THE AFTERMATH OF *ENDREW F.*:

AN OUTCOMES ANALYSIS EIGHTEEN MONTHS LATER*

by

Perry A. Zirkel, Ph.D., J.D., LL.M.**

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.[2] This attention includes my three previous analyses.

The first one provided an objective dissection of the holding and potentially significant dicta of this case.[3] 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."[4] The various dicta included (1) the emphasis on the "reasonable," not ideal, dimension[5]; (2) the clarification that the refined standard is "markedly more

---

* This article was published in *West's Education Law Reporter*, v. 361, pp. 488–497 (2019).

** Dr. Zirkel is University Professor Emeritus of Education and Law, Lehigh University, Bethlehem, PA. He is a Past President of the Education Law Association.

[1] 137 S. Ct. 988 (2017).

[2] For a wide sampling of applicable literature, see Perry A. Zirkel, *The Aftermath of* Endrew F. O*ne Year Later: An Updated Outcomes Analysis*, 352 Ed.Law Rep. 448, 453 nn.36–37 (2018). For additional analyses, see Diana Autin, Maria Docherty, & Lauren Agoretus, Endrew F. *Supreme Court Case: Strengthening the Voices of Families at IEP Meetings*, 48 EXCEPTIONAL PARENT 38 (Mar. 2018); Janet R. Decker & Sarah Hurwitz, *Post* Endrew *Implications for Students with Autism*, 344 Ed.Law Rep. 31 (2017); Miriam Kurtzig Freedman, *Waterstone's Endrew F.: Symbolism and Reality from the Schools' Perspective,* 47 J.L & EDUC. 517 (2018); Rachel B. Hitch, *Flags on the Play: We're on the Same Team*, 48 J.L & EDUC. 87 (2019); Angela M. Prince, Mitchell L. Yell, & Antonis Katsiyannis, Endrew F. v. Douglas County School District: *The U.S Supreme Court and Special Education*, 53 INTERVENTION & SCH. CLINIC 321 (2018).

[3] 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).

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

demanding than [the some benefit test]"[6]; (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 settings[7]; and (4) reiteration of judicial deference to school authorities but with the expectation of a "cogent" justification.[8]

The next two articles provided successive empirical analyses of the outcomes of the post-*Endrew F*. lower court substantive FAPE rulings after six months[9] and twelve months,[10] respectively. The more recent analysis of this pair, which subsumed the results of the earlier analysis, identified forty-eight cases in which the impartial hearing officer (IHO) or, in the relatively few jurisdictions with a second tier,[11] the review officer (RO) relied on the pre-*Endrew F*. substantive FAPE standard under *Board of Education v. Rowley*[12] and the court addressed the same issue under the *Endrew F*. refinement. Inasmuch as one case had two relevant rulings for a pair of successive IEPs, the total "n" of relevant rulings was forty-nine. The primary finding of the analysis was that only five (10%) of these forty-nine rulings had a different outcome upon the

---

[5] *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).

[6] *Id.* at 1000.

[7] *Id.*

[8] *Id*. at 1001-02.

[9] Perry A. Zirkel, Endrew F. *after Six Months: A Game Changer?*, 348 Ed.Law Rep. 585 (2017).

[10] *See* Zirkel, *supra* note 2.

[11] The number of states that opted for a second tier under the IDEA decreased from twenty-four in 1992 to seven in 2018. Jennifer Connolly, Thomas Mayes, & Perry A. Zirkel, *State Due Process Hearing Systems under the IDEA: An Update*, __ J. DISABILITY POL'Y STUD. (in press 2019). The most prominent of the dwindling minority of two-tier jurisdictions, due to its relatively high adjudicative activity under the IDEA, is New York.

[12] *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."

court's re-visitation and that this effect was limited to a remand in three of these five cases. Only two (4%) of the forty-nine rulings were reversals, and—oddly—one of them changed from the parent's to the district's favor.[13]

The purpose of this brief article is to provide a follow-up of the twelve-month analysis by extending it another half year, thus accumulating to the eighteen-month period ending on September 22, 2018. The search and selection procedure was the same as the previous analysis,[14] including the exclusion of cases that cited *Endrew F.* without applying its substantive standard.[15]

Results

The Appendix provides the cumulative listing of the cases and rulings for the entire

---

[13] *Bd. of Educ. of Albuquerque Pub. Sch. v. Maez,* 70 IDELR ¶ 157 (D.N.M. 2017). Conversely, in the remaining forty-four rulings, which were the same before and after *Endrew F.*, seven were in the parents' favor. Zirkel, *supra* note 2, at 450.

