THE AFTERMATH OF *ENDREW F.*:

AN OUTCOMES ANALYSIS TWO YEARS 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 four previous successive analyses.[3]

The first one provided an objective dissection of the holding and potentially significant dicta of this case.[4] The holding in *Endrew F.* was the refined substantive standard for "free

---

* This article was published in *West's Education Law Reporter*, v. 363, pp. 1–13 (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 representative sampling of the initial stage in the continuing line of professional 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 more recent views, 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, Francesca Hoffman, & Suzanne Eckes, *Behavior Intervention Plans: More Important Than Ever after "Endrew,"* 18 PRINCIPAL LEADERSHIP 56 (Jan. 2018); 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); Shawn K. O'Brien, *Did* Endrew F. *Change the "A" in FAPE: Questions and Implications for School Psychologists*, 46 COMMUNIQUÉ 1 (Feb. 2018); 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); H. Rutherford Turnbull, Ann P. Turnbull, & David H. Cooper, *The Supreme Court,* Endrew*, and the Appropriate Education of Students with Disabilities*, 84 Exceptional Child. 124 (2018).

[3] After the initial analysis, the three succeeding empirical snapshots were at successive six-month intervals. For the most recent of this series, see Perry A. Zirkel, *The Aftermath of* Endrew F.*: An Updated Outcomes Analysis Eighteen Months Later*, 361 Ed.Law Rep. 488 (2019).

[4] 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).

appropriate education" (FAPE)[5]: "a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."[6] The various dicta included (1) the emphasis on the "reasonable," not ideal, dimension[7]; (2) the clarification that the refined standard is "markedly more demanding than [the some benefit test]"[8]; (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 placement options of the LRE continuum[9]; and (4) reiteration of judicial deference to school authorities but with the expectation of a "cogent" justification.[10]

The next three articles provided successive empirical analyses of the outcomes of the post-*Endrew F*. lower court substantive FAPE rulings after six months,[11] twelve months,[12] and eighteen months.[13] The more recent analysis of this pair, which subsumed the results of the earlier analyses,[14] identified sixty-six cases in which the impartial hearing officer (IHO) or, in the relatively few jurisdictions with a second tier,[15] the review officer (RO) relied on the pre-*Endrew*

---

[5] FAPE is the core obligation under the Individuals with Disabilities Education Act (IDEA). 20 U.S.C. §§ 1401(9) and 1412(a)(1) (2017).

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

[7] *Id.* at 999.

[8] *Id.* at 1000.

[9] *Id.*

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

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

[12] Zirkel, *supra* note 2.

[13] Zirkel, *supra* note 3.

[14] As a result, a few of the cases were subject to appeals, which eliminated the earlier rulings in the same case.

F. substantive FAPE standard under *Board of Education v. Rowley*[16] and the court addressed the same issue under the *Endrew F*. refinement. Inasmuch as two cases each had two relevant rulings for a pair of successive IEPs, the total "n" of relevant rulings was sixty-eight. The primary finding of the analysis was that only ten (14%) of these sixty-eight rulings had a different outcome upon the court's re-visitation and that this effect was limited to a remand in half of these ten cases. Consequently, only five (7%) of the sixty-eight rulings were reversals, and—oddly—two of them changed from the parent's to the district's favor.[17]

The purpose of this brief article is to provide a follow-up of the eighteen-month analysis by extending it another half year, thus accumulating to the two-year period ending on March 22, 2019. The search and selection procedure was the same as in the previous analyses,[18] including the exclusion of cases that cited *Endrew F.* without applying its substantive standard.[19] Additionally, causing this analysis to be the final snapshot in this series, the cases fitting within the continuing pre-post scope dwindled toward the end of this period in relation to the increasing and predominating number of decisions in which the hearing or review officer decision was

---

[15] 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.

[16] *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."

[17] *Colonial Sch. Dist. v. G.K*., 72 IDELR ¶ 69 (E.D. Pa. 2018); *Bd. of Educ. of Albuquerque Pub. Sch. v. Maez,* 70 IDELR ¶ 157 (D.N.M. 2017). Conversely, in the remaining fifty-eight rulings, which were the same before and after *Endrew F*., ten were in the parents' favor. Zirkel, *supra* note 3, at 490.

