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**THE AFTERMATH OF *ENDREW F.* ONE YEAR LATER:
AN UPDATED OUTCOMES ANALYSIS**

by

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The Supreme Court's decision in *Endrew F. v. Douglas County School District RE-1*,¹ issued on March 22, 2017, has been the subject of widespread attention. This attention includes my two previous analyses.

The first one provided an objective dissection of the holding and potentially significant dicta of this case.² The holding in *Endrew F.* was the refined substantive standard that “a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.”³ The various dicta included (1) the emphasis on the “reasonable,” not ideal, dimension⁴; (2) the clarification that the refined standard is “markedly more

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¹ 137 S. Ct. 988 (2017).

² Perry A. Zirkel, *The Supreme Court's Decision in Endrew F. v. Douglas County School District RE-1: A Meaningful Raising of the Bar?*, 341 Ed.Law Rep. 545 (2017).

³ *Endrew F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. at 999 and 1002.

demanding than [the some benefit test]”⁵; (3) the least restrictive environment (LRE) distinction, including passing marks and grade advancement for fully integrated context and the “appropriately ambitious” analogy for “challenging objectives” for the remaining context of more restrictive settings⁶; and (4) reiteration of judicial deference to school authorities but with the expectation of a “cogent” justification.⁷

The second one provided an empirical analysis of the outcomes of the lower court substantive FAPE rulings during first six months after *Andrew F.*⁸ This article identified 33 cases in which the impartial hearing officer (IHO) or, in the relatively few jurisdictions with a second tier,⁹ the review officer (RO) relied on the pre-*Andrew F.* substantive FAPE standard under *Board of Education v. Rowley*¹⁰ and the court addressed the same issue under the *Andrew F.* refinement. Inasmuch as one case had two relevant rulings for a pair of successive IEPs, the total “n” of relevant rulings was thirty-four. The primary finding of the analysis was that only two (6%) of these thirty-four rulings had a different outcome upon the court’s re-visitation and that this effect was limited to a remand in one case and a reversal—oddly—of a ruling previously

⁴ *Id.* at 999. The connection of this reasonable level to the requisite calculation appears to recognize the “snapshot” approach that emerged in the wake of the repetition of the reference in *Rowley* to the “prospective judgment by school officials.” *Id.* (citing *Bd. of Educ. v. Rowley*, 458 U.S. 176, 207 (1982)).

⁵ *Id.* at 1000.

⁶ *Id.*

⁷ *Id.* at 1001-02.

⁸ Perry A. Zirkel, *Andrew F. after Six Months: A Game Changer?*, 348 Ed.Law Rep. 585 (2017)

⁹ The number of states that opted for a second tier under the IDEA decreased from twenty-four in 1992 to ten in 2009. Perry A. Zirkel & Gina Scala, *Due Process Hearing Systems under the IDEA: A State-by-State Survey*, 21 J. DISABILITY POL’Y STUD. 3 (2010). The most prominent of the dwindling minority of two-tier jurisdictions, due to its relatively high adjudicative activity under the IDEA, is New York.

¹⁰ *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 206–07 (1982): The IEP must be “reasonably calculated to enable the child to receive educational benefits.”

in the parents', not the district's, favor.¹¹

The purpose of this brief article is to provide a follow-up of the six-month analysis by extending it to the full year, ending on March 22, 2018. The search and selection procedure was the same as the previous analysis,¹² including exclusion of cases that cited *Endrew F.* without applying its substantive standard.¹³

Results

As the Appendix shows, the six months since the previous analysis accounts for fifteen additional relevant rulings.¹⁴ Table 1 summarizes the outcomes effect among the relevant rulings for the successive halves and the cumulative total for the twelve-month post-*Endrew F.* period.