[14] Zirkel, *supra* note 2, at 449; Zirkel, *supra* note 9, at 588.

[15] *E.g.*, *L.H. v. Hamilton Cty. Dep't of Educ.*, 900 F.3d 779, 357 Ed.Law Rep. 76 (6th Cir. 2018) (close call–distinguishing LRE, though applied *Endrew F.* to step II of tuition reimbursement and dicta that it also applied at step II of procedural FAPE); *Lauren C. v. Lewisville Indep. Sch. Dist.*, 904 F.3d 363, 358 Ed.Law Rep. 108 (5th Cir. 2018) (attorneys' fees); *Durbrow v. Cobb Cty. Sch. Dist.*, 887 F.3d 1182, 353 Ed.Law Rep. 33 (11th Cir. 2018) (child find/eligibility); *Pollack v. Reg'l Sch. Unit 75*, 886 F.3d 75, 352 Ed.Law Rep. 1008 (1st Cir. 2018) (ADA ruling); *Sophie G. v. Wilson Cty. Sch.*, 742 F. App'x 73 (6th Cir. 2018); *Smith v. Mid-Valley Sch. Dist.*, 72 IDELR ¶ 117 (M.D. Pa. 2018) (exhaustion); *Mundo Verde Pub. Charter Sch. v. Sokolov*, 315 F. Supp. 3d 374, 356 Ed.Law Rep. 1044 (D.D.C. 2018) (mootness); *S.C. v. Chariho Sch. Dist.*, 298 F. Supp. 3d 370, 354 Ed.Law Rep. 295 (R.I. 2018) (lack of substantive FAPE ruling by both IHO and court); *McLean v. District of Columbia*, 264 F. Supp. 3d 180, 349 Ed.Law Rep. 675 (D.D.C. 2018) (eligibility intertwined with procedural FAPE); *Avaras v. Clarkstown Cent. Sch. Dist.*, 73 IDELR ¶ 53 (S.D.N.Y. 2018) (procedural FAPE); *Rayna P. v. Campus Cmty. Sch.*, 72 IDELR ¶ 214 (D. Del. 2018) (compensatory education); *Price v. Commw. Charter Acad. Cyber Sch.*, 2018 WL 169335 (E.D. Pa. Apr. 6, 2018) (attempted appeal of SEA complaint investigation); *Spring Branch Indep. Sch. Dist. v. O.W.*, 72 IDELR ¶ 11 (S.D. Tex. 2018) (failure-to-implement FAPE). Additionally, reflecting the maintenance of the starting date but movement forward of the ending date of the case coverage, the exclusions extended to judicial rulings issued during the relevant period that were appeals of IHO/RO decisions issued after the March 22, 2018 decision date of *Endrew F.* *E.g.*, *S.H. v. Rutherford Cty. Bd. of Educ.*, 334 F. Supp. 3d 868, 360 Ed.Law Rep. 232 (M.D. Tenn. 2018); *McLean v. District of Columbia*, 323 F. Supp. 3d 20, 358 Ed.Law Rep. 171 (D.D.C. 2018); *Y.N. v. Bd. of Educ. of Harrison Cent. Sch. Dist.*, 73 IDELR ¶ 73 (S.D.N.Y. 2018); *Montuori v. District of Columbia*, 73 IDELR ¶ 12 (D.D.C. 2018); *J.B. v. District of Columbia*, 325 F. Supp. 3d 1, 358 Ed.Law Rep. 350 (D.D.C. 2018); *Johnson v. St. Louis Pub. Sch. Dist.*, 72 IDELR ¶ 266 (E.D. Mo. 2018); *Wade v. District of Columbia*, 322 F. Supp. 3d 123, 358 Ed.Law Rep. 146 (D.D.C. 2018); *E.S. v. Smith*, 72 IDELR ¶ 184 (D. Md. 2018); *D.L. v. St. Louis Cty. Pub. Sch. Dist.*, 72 IDELR ¶ 157 (E.D. Mo. 2018); *Jack J. v. Coatesville Sch. Dist.*, 72 IDELR ¶ 154 (E.D. Pa. 2018); *R.F. v. Cecil Cty. Sch.*, 72 IDELR ¶ 118 (D. Md. 2018).