[18] Zirkel, *supra* note 3, at 489; Zirkel, *supra* note 2, at 449; Zirkel, *supra* note 9, at 588.

[19] *E.g*., *Somberg v. Utica Cmty. Sch.,* 908 F.3d 162, 359 Ed.Law Rep. 752 (6th Cir. 2018) (background for, but distinguished from, issue of compensatory education); *Philips v. Indep. Sch. Dist. No. 3*, 73 IDELR ¶ 119 (E.D. Okla. 2018) (background for issue of residential placement and remedies); *Avaras v. Clarkstown Cent. Sch. Dist.,* 73 IDELR ¶ 50 (S.D.N.Y. 2018) (background for procedural FAPE); *M.P. v. Campus Cmty. Sch.*, 73 IDELR ¶ 38 (D. Del. 2018) (background for compensatory education).

after, rather than before, the date of *Endrew F*.[20]

Results

The Appendix provides the cumulative listing of the 84 cases and 88 rulings for the entire two-year period.[21] The format is the same as the listings in the previous analysis,[22] including differentiating the superseded rulings[23] via cross-outs and the new entries via bold font. The complete compilation is included here because this final snapshot provides the complete picture for the ample two-year period.

The resulting overall distribution of net changes in the 88 relevant rulings for the two-year period was as follows[24]:

- No Change: 85% (65 "D-upheld" rulings + 10 "P-upheld" rulings)
- Remanded: 6% (5 rulings)
- Reversed: 9% (8 rulings, including 3` that were originally in favor of P[25])

---

[20] *E.g.*, *C.F. v. Radnor Twp. Sch. Dist*., 74 IDELR ¶ 48 (E.D. Pa. 3/14 2019); *Mr. & Mrs. G. v. Canton Bd. of Educ*., 74 IDELR ¶ 8 (D. Conn. 3/11 2019); *A.W. v. Techachapi Unified Sch. Dist*., 74 IDELR ¶ 11 (E.D. Cal. 3/7 2019); *J.A. v. Smith Cty. Sch. Dist*., 364 F. Supp. 3d 803, __ Ed.Law Rep. __ (M.D. Tenn. 3/6 2019); *Dennis v. Lubbock-Cooper Indep. Sch. Dist*., 74 IDELR ¶ 18 (N.D. Tex. 3/1 2019); *A.H. v. Smith*, 73 IDELR ¶ 234 (D. Md. 2/8 2019); *Nathan M. v. Harrison Sch. Dist. No. 2*, 73 IDELR ¶ 148 (D. Colo. 2018); *D.S. v. Parsippany Troy Hills Bd. of Educ.*, 73 IDELR ¶ 143 (D.N.J. 2018); *Y.N. v. Bd. of Educ. of Harrison Cent. Sch. Dist*., 73 IDELR ¶ 73 (S.D.N.Y. 2018); *M.G. v. N. Hunterdon-Vorhees Reg'l High Sch. Dist. Bd. of Educ.*, 73 IDELR ¶ 46 (D.N.J 2018); *Carr v. New Glarus Sch. Dist*., 73 IDELR ¶ 36 (W.D. Wis. 2018); *Montuori v. District of Columbia*, 73 IDELR ¶ 12 (D.D.C. 2018). This shifting forward beyond the pre-post window has continued after the ending date of this two-year analysis. *E.g., R.F. v. Cecil Cty. Pub. Sch.,* 919 F.3d 237 (4th Cir. 2019); *E.P. v. N. Arlington Bd. of Educ*., 74 IDELR ¶ 80 (D.N.J. 2019); *D.F. v. Smith*, 74 IDELR ¶ 75 (D. Md. 2019).

[21] The net effect, after further proceedings, including appeals, was that four of the cases each had two relevant rulings.

[22] Zirkel, *supra* note 3, at 493–497. The column headings in the Appendix consists of the case citation, the jurisdiction's *Rowley* benefit standard prior to *Endrew F*., the pre and post outcomes in terms of the parent (P) or the district (D), and comments focusing on the *Endrew F.* dicta used in the direct explanation of the ruling.