Table 1. Extent of Outcomes Change during the Year after *Endrew F.*

	No Change	Remanded	Reversed
First 6 Months (n=34)*	94% (n=28+4)**	3% (n=1)	3% (n=1)***
Second 6 Months (n=15)	80% (n=9+3)**	7% (n=1)	13% (n=2)
Total for 12 Months (n=49)	90% (n=37+7)**	4% (n=2)	6% (n=3)***

*one of these cases had two opposing rulings based on two successive IEPs; **the parenthetical figures are for rulings in favor of the district and parents, respectively; *** the reversal in the first 6-month period was from a ruling in favor of the parent to one in favor of the district.

¹¹ Zirkel, *supra* note 8, at 593. Conversely, in the remaining thirty-two rulings, which were the same before and after *Endrew F.*, four were in the parents' favor. *Id.*

¹² *Id.* at 588.

¹³ *E.g.*, *Adams v. District of Columbia*, __ F. Supp. 3d __, __ Ed.Law Rep. __ (D.D.C. 2018) (background for the different issue of prospective placement); *Angelique D. v. Pa. Dep't of Educ.*, 71 IDELR ¶ 152 (E.D. Pa. 2018) (background for the different issue of attorneys' fees against SEA); *M.N. v. Sch. Bd. of Va. Beach*, 71 IDELR ¶ 170 (E.D. Va. 2018) (background without quoting or applying new standard—only deference generally); *Karrissa G. v. Pocono Mountain Sch. Dist.*, 71 IDELR ¶ 90 (E.D. Pa. 2017) (background before rulings specific to IDEA child find, IDEA evaluation, and § 504 FAPE).

¹⁴ For the thirty-four relevant rulings in the first six months (including two in one of the cases), see Zirkel, *supra* note 8, at 590–92. The Appendix follows the format of the table in this prior article, including columns for “benefit jurisdiction” (identifying whether the jurisdiction was a “some” or “meaningful” benefit jurisdiction prior to *Endrew F.*) and “comments” (for decisional factors, including dicta from *Endrew F.* cited in the application of its standard to the substantive FAPE issue in the case). In the “outcome change” column, “P” and “D” refer to rulings in favor of the parents and the district, respectively.

Review of Table 1 reveals that the prior pattern largely continued during the most recent six months, with moderate abatement in both frequency and outcomes. Moreover, for the cumulative effect during the entire twelve-month period, the extent of outcomes change was limited to a remand in two (4%) and a reversal in three (6%) of the forty-nine rulings, including the aforementioned¹⁵ one in the unexpected direction. Conversely, in the overwhelming majority (90%) of the rulings, the outcome was unchanged from pre- to post-*Andrew F.*¹⁶

Moreover, as the entries in the “benefits jurisdiction” and “comments” columns in the Appendix show, the cases during the second six months continue the same two secondary characteristics of the prior six months.¹⁷ First, whether the jurisdiction previously had been within the “some” or the “meaningful” benefit camp does not appear to have made a significant difference, at least in an empirical sense, on the outcomes effect of *Andrew F.* Second, the lower courts’ treatment of *Andrew F.* remains rather cursory, with limited and scattered, rather than skewed, use of its various dicta.

Discussion

Although more developed than those of the previous snapshot,¹⁸ these twelve-month findings are ultimately more akin to movie than a photograph in light of the organic and gradualistic nature of case law. For example, in addition to the two remands that thus far have

¹⁵ See *supra* text accompanying note 10.

¹⁶ Partially mitigating this effect, as the parenthetical in the bottom row of the Table shows, seven of these forty-four rulings were in favor of the parent prior to *Andrew F.*

¹⁷ Zirkel, *supra* note 8, at 593.

¹⁸ Zirkel, *supra* note 8.

not resulted in reported decisions,¹⁹ at least two of the rulings within this twelve-month compilation are on appeal.²⁰ Within this overall limitation, each of the successive findings is amenable to initial interpretation.