eighteen-month period. The format is the same as the listings in the previous pair of analyses,[16] with one exception: the new entries are differentiated via bold font.[17] The complete compilation is included here due to the differentiating effects of the latest search on the previously identified cases in two relevant respects: (a) the latest search identified one additional relevant case for the immediately previous six-month period,[18] and, more significantly, (b) two decisions during this most recent six-month period superseded prior relevant rulings.[19]

The updates, including the aforementioned[20] revisions for the prior periods, resulted in the following overall distribution of net changes in the 68 relevant rulings for the eighteen-month period[21]:

- No Change: 85% (48 "D-upheld" rulings + 10 "P-upheld" rulings)
- Remanded: 7% (5 rulings)
- Reversed: 7% (5 rulings, including 2 that were originally in favor of P[22])

The rulings during the most recent-six month interval, which are the bold font entries in the Appendix, largely continued the pattern of the prior two intervals in both frequency and

---

[16] This format includes 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.

[17] The new entries include not only the cases decided within the most recent six-month interval but also the affected revisions and single addition for the prior two intervals. *See infra* notes 18–19 and accompanying text.

[18] See Appendix – row 40 (*Edmonds Sch. Dist. v. A.T.*).

[19] See Appendix – rows 28/60 (*F.L. v. Bd. of Educ. of Great Neck U.F.S.D.*) and 29/65 (*K.D. v. Downingtown Area Sch. Dist*.).

[20] *See supra* notes 17–19 and accompanying text.

[21] These 68 rulings were based on 66 cases, because two of the cases each addressed substantive FAPE for two IEPs with different outcomes. See Appendix - rows 18 (*G.S. v. Fairfield Bd. of Educ*.) and 55 (*Z.B. v. District of Colum*bia).

[22] See Appendix – rows 23 (*Bd. of Educ. of Albuquerque Pub. Sch. v. Maez*) and 54 (*Colonial Sch. Dist. v. G.K.*).

outcomes.[23]

Moreover, as the entries in the "benefits jurisdiction" and "comments" columns in the Appendix show, the cases during the most recent interval also largely reinforced the prior pattern. First, courts in various circuits, which largely but not entirely had previously been in the definitively "meaningful" category, continued the conclusion that *Endrew F*. did not represent a change in *their* substantive standard.[24] Second, the previous "some" and "meaningful" benefit jurisdictions did not yield an empirically significant distinction, although the recent rulings make clear that the previous "meaningful benefit" circuits regard the *Endrew F.* standard as being essentially equivalent.[25] Third, the lower courts' treatment of *Endrew F.* remains rather cursory, with scattered, rather than skewed, use of its various dicta.[26]

Discussion

The continuing frequency of cases within the limited window of these pre-post analyses, which requires an IHO (or RO) substantive FAPE ruling before the March 22, 2017 decision date of *Endrew F*.,[27] reflects the "ponderous" process of adjudication under the IDEA.[28] The

---

[23] The number of decisions was 19, basically continuing the plateau at the reduced level of the second six months (n=16), as compared with the higher initial level (n=34). The proportion of decisions (73%) with no change (i.e., P or D upheld) was down slightly from the previous two periods (94% and 80%), but these differences are not likely significant due to the limited numbers for each interval, the corresponding variance in the other two outcomes (i.e., percentages of remands and reversals), and the differential effect of counting v. negating rulings that were subject to subsequent decisions during the eighteen-month period.

[24] For the prior intervals, see rows 3, 26 (Third Circuit) and 46 (Ninth Circuit). *But cf*. row 33 (Eleventh Circuit). For the latest interval, see, e.g., rows 49–51 (Second Circuit), 61 (First Circuit), and 65 (Third Circuit). For the prior intervals, see, e.g., rows 3 (First Circuit), 26 (Third Circuit), and 46 (Ninth Circuit).

[25] For the prior intervals, see, e.g., rows 3 (First Circuit) and 46 (Ninth Circuit). For the most recent interval, see rows 49–51 and 60 (Second Circuit) and 65 (Third Circuit).

[26] Although none of the dicta or factors (*supra* text accompanying notes 5–8) was dominant, the most frequent ones continued to be (1) reasonable as compared with ideal, which is a repetition of *Rowley*, and (2) ambitious goals and the LRE distinction, although not applied on a nuanced or necessarily combined basis.