[23] *See supra* note 14.

[24] These 88 rulings were based on 84 cases, because four of the cases each addressed substantive FAPE for two IEPs with different outcomes. See Appendix - rows 17 (*G.S. v. Fairfield Bd. of Educ*.), 50 (*Z.B. v. District of Colum*bia), 68 (*Smith v. District of Columbia*), and 80 (*In re Butte Sch. Dist. No. 1*).

Restricting the analysis to the rulings that were originally in favor of the district based on the presumption that those in favor of the plaintiff would be unchanged by the supposed elevation of the standard did not at all ameliorate this pattern; specifically, the distribution for these 75 rulings was: no change – 65 (87%); 5 (7%) – remanded, and 5 (7%) – reversed. Finally, 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 three intervals in both frequency and outcomes.[26]

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.[27] Second, the previous "some" and "meaningful" benefit jurisdictions did not yield an empirically significant distinction, although the lack of clarity between the two standards and among the various jurisdictions seems to preclude such

---

[25] See Appendix – rows 23 (*Bd. of Educ. of Albuquerque Pub. Sch. v. Maez*), 80 (*Butte Sch. Dist. No. 1*), and 81 (*Colonial Sch. Dist. v. G.K.*).

[26] The number of rulings was 25, basically continuing the uneven plateau between the range from 19 for the second six-months interval to 34 for the first six months. The proportion of decisions (80%) with no change (i.e., P or D upheld) was similarly well within the range of 71% to 94% for the previous intervals, and the 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 two-year period.

[27] *E.g*., rows 65 (Second Circuit), 67 (Third Circuit), 71 (First Circuit), and 76 (Fifth Circuit). For the prior intervals, see rows 3, 56 (First Circuit); rows 28, 45, 47, 55 (Second Circuit); rows 32, 60 (Third Circuit); and row 42 (Ninth Circuit). *But cf*. row 30 (Eleventh Circuit) and 50 (D.C. Circuit) – some benefit jurisdictions).

differentiation. Third, the lower courts' treatment of *Endrew F.* remains rather cursory, with scattered, rather than skewed, use of its various dicta.[28]

Discussion

In light of the "ponderous" process of adjudication under the IDEA,[29] it has taken two years to rather fully apply the pre-post process with the pattern being relatively consistent and confirmatory. The cumulative conclusion that *Endrew F*. is not a "game changer"[30] in terms of pre-post judicial rulings.[31] The express conclusions in various cases that *Endrew F*. did not materially change the applicable substantive standard reinforced the empirical results.[32] Indeed, a surprising number of substantive FAPE cases within the most recent six-month interval continued to use the *Rowley* benefit standard without any mention of *Endrew F*. or its progress standard.[33]

---

[28] Although none of the dicta or factors (*supra* text accompanying notes 7–10) was dominant, the most frequent ones increasingly were (1) reasonable as compared with ideal, which rooted in *Rowley*, and (2) the LRE distinction, although not applied on a nuanced and differentiated basis.

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

[30] Zirkel, *supra* note 11, at 587.

[31] Not only have the reversals for the two-year period been limited to 8 of the 88 rulings, but also 3 of them were in the opposite direction, thus further limiting the purported standard-raising effect. *See supra* note 25 and accompanying text. However, the general tendency of courts to uphold the outcomes of IDEA hearing officers tmay have tempered the precedential effect of a new Supreme Court standard. Perry A. Zirkel & Cathy Skidmore, *Judicial Appeal of Due Process Hearing Rulings: The Extent and Direction of Decisional Change*, 29 J. DISABILITY POL'Y STUD. 22 (2018) (finding that 70% of a random sample of IDEA rulings, including but not limited to FAPE, had a slight or no change between the hearing officer level and final court decision).

[32] *See supra* note 27 and accompanying text. These pronouncements were not limited to the circuits that were previously in the meaningful category, extending, for example, to the Second and Ninth Circuits. *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 Second and Ninth 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 Ninth Circuit as mixed and the Second Circuit as a "some" benefit jurisdiction).

