

Implementation of *Endrew F.* Case: What Should Teams Be Thinking About?

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In one of the most significant special education decisions issued since the reauthorization of the Individuals with Disabilities Education Act (IDEA) in 2004, the U.S. Supreme Court unanimously held that the IDEA requires a student's individualized educational program (IEP) be "reasonably calculated to enable a child to make progress that is appropriate in light of his circumstances." Now that we've had time to digest the 2017 *Endrew F. v. Douglas County School District* decision, what does *in light of circumstances* mean, and how does this change things?

The Court in *Endrew F.* noted that "the adequacy of an IEP turns on the unique circumstances of the child for whom it was created." The function of an IEP is to provide meaningful opportunities for appropriate academic and functional advancement, and to enable the child to make more than trivial progress. While stopping short of defining "appropriate," the Court emphasized that an offer of free appropriate public education must be "appropriately ambitious" and include "challenging objectives" for all students. Moreover, IEP teams are expected to provide "cogent and responsive explanation[s] for their decisions." The case offers a number of important lessons for school teams based on this more nuanced approach to determining the adequacy of an IEP.

So what do *cogent and responsive explanations* require?

Taking the *Endrew F.* decision as a whole and examining the areas in which it deviates from *Board of Education of the Hendrick Hudson Central School District v. Rowley*, it would appear that such explanations must, at minimum, be and have:

- Robust evidence
- Parental participation in the process
- Present levels of academic achievement and functional performance that are clear and correct
- Goals and objectives that are appropriately ambitious for the specific child and logically flow from the established present levels
- Implementation of timely and evidenced-based decisions regarding progress toward goals and objectives
- The need to make necessary adjustments

The language utilized to discuss progress in *Endrew F.* is clearly stronger and more direct than that utilized the Court's 1982 pronouncement on the Free Appropriate Public Education standard in *Rowley*. In the post-*Endrew F.* special education world, IEP teams are tasked with developing ambitious, attainable goals given the unique circumstances of each student. School teams must therefore ensure that lack of progress is not

due to poorly drafted goals, inadequate instructional practices or flawed data collection. Most importantly, teams must consider far more broadly each child's special circumstances.

On December 7, the United States Department of Education (ED) issued a [Questions and Answers \(Q&A\) on the U. S. Supreme Court Case Decision Endrew F. v. Douglas County School District Re-1](#) providing additional guidance on these questions and other important aspects of the decision.

If you have any additional questions regarding the development of appropriate present levels, measurable IEP goals and objectives, determining appropriate progress, or if we can provide any assistance as review your current practices, please do not hesitate to contact any of the attorneys in [Barley Snyder's Education Practice Group](#).