[27] *See supra* text accompanying notes 11–12.

outcomes of the most recent rulings reinforce the conclusion that *Endrew F*. is not a "game changer"[29] in terms of pre-post judicial rulings,[30] although it may have had this effect at the significant latent levels of participant perceptions at the IEP table, hearing officer decisions, and/or settlements.[31] The express conclusions in various cases that *Endrew F*. did not materially change the applicable substantive standard reinforced the empirical results.[32]

The lack of a significant difference between the former "some" and "meaningful" benefit jurisdictions is likely attributable to the limited variance in the outcome changes and the fuzziness of the consistency and criteria among these jurisdictions.[33] The reasons for the lower court's continuing cursory rather than nuanced application of *Endrew F*.,[34] exemplified by the

---

[28] *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)).

[29] Zirkel, *supra* note 9, at 587.

[30] Not only have the reversals for the extended eighteen-month period been limited to 5 of the 69 rulings, but also 2 of the 5 of them were in the opposite direction, thus further limiting the purported standard-raising effect. *See supra* text accompanying note 22.

[31] More research is needed at these latent levels, although the results may not be as often expected. *Cf*. Perry A. Zirkel & Diane M. Holben, *Spelunking the Litigation Iceberg, Exploring the Ultimate Outcomes of Inconclusive Rulings*, 46 J.L. & EDUC. 195 (2017) (finding that approximately one third of restricted sample of cases expected to end with settlements had a different outcome).

[32] *See supra* note 24 and accompanying text. The decisions within and at the Second and Ninth Circuit showed that this conclusion was not strictly limited to jurisdictions that were clearly in the "meaningful" benefit camp. *E.g*., Ronald D. Wenkart, *The* Rowley *Standard: A Circuit-by-Circuit Review of How* Rowley *Has Been Interpreted*, 247 Ed.Law Rep. 1, 2–3 (classifying the 2d and 9th Circuits as applying both standards); Mitchell L. Yell & David Bateman, Endrew F. v. Douglas County School District *(2017): FAPE and the Supreme Court*, 50 TEACHING EXCEPTIONAL CHILD. 7, 10 (Sept.-Oct. 2017) (classifying the 9th Circuit as mixed and the 2d Circuit as a "some" benefit jurisdiction).

[33] As noted in the previous analysis (Zirkel, *supra* note 2, at 452 n.22), various jurisdictions were subject to unclear and inconsistent categorization. Moreover, the operational difference between the two standards is indistinct. For example, the some benefit jurisdiction of *Endrew F*. originally formulated its definition based on the Third Circuit's meaningful benefit formulation. *Urban v. Jefferson Cty. Sch. Dist. No.* 1, 89 F.3d 720, 727, 110 Ed.Law Rep. 1089 (10th Cir. 1996) (citing *Polk v. Cent. Susquehanna Intermediate Unit*, 853 F.2d 171, 182, 48 Ed.Law Rep. 336 (3d Cir. 1988)).

[34] *See supra* note 26 and accompanying text. Overall, the courts' selection appears to be more result-oriented reinforcement rather than disciplined analysis.

opposing use of its "appropriately ambitious" analogy without the specific LRE distinction,[35] are less obvious. Possible contributing factors may be the general congestion in the federal courts or less than penetrating analysis in the parties' briefs.[36]

Finally, as another evidence of the less than quick and careful application of *Endrew F.* is the lower courts' belated realization that the *Endrew F.* substantive standard applies to not only the first appropriateness step (concerning the district's proposed placement) but also the second appropriateness step (concerning the parent's unilateral placement) of tuition reimbursement analysis.[37] Although an unpublished court decision was the first recognition,[38] the Sixth Circuit's officially published decision during this most recent six-month interval cemented this conclusion.[39]

---

[35] *See supra* note 7 and accompanying text.

[36] For additional considerations, see Zirkel, *supra* note 2, at 453 (observing the less than nuanced analysis in the Rowley progeny and, thus far, the *Endrew F.* literature).

[37] For the original prediction, see *id*. at 553 n.78. For a systematic synthesis of the applicable multi-step test, see, e.g., Perry A. Zirkel, *Tuition and Related Reimbursement under the IDEA: A Decisional Checklist*, 282 Ed.Law Rep. 785 (2012).