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.[34] Yet, the reasons for the lower courts' continuing cursory rather than nuanced application of *Endrew F*.[35] are less obvious. Possible contributing factors may be the general congestion in the federal courts or less than penetrating analyses in the parties' briefs.[36] The increased prominence of *Endrew F*.'s reasonable, not ideal, caveat in the most recent interval of cases[37] reinforces the lack of change from *Rowley*, which first established this distinction in its rejection of a maximization standard[38] and its formulation of a "reasonably calculated" holding.[39] The lower courts' corresponding increased but still superficial use of the LRE distinction leaves in limbo the wide segment of students with disabilities who are neither like Amy Rowley, i.e., fully integrated in the regular

---

[33] *E.g*., *E.M. v. Lewisville Indep Sch. Dist*., ___ F. App'x ___ (5th Cir. 2019); *A.L. v. v. Mamaroneck Union Free Sch. Dist*, 73 IDELR ¶ 48 (S.D.N.Y. 2018); *Alamo Heights Sch. Dist*., 73 IDELR ¶ 71 (W.D. Tex. 2018) (Oct. 12); *A.B. v. Clear Creek Indep. Sch. Dist*., 73 IDELR ¶ 3 (S.D. Tex. 2018); *M.C. v. Mamaroneck Union Free Sch. Dist*., 73 IDELR ¶ 48 (S.D.N.Y. 2018); *cf*. *Bd. of Educ. of Mamaroneck Union Free Sch. Dist. v. A.D*., 739 F. App'x 79 (2d Cir. 2018) (ancillary evidentiary issues). For an example from the end of the previous six-month interval, see *K.G. v. Cinnaminson Twp. Bd. of Educ*., 73 IDELR ¶ 19 (D.N.J. 2018). Although all three of these circuits were among those that had ruled that their previous standard complied with *Endrew F*., it is notable that these decisions did not more clearly replace their "benefit" wording with the "progress" formulation or at least cite *Endrew F*.

[34] As noted in the previous analysis (Zirkel, *supra* note 3, 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)).

[35] *See supra* note 28 and accompanying text. Overall, the courts' selection appears to be more result-oriented reinforcement rather than disciplined analysis.

[36] For additional considerations, see Zirkel, *The Aftermath of* Endrew F.*: An Updated Outcomes Analysis One Year Later*, 352 Ed.Law Rep. 448, 453 (2019) (observing the less than nuanced analysis in the *Rowley* progeny and, thus far, the *Endrew F.* literature).

[37] *See supra* note 28.

[38] *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 476 U.S. at 198.

[39] *Id*. at 28.

classroom and capable of achieving at grade level, nor like Endrew, i.e., "not fully integrated in the regular classroom *and* not able to achieve on grade level."[40]

Thus, from an empirical perspective focused on judicial outcomes, the prevailing professional interpretations in the special education literature[41] appear to be inflated. However, effects of *Endrew F*. at the significant latent levels of participant perceptions at the IEP table, hearing officer decisions, and/or settlements remains an open question for further research.[42]

---

[40] *Endrew F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. at 1000 (emphasis supplied). Moreover, this facile distinction fails to address the child with a disability who is fully integrated but, unlike Amy Rowley, without a reasonable prospect of "progressing smoothly in the regular curriculum." *Id*.

[41] For a critique of such published interpretations, see Perry A. Zirkel, *Professional Misconceptions of the Supreme Court's Decision in* Endrew F.*,* 47 COMMUNIQUÉ (forthcoming 2019).

[42] Even for filings for due process hearings, the proportion of cases that reach the adjudicated level, much less subject to judicial appeal, is relatively small. *E.g.,* Perry A. Zirkel, *Trends in Impartial Hearings under the IDEA: A Follow-up Analysis*, 303 Ed.Law Rep. 1 (2014) (increasing filings to adjudication ratio of IDEA hearings).

