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## *PEREZ V. STURGIS PUBLIC SCHOOLS: THE RULING AND THE AFTERMATH*

Under the IDEA, two things have always been reliably true. First, parents and students are only permitted to file suit regarding special education matters after they have exhausted due process procedures. Second, compensatory damages for “pain and suffering” and other intangible injuries are not available as a remedy.

On March 22, 2023, in a unanimous decision, the United States Supreme Court addressed both of these issues and concluded that parents and students who sue for money damages under federal laws such as the ADA need not exhaust the IDEA’s administrative procedures even when their claims concern denials of a “free appropriate public education.”

The student at issue in *Perez v. Sturgis Public Schools* was deaf and required sign interpretation to access his classes. The student claimed that while the district assigned aides to work with him through the years, these aides were untrained in sign language and sometimes failed to show up, even though his teachers awarded him As and Bs and he made the honor roll every semester. He and his parents, therefore, thought he was on track to earn a high school diploma. Just months prior to graduation, however, officials informed the family that the student did not qualify for a diploma and he was only eligible for a certificate of completion.

The student filed a due process complaint alleging, among other things, a violation of the IDEA and the ADA. Before the hearing, the parties settled the dispute with the district agreeing to place the student in the state’s school for the deaf and to pay for sign language instruction for the student and his family. A few months after this settlement, the student sued the district in federal court under the ADA for discrimination, seeking compensatory damages for emotional distress. Federal courts at the trial and appellate levels dismissed the suit due to the student’s failure to exhaust his administrative remedies, specifically holding that the student’s settlement of his IDEA claim prior to completion of due process proceedings barred his ADA action.

The Supreme Court rejected this conclusion. Based upon its interpretation of the language of the statute and consideration of Congressional intent, the Supreme Court held that a suit premised upon a past denial of a free and appropriate education may be brought without exhausting due process procedures when the remedy sought (compensatory damages) is not available under the IDEA. The court remanded the case to the lower court directing the court to apply its holding to the facts of the case.

The Supreme Court in *Perez* did not decide and the student will still be required to prove that the district and school board discriminated against him under the ADA. The Supreme Court left unanswered whether money damages are available under the ADA and, if so, whether a student can prove “discrimination” merely by proving a denial of a “free appropriate public education.” Only further litigation—in this case and others—will determine whether the other shoe will drop and schools will find themselves potentially liable for money damages for poorly written or implemented IEPs, failing to ensure “meaningful progress,” inadequate evaluations and reevaluations and other historically remedied through the IDEA’s administrative process.

As a result of this decision, public schools may face greater challenges in entering in to settlement agreements with parents particularly when those agreements seek waives of claims under the ADA and Section 504. In addition, it is conceivable that schools will see an increase in cases filed against them by parents and students seeking compensatory damages for harm caused by a district’s alleged failure to address the student’s disability related educational needs.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.

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