[38] *G.S. v. Fairfield Bd. of Educ.*, 70 IDELR ¶ 93 (D. Conn. 2017).

[39] *L.H. v. Hamilton Cty. Dep't of Educ*., 900 F.3d 779, 796, 357 Ed.Law Rep. 76 (6th Cir. 2018).

Appendix. Relevant Judicial Rulings in the 18 Months after Endrew F. (3/22/17–9/21/18)

Case Citation	Decision Date	Benefit Jurisdiction	Outcome Effect	Comments
1. *Davis v. District of Columbia*, 244 F. Supp. 3d 27 (D.D.C. 2017)	3/23	"some"	D – upheld	appropriately ambitious/challenging objectives (w/o LRE distinction)
2. *Brandywine Heights Area Sch. Dist. v. B.M.*, 248 F. Supp. 3d 618 (E.D. Pa. 2017)	3/28	"meaningful"	D – upheld	LRE distinction: appropriately ambitious/ challenging objectives
3. *C.D. v. Natick Pub. Sch. Dist.*, ~~69 IDELR ¶ 213 (D. Mass. 2017)~~ 70 IDELR ¶ 120 (D. Mass. 2017)	~~[3/28]~~ 7/21	~~unclear~~ "meaningful"	~~[D remanded]~~ D – upheld	not materially different at least for this case
4. *A.G. v. Bd. of Educ. of Arlington Cent. Sch. Dist.*, 69 IDELR ¶ 210 (S.D.N.Y. 2017)	3/29	unclear	D – upheld	
5. *E.D. v. Colonial Sch. Dist.*, 69 IDELR ¶ 245 (E.D. Pa. 2017)	3/31	"meaningful"	D – upheld	not substantive different; LRE distinction: annual promotion/passing marks
6. *Paris Sch. Dist. v. A.H.,* 69 IDELR ¶ 243 (W.D. Ark. 2017)	4/3	unclear	P – upheld	limited to behavior plans (possible higher entitlement); stagnation
7. *K.M. v. Tehachapi Unified Sch. Dist.,* 69 IDELR ¶ 241 (E.D. Cal. 2017)	4/5	unclear	D – upheld	
8. *N.G. v. Tehachapi Unified Sch. Dist.,* 69 IDELR ¶ 279 (E.D. Cal. 2017)	4/12	unclear	D – upheld	marginal case (largely focused on FBA-entitlement issue)
9. *C.M. v. Warren Indep. Sch. Dist.,* 69 IDELR ¶ 282 (E.D. Tex. 2017)	4/18	"meaningful"	D – upheld	LRE distinction
10. *T.M. v. Quakertown Cmty. Sch. Dist.*, 69 IDELR ¶ 276 (E.D. Pa. 2017)	4/19	"meaningful"	D – upheld	"the benefit must be substantial, not minimal"[?]; judicial deference
11. *D.B. v. Ithaca Sch. Dist.*, 690 F. App'x 778 (2d Cir. 2017)	5/23	unclear	D – upheld	marginal case (peripheral mention in short opinion)
12. *E.G. v. Great Valley Sch. Dist.*, 70 IDELR ¶ 3 (E.D. Pa. 2017)	5/23	"meaningful"	D – upheld	cogent justification
13. *M.C. v. Antelope Valley Union High Sch. Dist.,* 858 F.3d 1189 (9th Cir. 2017)	5/30	"meaningful"	D – remanded	"taking into account the progress of his non-disabled peers [?], and the child's potential"
14. *E.R. v. Spring Branch Indep. Sch. Dist.,* 2017 WL 3017282 (S.D. Tex. 2017), *adopted*, 70 IDELR ¶ 158 (S.D. Tex. 2017)	6/15 7/15	unclear	D – upheld	"meaningful"; appropriately ambitious (w/o LRE distinction); reasonable>ideal; applied to § 504[?]
15. *C.G. v. Waller Indep. Sch. Dist.*, 697 F. App'x 816 (5th Cir. 2017)	6/22	unclear	D – upheld	appropriately ambitious (w/o LRE distinction)
16. *Albright v. Mountain Home Sch. Dist.*, 70 IDELR ¶ 95 (W.D. Ark. 2017)	7/5	"some"	D – upheld	