Appendix. Relevant Judicial Rulings in the 24 Months after Endrew F. *(3/22/17–3/21/19)*

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 nondisabled 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~~ ~~7/5~~	~~unclear~~	~~D – upheld~~	~~meaningful; appropriately ambitious (w/o LRE distinction); reasonable> ideal; applied to § 504[?]~~
14. *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)
15. *Albright v. Mountain Home Sch. Dist*., 70 IDELR ¶ 95 (W.D. Ark. 2017) (*Albright I*)	7/5	some	D – upheld	
16. *Parker C. v. W. Chester Area Sch. Dist*., 70 IDELR ¶ 94 (E.D. Pa. 2017)	7/6	meaningful	D – upheld	deference; LRE distinction (grades/ promotion)
17. *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
18. *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
19. *Avaras v. Clarkstown Cent. Sch. Dist.,* 70 IDELR ¶ 129 (S.D.N.Y. 2017)	7/17	unclear	P – upheld (review officer)	not applied at Step 2 of tuition reimbursement
20. *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)
21. *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
22. *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 (review officer)~~	~~appropriately ambitious (LRE distinction)~~
23. *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*)~~
24. *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 (review officer)~~	
25. *J.R. v. Smith,* 70 IDELR ¶ 178 (D. Md. 2017)	8/21	some	D – upheld	
~~30. *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 substantive different from meaningful benefit~~
26. *Pocono Mountain Sch. Dist. v. J.W.,* 70 IDELR ¶ 200 (E.D. Pa. 2017)	9/8	meaningful	P – upheld	stagnation
27. *Tamalpais Union High Sch. Dist. v. D.W.,* 271 F. Supp. 3d 1152 (N.D. Cal. 2017)	9/21	unclear	D – upheld[43]	appropriately ambitious w/o LRE distinction)
~~33. *Barney v. Akron Bd. of Educ.,* 70 IDELR ¶ 227 (N.D. Ohio 2017)~~	9/22	unclear	D – upheld (review officer)	appropriately ambitious (w/o LRE distinction); "potential" factor
28. *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 (review officer)	"careful consideration of the child's [PELs]"; lack of thorough HO/RO decisions in applying preexisting 2d Cir. substantive std.
29. *Denny v. Bertha-Hewit Pub. Sch*., 70 IDELR ¶ 220 (D. Minn. 2017)	9/29	some	D – upheld	
30. *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 HO
31. *Methacton Sch. Dist. v. D.W*., 70 IDELR ¶ 247 (E.D. Pa. 2017)	10/6	meaningful	P – upheld	
32. *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.)
33. *Bd. of Educ. of Wappingers Cent. Sch. Dist. v. M.N*., 71 IDELR ¶ 9 (S.D.N.Y. 2017)	10/13	unclear	P – upheld	[state substantive stds.]
34. *N.B. v. N.Y.C. Dep't of Educ*., 711 F. App'x 29 (2d. Cir. 2017)	10/17	unclear	D – upheld (review officer)	[deference to the SRO]

[43] The hearing officer 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.

~~**41**. *E.F. v. Newport Mesa Unified Sch. Dist.*, 138 S. Ct. 169 (2017)~~	~~10/22~~	~~meaningful~~	~~D – remanded~~	
35. *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)
36. *Edmonds Sch. Dist. v. A.T.*, 299 F. Supp. 3d 1135 (W.D. Wash. 2017)	11/7	meaningful	P – upheld	
37. *N.P. v. Maxwell*, 711 F. App'x 713 (4th Cir. 2017)	12/8	some	D – remanded[44]	
38. *J.P. v. City of N.Y. Dep't of Educ*., 717 F. App'x 30 (2d Cir. 2017)	12/19	unclear	D – upheld	reasonable, not ideal – implicitly same std. as re-cited *Walczak*
39. *M.E. v. N.Y.C. Dep't of Educ.*, 71 IDELR ¶ 125 (S.D.N.Y. 2018)	1/26	unclear	D – upheld	
40. *Endrew F. v. Douglas Cty. Sch. Dist.*, 290 F. Supp. 3d 1175 (D. Colo. 2018)[45]	2/12	some	D – rev'd → P	extensive quotations incl. ambitious goals and, at end, equal opp'ty/ behavioral dicta – wrong std. for unilateral placement but stipulation
41. *Pavelko v. District of Columbia*, 288 F. Supp. 3d 301 (D.D.C. 2018)	2/13	some	D – upheld	reasonable, not ideal
42. *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*."
43. *J.K. v. Missoula Pub. Sch.*, 713 F. App'x 666 (9th Cir. 2018)	2/23	meaningful	D – upheld	
44. *Smith v. Cheyenne Mountain Sch. Dist. 12*, 71 IDELR ¶ 185 (D. Colo. 2018)	3/6	some	D – upheld	snapshot
45. *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*)
46. *MB v. City Sch. Dist. of New Rochelle*, 72 IDELR ¶ 12 (S.D.N.Y. 2018)	3/29	unclear	D – upheld (review officer)	reasonable>ideal; more than de minimis–"merely clarified *Rowley*"