Frequency

Although only incidental to the outcomes focus of this analysis, the reduction in the frequency from thirty-four rulings in the first six months to fifteen in the second six months is not particularly expected or explainable. Given the generally long period from appealed IHO (or RO) decisions to the reviewing court decisions,²¹ the reason is not likely to be a dwindling supply of relevant rulings at the underlying IHO-RO levels. However, this changed frequency may indirectly suggest a possible latent outcomes effect of *Andrew F.* in cases that either are settled or not appealed after the final administrative adjudication.²²

Outcomes

For the outcomes focus, the overall finding for the first and second six-month periods together is very limited outcomes change. Added to the 90% of the forty-nine rulings that were

¹⁹ The two remands were *M.C. v. Antelope Valley Union High School District*, 858 F.3d 1189 (9th Cir. 2017) during the first six-month segment and *N.P. v. Maxwell*, 711 F. App'x 713 (4th Cir. 2017) during this second segment.

²⁰ According to a Westlaw search of appellate briefs, these two decisions are *E.R. v. Spring Branch Independent School District*, 70 IDELR ¶ 158 (S.D. Tex. 2017) and *K.D. v. Downingtown Area School District*, 70 IDELR ¶ 203 (E.D. Pa. 2017).

²¹ See, e.g., Perry A. Zirkel, *Autism Litigation under the IDEA: A New Meaning of "Disproportionality"?* 24 J. SPECIAL EDUC. LEADERSHIP 92, 94 (2011) (finding an average 2.8-year delay between the hearing filing date and the final court decision date, but (a) limited to a sample of autism FAPE cases, (b) starting with the filing not the IHO or RO decision date, and (c) including the time for appeals to higher court levels).

²² This possible explanation is merely a matter of cautious conjecture in light of only partially known intervening variables. One such variable is the settlement process, but it is likely most prominent before, as compared with after, the IHO decision. E.g., Perry A. Zirkel, *Longitudinal Trends in Impartial Hearings under the IDEA*, 302 Ed.Law Rep. 1, 3 (2014) (finding that the ratio of filings to decisions increased from 4.0 in 2006–2008 to 7.8 in 2011–2012). Similarly, the contributing factors for the settlement process are not at all limited to the odds of success on appeal. E.g., Perry A. Zirkel & Cathy Skidmore, *Judicial Appeal of Due Process Hearings: The Extent and Direction of Decisional Change*, J. DISABILITY POL'Y STUD. (in press) (identifying illustrative factors of the role of insurance companies and public perception on the district side and emotional costs and recovery of attorneys' fees on the parents' side).

unchanged, the two remands could at least as easily in the districts' direction as in the parents' direction in light of the overall trend,²³ and the three reversals included one in that went in the districts' direction. Interestingly, the district court's remanded decision in *Andrew F.*,²⁴ which is currently on appeal to the Tenth Circuit,²⁵ was the most recent in these three reversals and could be an outlier. First, it stands out effectively alone because the previous two arguably counterbalanced each other in terms of the net outcomes effect. Second, it has a special position based on the attention it has received due to the spotlight effect that the Supreme Court's decision has had on this case. Finally, although citing much more of the dicta of the Court's ruling than most of the other lower courts in this 12-month period, the district court's decision contains several questionable conclusions,²⁶ which could constitute reversible error in light of the non-deferential applicable standard for appellate review.²⁷

²³ Alternatively, if these cases do not end up subject to another adjudication, the assumption that they resulted in a settlement that amounts to the parents' requested remedy is subject to question. See, e.g., Perry A. Zirkel & Diane M. Holben, *Spelunking the Litigation Iceberg, Exploring the Ultimate Outcomes of Inconclusive Rulings*, 46 J.L. & EDUC. 195 (2017) (finding for a broad sample of inconclusive, including remanded, bullying cases a wide distribution of ultimate outcomes, with settlements accounting for 65% but their specific nature concealed).

²⁴ *Andrew F. v. Douglas Cty. Sch. Dist.*, __ F. Supp. __, __ Ed.Law Rep. __ (D. Colo. 2018).

²⁵ According to Westlaw, the district filed its appeal to the Tenth Circuit on March 15, 2018.