17. *Parker v. W. Chester Area Sch. Dist.*, 70 IDELR ¶ 94 (E.D. Pa. 2017)	7/6	"meaningful"	D – upheld	deference; LRE distinction (grades/promotion)
18. *G.S. v. Fairfield Bd. of Educ.*, 70 IDELR ¶ 93 (D. Conn. 2017)	7/7	unclear	P – upheld (yr.1) D – upheld (yr.2)	applicable to Step 2 of tuition reimbursement
19. *I.Z.M. v. Rosemount-Apple Valley-Eagan Pub. Sch.*, 863 F.3d 966 (8th Cir. 2017)	7/14	"some"	D – upheld	marginal case (largely focused on state law; no guarantee
20. *Avaras v. Clarkstown Cent. Sch. Dist.,* 70 IDELR ¶ 129 (S.D.N.Y. 2017)	7/17	unclear	P* – upheld	not applied at Step 2 of tuition reimbursement
21. *Dallas Indep. Sch. Dist. v. Woody,* 865 F.3d 303 (5th Cir. 2017)	7/27	unclear	P – upheld	marginal case (largely focused on timing of IEP offer)
22. *Unknown Party v. Gilbert Unified Sch. Dist.*, 70 IDELR ¶ 131 (D. Ariz. 2017)	7/31	"meaningful"	D – upheld	odd posture (parents sought easier program, with district using *Endrew F*'s higher std.; stagnation
23. *Bd. of Educ. of Albuquerque Pub. Sch. v. Maez*, 70 IDELR ¶ 157 (D.N.M. 2017)	8/1	"some"	P – rev'd → D	no guarantee; cogent justification; appropriately ambitious (LRE distinction); "meaningful"[?]
24. *J.R. v. N.Y.C. Dep't of Educ.*, 70 IDELR ¶ 151 (S.D.N.Y. 2017)	8/9	"meaningful"	D* – upheld	appropriately ambitious (LRE distinction)
25. *Benjamin A. v. Unionville-Chadds Ford Sch. Dist.*, 70 IDELR ¶ 150 (E.D. Pa. 2017)	8/14	"meaningful"	D – upheld	
26. *Sean C. v. Oxford Area Sch. Dist.,* 70 IDELR ¶ 146 (E.D. Pa. 2017)	8/14	"meaningful"	D – upheld	not ideal; LRE distinction (grades/promotion); not substantively different (citing *Colonial SD*)
27. *M.L. v. Smith*, 867 F.3d 487 (4th Cir. 2017)	8/15	"some"	D – upheld	declines to address effect except "circumstances" does not include child's religion
~~**28. *F.L. v. Bd. of Educ. of Great Neck U.F.S.D.*, 274 F. Supp. 3d 94 (S.D.N.Y. 2017)**~~	~~**8/15**~~	~~**"meaningful"**~~	~~**D* – upheld**~~	
28. *J.R. v. Smith*, 70 IDELR ¶ 178 (D. Md. 2017)	8/21	"some"	D – upheld	
~~**29. *K.D. v. Downingtown Area Sch. Dist.*, 70 IDELR ¶ 203 (E.D. Pa. 2017)**~~	~~**9/1**~~	~~**"meaningful"**~~	~~**D – upheld**~~	~~**LRE distinction; "potential" factor; deference; not significantly different from meaningful benefit standard**~~
29. *Pocono Mountain Sch. Dist. v. J.W.*, 70 IDELR ¶ 200 (E.D. Pa. 2017)	9/8	"meaningful"	P – upheld	stagnation
30. *Tamalpais Union High Sch. Dist. v. D.W.*, 271 F. Supp. 3d 1152 (N.D. Cal. 2017)	9/21	unclear	D – upheld[40]	appropriately ambitious (w/o LRE distinction)
31. *Barney v. Akron Bd. of Educ.*, 70 IDELR ¶ 227 (N.D. Ohio 2017)	9/22	unclear	D* – upheld	appropriately ambitious (w/o LRE distinction);"potential" factor
32. *S.B. v. N.Y.C. Dep't of Educ.*, 70 IDELR ¶ 221 (S.D.N.Y. 2017)	9/28	unclear	D* – rev'd → P	"careful consideration of the child's [PELs]," reliance on pre-existing standards for IHO/RO decisions and substantive FAPE

[40] In this case, the hearing officer had addressed three IEPs, ruling for the parent for one of them. However, the court only used *Endrew F.* in its rejection of the parent's challenge to one of the other two, not for its rejection of the district's challenge to the third IEP.