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

[45] Subsequent to this decision, the district filed an appeal with the Tenth Circuit and, a few months later (on 6/24/18) the parties reportedly agreed to a settlement of $1.3 million.

47. *C.S. v. Yorktown Cent. Sch. Dist.*, 72 IDELR ¶ 7 (S.D.N.Y. 2018)	3/30	unclear	D – upheld (review officer)	citing *Mr. P* as no sig. difference – LRE distinction
48. *Sauers v. Winston-Salem/Forsyth Cty. Bd. of Educ.*, 72 IDELR ¶ 10 (M.D.N.C. 2018)	3/30	some	D – remanded (review officer)	relying on *N.P.*
49. *Rosaria M. v. Madison City Bd. of Educ.*, 325 F.R.D. 429 (N.D. Ala. 2018)	3/30	unclear	D – upheld	appropriately ambitious
~~**57.** *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)~~
50. *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
51. *Geniviva v. Hampton Twp. Sch. Dist.*, 72 IDELR ¶ 57 (W.D. Pa. 2018)	5/23	meaningful	D – upheld	marginal – mostly LRE
52. *Middleton v. District of Columbia*, 312 F. Supp. 3d 113 (D.D.C. 2018)	6/4	some	D – rev'd→ P	marginal – mostly procedural
53. *J.M. v. Matayoshi*, 729 F. App'x 585 (9th Cir. 2018)	6/29	meaningful	D – upheld	brief decision
54. *M.L. v. Smith*, 72 IDELR ¶ 218 (D. Md. 2018)	8/7	some	D – upheld	increased services distinguishing *Endrew F.*
55. *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)
56. *Spencer v. Burriville Sch. Comm.*, 118 LRP 35117 (D.R.I. 2018), ***adopted sub nom N.S. v. Burrillville Sch. Comm.*, 73 IDELR ¶ 127 (D.R.I. 2018)**	8/24 11/13	meaningful	D – upheld	same std. and, in any event, met – LRE distinction substantively equivalent std.
57. *J.G. v. New Hope Solebury Sch. Dist.,* 72 IDELR ¶ 240	8/27	meaningful	D – upheld	ambitious goals within overall std.
58. *Pottsgrove Sch. Dist. v. D.H.,* 72 IDELR ¶ 271 (E.D. Pa. 2018)	9/12	meaningful	P – upheld	snapshot – remanded on other grounds
59. *S.M. v. Arlotto,* 73 IDELR ¶ 74 (D. Md. 2018)	9/14	some	D – upheld	not best
60. *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
61. *I.W. v. District of Columbia*, 73 IDELR ¶ 52 (D.D.C. 2018)	9/18	some	D – remanded	individualization (here, lack of explanation)
62. *I.O. v. Smith*, 73 IDELR ¶ 15 (D. Md. 2018)	**9/25**	**some**	**D – upheld**	**reasonable, not ideal – cogent and responsive explanation**
63. *McKnight v. Lyon Cty. Sch. Dist.*, 73 IDELR ¶ 13 (D. Nev. 2018)	**9/25**	**meaningful**	**D – upheld**	**passing grades though not passing ESSA tests (marginal case)**
64. *S.H. v. Rutherford Cty. Sch.*, 334 F. Supp. 3d 868 (M.D. Tenn. 2018)	**9/26**	**unclear**	**D – rev'd → P**	**primary reliance on review std. for HO decisions**
65. *E.E. v. N.Y.C. Dep't of Educ.*, 73 IDELR ¶ 9 (S.D.N.Y. 2018)	**9/27**	**unclear**	**D – upheld (review officer)**	**deference + *Mr. P* (no change in std.)**
66. *J.R. v. N.Y.C. Dep't of Educ.*, 748 F. App'x 382 (2d Cir. 2018)	**9/27**	**meaningful**	**D – upheld (review officer)**	
67. *Rogers v. Hempfield Sch. Dist.*, 73 IDELR ¶ 7 (E.D. Pa. 2018)	**9/27**	**meaningful**	**D – upheld**	**parallel std., citing *K.D.* (3d Cir. 2018)**
68. *Smith v. District of Columbia*, 73 IDELR ¶ 6 (D.D.C. 2018)	**9/28**	**some**	**D – rev'd → P D – remanded**	**lack of individualization insufficient HO explanation**
69. *Cook v. Little Rock Sch. Dist.*, 73 IDELR ¶ 43 (E.D. Ark. 2018)	**10/2**	**some**	**D – upheld**	**marginal use of *Endrew F.***
70. *Matthews v. Douglas Cty. Sch. Dist. RE-1*, 73 IDELR ¶ 42 (D. Colo. 2018)	**10/4**	**some**	**D – upheld**	
71. *Johnson v. Boston Pub. Sch.*, 906 F.3d 182 (1st Cir. 2018)	**10/12**	**meaningful**	**D – upheld**	**no change in pre-existing standard in First Circuit**
72. *A.C. v. Capistrano Unified Sch. Dist.*, 73 IDELR ¶ 94 (C.D. Cal. 2018)	**10/30**	**meaningful**	**D – upheld**	
73. *S.C. v. Oxford Area Sch. Dist.*, 751 F. App'x 220 (3d Cir. 2018)	**11/2**	**meaningful**	**D – upheld**	**reasonable>ideal or guaranteed**
74. *Albright v. Mountain Home Sch. Dist.*, 73 IDELR ¶ 93 (W.D. Ark. 2018) (*Albright II*)	**11/5**	**some**	**D – upheld**	
75. *Doe v. Belchertown Pub. Sch.*, 347 F. Supp. 3d 90 (D. Mass. 2018)	**11/13**	**meaningful**	**D – upheld**	**reasonable>ideal**
76. *E.R. v. Spring Branch Indep. Sch. Dist.*,	**11/28**	**unclear**	**D – upheld**	**reasonable; snapshot; no material**

