.	Here, the court agreed, concluding that "[the district] has a statutory right to conduct those evaluations rather than independent evaluators."
This decision is rather surprising in light of the parents' lack of cooperation for completion of the evaluation and for the proceedings in the judicial appeal, but these two disciplinary protections of the IDEA are murky and turbulent waters to navigate.	