33. *Denny v. Bertha-Hewit Pub. Sch.*, 70 IDELR ¶ 220 (D. Minn. 2017)	9/29	"some"	D – upheld	
34. *S.M. v. Hendry Cty. Sch. Bd.*, 70 IDELR ¶ 249 (M.D. Fla. 2017)	10/5	"some"	D – upheld	markedly different standard but continuing deference to IHO
35. *Methacton Sch. Dist. v. D.W.*, 70 IDELR ¶ 247 (E.D. Pa. 2017)	10/6	"meaningful"	P – upheld	
36. *Montgomery Cty. Intermediate Unit No. 23 v. C.M.*, 71 IDELR ¶ 11 (E.D. Pa. 2017)	10/12	"meaningful"	P – upheld	substantively similar to prior std. (in 3d Cir.)
37. *Bd. of Educ. of Wappingers Cent. Sch. Dist. v. M.N.*, 71 IDELR ¶ 9 (S.D.N.Y. 2017)	10/13	unclear	P – upheld	reliance on state substantive standards
38. *N.B. v. N.Y.C. Dep't of Educ.*, 711 F. App'x 28 (2d. Cir. 2017)	10/17	unclear	D* – upheld	reliance on deference to the SRO
~~39. *E.F. v. Newport Mesa Unified Sch. Dist.*, 138 S. Ct. 169 (2017)~~	~~10/22~~	~~"meaningful"~~	~~D – remanded~~	
39. *D.B. v. Fairview Sch. Dist.*, 71 IDELR ¶ 36 (E.D. Pa. 2017)	10/31	"meaningful"	D – upheld	deference (though marginal due to mix of procedural FAPE issues)
40. *Edmonds Sch. Dist. v. A.T.*, 299 F. Supp. 3d 1135 (W.D. Wash. 2017)	**11/7**	**"meaningful"**	**P – upheld**	
41. *N.P. v. Maxwell*, 711 F. App'x 713 (4th Cir. 2017)	12/8	"some"	D – remanded[41]	
42. *J.P. v. City of N.Y. Dep't of Educ.*, 717 F. App'x 13 (2d Cir. 2017)	12/19	unclear	D – upheld	reasonable, not ideal – and implicitly same as re-cited *Walczak*
43. *M.E. v. N.Y.C. Dep't of Educ.*, 71 IDELR ¶ 125 (S.D.N.Y. 2018)	1/26	unclear	D – upheld	
44. *Endrew F. v. Douglas Cty. Sch. Dist.*, 290 F. Supp. 3d 1175 (D. Colo. 2018)[42]	2/12	"some"	D – rev'd → P	extensive quotations incl. ambitious goals and, at end, equal opportunity – behavioral dicta – 2nd step effectively stipulated
45. *Pavelko v. District of Columbia* 288 F. Supp. 3d 301 (D.D.C. 2018)	2/13	"some"	D – upheld	reasonable, not ideal
46. *E.F. v. Newport Mesa Unified Sch. Dist.* 726 F. App'x 535 (9th Cir. 2018)	2/14	"meaningful"	D – upheld	"Our standard comports with *Endrew*'s clarification of *Rowley*" - clarification, not change, of *Rowley* standard
47. *J.K. v. Missoula Pub. Sch.*, 713 F. App'x 666 (9th Cir. 2018)	2/23	"meaningful"	D – upheld	
48. *Smith v. Cheyenne Mountain Sch. Dist. 12*, 71 IDELR ¶ 185 (D. Colo. 2018)	3/6	"some"	D – upheld	snapshot

[41] On remand, the hearing officer reversed the original ruling (from D to P). Prince George's Cty. Pub Sch., 118 LRP 44789 (Md. SEA May 3, 2018).