909 F.3d 754 (5th Cir. 2018)				**difference from *Michael F.*; imprecise re LRE distinction**
77. *R.Z.C. v. N. Shore Sch. Dist,*. 755 F. App'x 658 (9th Cir. 2018)	**12/17**	**meaningful**	**D – upheld**	**cogent explanation (vel non)**
78. *S.W. v. Abington Sch. Dist.*, 73 IDELR ¶ 179 (E.D. Pa. 2018)	**12/17**	**meaningful**	**D – upheld**	
79. *Renee J. v. Houston Indep. Sch. Dist.*, 333 F.3d 674 (5th Cir. 2019)	**1/16**	**unclear**	**D – upheld**	**reasonable; marginal case (unclear whether procedural FAPE)**
80. *In re Butte Sch. Dist. No. 1*, 73 IDELR ¶ 198 (D. Mont. 2019)	**1/28**	**meaningful**	**P – rev'd→D(yr.1) D – upheld (yr. 2)**	**reasonable > ideal (faulting student)**
81. *Colonial Sch. Dist. v. G.K.*, __ F. App'x __ (3d Cir. 2019)	**2/13**	**meaningful**	**P – rev'd→D**	**reasonable > ideal; snapshot test**
82. *Barney v. Akron Bd. of Educ.*, __ F. App'x __ (6th Cir. 2019)	**2/25**	**unclear**	**D – upheld (review officer)**	
83. *R.S. v. Highland Park Indep. Sch. Dist.*, 74 IDELR ¶ 10 (N.D. Tex. 2019)	**3/8**	**unclear**	**D – upheld**	
84. *S.S. v. Brick Twp. Sch. Dist. Bd. of Educ.*, 74 IDELR ¶ 51 (D.N.J. 2019)	**3/19**	**meaningful**	**D – upheld**	