²⁶ First, the court characterized the IEPs as "only result[ing] in minimal academic and functional progress" (*id.* at __), which conflicts with the more than de minimis meaning of the original some benefit standard). Second and more significantly, the court relied on the commensurate opportunity standard that the parents' asserted but the Supreme Court rejected (*id.* at __, citing *Andrew F.*, 137 S. Ct. at 1001). Finally, and perhaps least significantly in light of the "undisputed" notable progress at the unilateral placement (*id.* at __), the court recited the benefit standard for the second step of tuition reimbursement (*id.* at __), whereas the Supremes' revised substantive standard would seem to replace it consistent with its *Rowley* basis in *Florence School District Four v. Carter*, 510 U.S. 7, 12 (1993). For recognition of this replacement role, see *G.S. v. Fairfield Bd. of Educ.*, 70 IDELR ¶ 93 (D. Conn. 2017) (citing the Second Circuit's reasoning in *Frank G.* in tandem with the revised substantive standard of *Andrew F.*).

²⁷ E.g., *Andrew F. v. Douglas Cty. Sch. Dist. RE-I*, 798 F.3d 1329, 1334, 321 Ed.Law Rep. 639 (10th Cir. 2015) ("We review the district court's judgment de novo").

However, the overall lack of outcomes change may be partially attributable to the general trend of stability between IHO and judicial decisions in IDEA cases,²⁸ including the skewing effect of settlements and non-appeals.²⁹ Moreover, as indicated via asterisks for the five New York cases in the Appendix, the decisions arising in New York presented the potentially intervening variable of a review officer tier, which played a significant role in two of these cases. More specifically, as the entries in the “comments” column of the Appendix noted, a major decisional factor in the relevant ruling of two of these New York cases³⁰ was the applicable standard of judicial review.³¹

Pre-*Andrew F.* Standard

The first secondary finding, which was the empirically nonsignificant role of the pre-*Andrew F.* substantive FAPE standard of “some” v. “meaningful” benefit, is contrary to predictions.³² Perhaps it is attributable to the overall lack of variance in the outcomes effect. However, other contributing factors also appear to be at play. First, the categorization of jurisdictions as to their applicable substantive standard for FAPE prior to *Andrew F.* is not clear-cut for some jurisdictions, leading to erroneous or at least questionable interpretations.³³

²⁸ See Zirkel & Skidmore, *supra* note 19 (finding only slight or no net change for 70% of a broad sampling of IDEA cases between the IHO and court levels, although the time period allowed for more appellate decisions and the calculation was on a net basis).

²⁹ See *supra* note 19.

³⁰ *N.B. v. N.Y.C. Dep’t of Educ.*, 711 F. App’x 29, 351 F. App’x 798 (2d Cir. 2017) (concluding that based on the applicable review standard the RO’s decision was entitled to deference); *S.B. v. N.Y.C. Dep’t of Educ.*, 71 IDELR ¶ (S.D.N.Y. 2017) (“Both [the IHO and RO] decisions lack ‘thorough and careful’ analysis to warrant deference”).

³¹ Even for the one-tier jurisdictions, which are the majority of the states (*supra* note 9), the varying extent of the prevailing “due weight” standard for judicial deference to the IHO (*Bd. of Educ. v. Rowley*, 458 U.S. at 206) may be a significant intervening factor. For instance, see the entry in the “comments” column of the appendix for *S.M. v. Hendry County School Board*, 70 IDELR ¶ 249 (M.D. Fla. 2017).

³² E.g., Mitchell L. Yell & David Bateman, *Andrew F. v. Douglas County School District (2017): FAPE and the Supreme Court*, 50 TEACHING EXCEPTIONAL CHILD. 13-14 (Sept.-Oct. 2017) (expecting the most significant effect in the those jurisdictions with the lower, mixed, or no standard).