[42] Subsequent to this decision, the district filed an appeal with the Tenth Circuit and, a few months later the parties agreed to a settlement of $1.3 million. Alan Schimke, *Douglas County District Pays $1.3 Million to Settle Landmark Special Education Case*, DENVER POST, June 20, 2018, https://www.denverpost.com/2018/06/20/douglas-county-district-special-education-case/

49. ***Mr. P v. W. Hartford Bd. of Educ.*****,** **885 F.3d 735 (2d Cir. 2018)**	**3/23**	**unclear**	**D – upheld**	**not materially different from pre-existing 2d Cir. standard (*Walczak*)**
50. ***MB v. City Sch. Dist. of New Rochelle*****,** **72 IDELR ¶ 12 (S.D.N.Y. 2018)**	**3/29**	**unclear**	**D* – upheld**	**reasonable>ideal and more than de minimis – mostly *Walczak* – "merely clarified *Rowley*"**
51. ***C.S. v. Yorktown Cent. Sch. Dist.*****,** **72 IDELR ¶ 7 (S.D.N.Y. 2018)**	**3/30**	**unclear**	**D* – upheld**	**citing *Mr. P* as no sig. difference – LRE distinction**
52. ***Sauers v. Winston-Salem/Forsyth Cty. Bd. of Educ.*****,** **72 IDELR ¶ 10 (M.D.N.C. 2018)**	**3/30**	**"some"**	**D* – remanded**	**relying on *N.P.***
53. ***Rosaria M. v. Madison City Bd. of Educ.*****,** **325 F.R.D. 429 (N.D. Ala. 2018)**	**3/30**	**unclear**	**D – upheld**	**appropriately ambitious**
54. ***Colonial Sch. Dist. v. G.K.*****,** **72 IDELR ¶ 69 (E.D. Pa. 2018)**	**4/30**	**"meaningful"**	**P – rev'd → D**	**no guarantee (not progress but reasonable calculation)**
55. ***Z.B. v. District of Columbia*****,** **888 F.3d 515 (D.C. Cir. 2018)**	**5/1**	**"some"**	**D – remanded** **D – upheld**	**"raised the bar" – ambitious, with challenging objectives – reasonable > ideal**
56. ***Geniviva v. Hampton Twp. Sch. Dist.*****,** **72 IDELR ¶ 57 (W.D. Pa. 2018)**	**5/23**	**"meaningful"**	**D – upheld**	**marginal – mostly LRE issue**
57. ***Middleton v. District of Columbia*****,** **312 F. Supp. 3d 113 (D.D.C. 2018)**	**6/4**	**"some"**	**D – rev'd→ P**	**marginal – mostly procedural FAPE**
58. ***J.M. v. Matayoshi*****,** **729 F. App'x 585 (9th Cir. 2018)**	**6/29**	**"meaningful"**	**D – upheld**	**brief decision**
59. ***M.L. v. Smith*****,** **72 IDELR ¶ 218 (D. Md. 2018)**	**8/7**	**"some"**	**D – upheld**	**increased services, distinguishing *Endrew F.***
60. ***F.L. v. Bd. of Educ. of Great Neck U.F.S.D.*****,** **735 F. App'x 38 (2d Cir. 2018)**	**8/24**	**"meaningful"**	**D – upheld**	**unchanged std. – LRE distinction (not integrated)**
61. ***Spencer v. Burrillville Sch. Comm.*****,** **2018 WL 4080688 (D.R.I. 2018)**	**8/27**	**"meaningful"**	**D – upheld**	**same std. and, in any event, met – LRE distinction (integrated – passing/advancing)**
62. ***J.G. v. New Hope Solebury Sch. Dist.*****,** **72 IDELR ¶ 240 (E.D. Pa. 2018)**	**8/27**	**"meaningful"**	**D – upheld**	**ambitious goals within overall std.**
63. ***Pottsgrove Sch. Dist. v. D.H.*****,** **72 IDELR ¶ 271 (E.D. Pa. 2018)**	**9/12**	**"meaningful"**	**P – upheld**	**snapshot – remanded on other grounds**
64. ***S.M. v. Arlotto*****,** **73 IDELR ¶ 74 (D. Md. 2018)**	**9/14**	**"some"**	**D – upheld**	**reasonable, not best**
65. ***K.D. v. Downingtown Area Sch. Dist.*****,** **904 F.3d 248 (3d Cir. 2018)**	**9/18**	**"meaningful"**	**D – upheld**	**unchanged std. incl. potential; LRE distinction (not fully integrated); reasonable > ideal – deference to school authorities; DCL as unpersuasive**
66. ***I.W. v. District of Columbia*****,** **73 IDELR ¶ 52 (D.D.C. 2018)**	**9/18**	**"some"**	**D – remanded**	**unique circumstances and needs (here, lack of IHO explanation though remand may have same outcome)**

*decision of RO in two-tiered jurisdiction