Second, the entries in the “comments” column of the Appendix reveal that, consistent with the pervious six-month period,³⁴ three of the fifteen cases during this second six-month period recognized the lack of material difference between their pre-existing substantive standard and that of *Andrew F.*, and two of them were in the unclear, or mixed, category.³⁵

Other Factors

For the other secondary finding, the continued cursory treatment of *Andrew F.* may be attributable to the congested and widely varying docket of the federal courts. However, perhaps continuing attention among legal scholars and cumulative experience of parent and school district attorneys in the IDEA context will provide more nuanced judicial applications of the Supreme Court’s decision. Given the general nature of the *Rowley* progeny, which, for example, widely ignored the *Rowley* Court’s disclaimer against a generalizable substantive FAPE standard,³⁶ a fine-grained application is the less likely eventuality. Thus far, the scholarship in education journals³⁷ thus far has not come close to facilitating a more nuanced analysis.³⁸ Yet,

³³ For example, the Yell and Bateman account of *Andrew F.* categorized the circuits as follows: “meaningful” benefit - 3d and 6th; unclear - 1st and 9th; and “some benefit” - 2d, 4th, 7th, 8th and 10th. *Id.* at 10–11. However, they not only missed the IDEA-active D.C. Circuit but also had several questionable classifications in light of a much more detailed earlier analysis. Ronald D. Wenkart, *The Rowley Standard: A Circuit-by-Circuit Review of How Rowley Has Been Interpreted*, 247 Ed.Law Rep. 1 (classifying the 1st, 2d, 5th, and 6th Circuits in the unclear category).

³⁴ Zirkel, *supra* note 8, at 590 (entries for *C.D. v. Natick Sch. Dist.*, 70 IDELR ¶ 120 (D. Mass. 2017) and *E.D. v. Colonial Sch. Dist.*, 69 IDELR ¶ 245 (E.D. Pa. 2017)).

³⁵ *E.F. v. Mesa Unified Sch. Dist.*, ___ F. App’x ___ (9th Cir. 2018); *J.P. v. City of N.Y. Dep’t of Educ.*, ___ F. App’x ___ (2d Cir. 2017).

³⁶ *Bd. of Educ. v. Rowley*, 458 U.S. at 202:

We do not attempt today to establish any one test for determining the adequacy of educational benefits conferred upon all children covered by the Act. Because in this case we are presented with a ... child [with a disability] who is receiving substantial specialized instruction and related services, and who is performing above average in the regular classrooms of a public school system, we confine our analysis to that situation.

³⁷ *E.g.*, Janet R. Decker, Francesca Hoffman, & Suzanne Eckes, *Behavior Intervention Plans More Important than Ever after “Andrew,”* 18 PRINCIPAL LEADERSHIP 56 (Jan. 2018) (recommending FBAs and BIPs as a result of the

the undefined “[individual] child’s circumstances” of its holding³⁹ and the Rorschach-like variety of dicta in the *Andrew F. Court’s unanimous opinion*, ranging from the qualified reference to passing grades⁴⁰ to the cogent contingency for judicial deference⁴¹ remain as largely untapped veins for the parties’ attorneys to mine.

Overall

In short, although a year is not a definitive period in our “ponderous” system of IDEA adjudication⁴² and empirical analysis is not without limitations,⁴³ at this first anniversary of

Andrew F., even though the Supreme Court did not specifically address this issue and the Tenth Circuit did so in a significantly different direction from the authors’ recommendation); Elizabeth McKenney, *Andrew F. v. Douglas County School District: Implications for Teams Serving Students with Autism*, 46 COMMUNIQUÉ 11 (Oct. 2017) (providing best-practice recommendations for educating students with autism under the broad otherwise not closely connected “under the circumstances” rubric of *Andrew F.*); Shawn K. O’Brien, *Did Andrew F. Change the “A” in “FAPE”?: Questions and Implications for School Psychologists*, 46 COMMUNIQUÉ 1 (Jan.-Feb. 2018) (interpreting the Court as identifying learning potential and disability severity as the key circumstances and discussing the difficulty in applying these two factors); Yell & Bateman, *supra* note 29 (providing “top 10 implications of *Andrew F.*” that include items representing the authors’ professional views rather than the holding or even dicta of the Court’s decision, such as “Adhere to the IDEA’s procedures when developing students’ IEPs”). One article is a partial exception, providing a nuanced analysis of the decision, although attaching advocacy meaning to its terminology, such as “enable,” and extending to professional and ethical considerations well beyond the confines of the Court’s decision. H. Rutherford Turnbull, Ann P. Turnbull, & David H. Cooper, *The Supreme Court, Andrew, and the Appropriate Education of Students with Disabilities*, 84 EXCEPTIONAL CHILD. 124 (2018)

³⁸ Although more carefully tempered, the coverage in law reviews thus far largely limited to a symposium issue. E.g., Maureen A. MacFarlane, *In Search of the Meaning of an “Appropriate Education”: Ponderings on the Fry and Andrew Decisions*, 46 J.L. & EDUC. 539 (2017) (questioning whether *Andrew F.* has added clarity to the substantive meaning of FAPE); Clair Raj & Emily Suski, *Andrew F.’s Unintended Consequences*, 46 J.L. & EDUC. 499, 503 (2017) (explaining that *Andrew F.* was a “hollow [victory] for many low-income students with disabilities”); Terry Jean Seligmann, *Flags on the Play: The Supreme Court Takes the Field to Enforce the Rights of Students with Disabilities*, 46 J.L. & EDUC. 479 (2017) (concluding that *Andrew F.* took a balanced approach to statutory interpretation and judicial deference); Julie Waterstone, *Andrew F.: Symbolism v. Reality*, 46 J.L. & EDUC. 527 (2017) (providing a sobering analysis of the likely un-dramatic impact, including potential unintended consequence of reinforcing the power imbalance between districts and parents, of the Court’s decision but suggesting that parents and advocates maximize its symbolic meaning for the improvement of the education of students with disabilities). In contrast, a recent state bar magazine, a pair of parent attorneys characterized the effect of *Andrew F.* as “dramatic,” analogizing its standard to a Chevrolet Impala rather than a Ford Pinto or Cadillac. Shane T. Sears & James D. Sears, *The United States Supreme Court’s Watershed Ruling in Andrew F. v. Douglas County School District and the Effect on Your Client’s Special Education Programming*, 79 ALA. LAW. 28, 33 (2018). The Rowley baseline, however, amounted to a “serviceable Chevrolet,” not the infamous Ford Pinto. E.g., *Doe v. Bd. of Educ.*, 9 F.3d 455, 459, 87 Ed.Law Rep. 354 (6th Cir. 1993).

³⁹ *Andrew F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. at 999 and 1002.

⁴⁰ *Id.* at 1000 n.1.

⁴¹ *Id.* at 1002.

Andrew F. the net effect appears to have been close to negligible. Punctuating this circumscribed objective conclusion are: (1) on one side of the anniversary date, the substantive FAPE cases within this period that do not even mention *Andrew F.*,⁴⁴ and (2) on the other side, the relevant major case decided soon after March 21 that continues the same trend.⁴⁵ Further empirical and traditional legal analyses are welcome, repeating the invitation and specific suggestions of the predecessor article.⁴⁶ In the meanwhile, the first birthday of *Andrew* is a modest one, although a potentially happy occasion from the subjective polar perspectives of the extended family of stakeholders.

⁴² *Burlington Sch. Comm. v. Mass. Dep't of Educ.*, 471 U.S. 359, 370 (1985) (citing *Honig v. Doe*, 484 U.S. 305, 322 (1988)).

⁴³ See *supra* note 19.

⁴⁴ E.g., *R.C. v. Bd. of Educ. of Wappingers Cent. Sch. Dist.*, 705 F. App'x 29 (2d Cir. 2017); *Avila v. Spokane Sch. Dist. #81*, 71 IDELR ¶ 172 (W.D. Wash. 2018); *J.G. v. Brewster Cent. Sch. Dist.*, 71 IDELR ¶ 169 (S.D.N.Y. 2018); *A.W. v. N.Y.C. Bd. of Educ.*, 71 IDELR ¶ 98 (S.D.N.Y. 2018).

⁴⁵ *Mr. P v. W. Hartford Bd. of Educ.*, ___ F.3d ___, ___ Ed.Law Rep. ___ (2d Cir. 2018) (upholding hearing officer's substantive FAPE ruling, concluding that the Second Circuit's post-*Rowley* "likely to produce progress" standard comports with *Andrew F.*).

⁴⁶ Zirkel, *supra* note 9, at 595 (suggesting systematic analysis of hearing and review officers decisions and specifying additional questions, such as the impact on the benefit-based standards for the second step of tuition reimbursement and procedural FAPE claims).

Appendix. Overview of the Relevant Rulings for the Second Six Months (after the Thirty-Four Rulings in First Six Months)

Case Citation	Decision Date	Benefit Jurisdiction	Outcome Change	Comments
35. <i>S.B. v. N.Y.C. Dep't of Educ.</i> 70 IDELR ¶ 221 (S.D.N.Y. 2017)	9/28	unclear	D* - rev'd→P	"careful consideration of the child's [PELs]"; [pre-existing review standard]**
36. <i>Denny v. Bertha-Hewitt Pub. Sch.</i> 70 IDELR ¶ 220 (D. Minn. 2017)	9/29	("some")	D - upheld	
37. <i>S.M. v. Hendry Cty. Sch. Bd.</i> 70 IDELR ¶ 249 (M.D. Fla. 2017)	10/5	("some")	D - upheld	markedly different standard but continuing deference to I
38. <i>Methacton Sch. Dist. v. D.W.</i> 70 IDELR ¶ 247 (E.D. Pa. 2017)	10/6	("meaningful")	P - upheld	
39. <i>Montgomery Cty. Intermediate Unit No. 23 v. C.M.</i> 71 IDELR ¶ 11 (E.D. Pa. 2017)	10/12	("meaningful")	P - upheld	substantively similar to prior standard (in 3d Cir.)
40. <i>Bd. of Educ. of Wappingers Cent. Sch. Dist. v. M.N.</i> 71 IDELR ¶ 9 (S.D.N.Y. 2017)	10/13	unclear	P* - upheld	implicitly same as cited 2d Cir. standard
41. <i>N.B. v. N.Y.C. Dep't of Educ.</i> 711 F. App'x 29 (2d Cir. 2017)	10/17	unclear	D* - upheld	[pre-existing review standard]**
42. <i>N.P. v. Maxwell</i> 711 F. App'x 713 (4th Cir. 2017)	12/8	("some")	D - remanded	
43. <i>J.P. v. City of N.Y. Dep't of Educ.</i> F. App'x (2d Cir. 2017)	12/19	unclear	D* - upheld	reasonable, not ideal – and implicitly same as cited 2d Cir. substantive standard (<i>Walczak</i>)
44. <i>M.E. v. N.Y.C. Dep't of Educ.</i> 71 IDELR ¶ 125 (S.D.N.Y. 2018)	1/26	unclear	D* - upheld	
45. <i>Andrew F. v. Douglas Cty. Sch. Dist.</i> F. Supp. 3d (D. Colo. 2018)	2/12	("some")	D - rev'd→P	extensive quotations incl. ambitious goals with some seemingly in error
46. <i>Pavelko v. District of Columbia</i> F. Supp. 3d (D.D.C. 2018)	2/13	("some")	D - upheld	reasonable, not ideal
47. <i>E.F. v. Newport Mesa Unified Sch. Dist.</i> F. App'x (9th Cir. 2018)	2/14	("meaningful")	D - upheld	"Our [9th Cir.] standard comports with <i>Andrew's</i> clarification of <i>Rowley</i> "
48. <i>J.K. v. Missoula Pub. Sch.</i> 713 F. App'x 666 (9th Cir. 2018)	2/23	("meaningful")	D - upheld	
49. <i>Smith v. Cheyenne Mountain Sch. Dist. 12</i> 71 IDELR ¶ 185 (D. Colo. 2018)	3/6	("some")	D - upheld	snapshot

*decision of RO in two-tiered jurisdiction (NY); **outcome change attributable to preexisting 2d Cir. review standard for IHO/RO decisions in this two-tiered jurisdiction.