EDUCATION LAW INTO PRACTICE

THE IMPACT OF *ENDREW F.*: AN UPDATED ANALYSIS OF RESULTING JUDICIAL RULINGS*

by
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The Individuals with Disabilities Education Act (IDEA)[1] has accounted for extensive litigation in the fifty years since its inception.[2] This litigation starts with a so-called due process hearing at the pre-judicial level and extends to court decisions up to the Supreme Court level.[3] As the only Supreme Court decision specific to the merits of the IDEA's core obligation for school districts to provide a free appropriate public education (FAPE) to students with disabilities since 1982,[4] *Endrew F. v. Douglas County School District RE-1* has received extensive attention since its issuance on March 22, 2017.[5] Refining the substantive standard from the Court's 1982 FAPE decision in *Board of Education v. Rowley*,[6] the Court held that IEPs must be ''reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.''[7]

Given that the *Rowley* progeny inevitably measured benefit in terms of progress and that the ad hoc ''under the circumstances'' was implicit in the individualized essence of the

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1. 20 U.S.C.§§ 1400 et seq. The original version of the legislation, which has been amended several times since then, was titled the Education for All Handicapped Children Act of 1975. *Id.* § 1400(c)(2). *see also* U.S. Department of Education, A History of the Individuals with Disabilities Education Act (2024), https://sites.ed.gov/idea/IDEA-History [https://perma.cc/5GKM-TNNM] (summarizing the evolution of the Act, including its successive amendments).

2. *See, e.g*., Perry A. Zirkel & Gina L. Gullo, *Trends in Impartial Hearings under the IDEA: A Comparative Analysis*, 376 EDUC. L. REP. 870 (2020) (comparing 2006–2011 and 2012–2017 filings and adjudications at the administrative level); Perry A. Zirkel & Zorka Karanxha, *Longitudinal Trends in Special Education Case Law: An Updated Analysis*, 37 J. SPECIAL EDUC. LEADERSHIP 42 (2024) (tracing the trend of published court decisions under the IDEA from 1998 to 2022).

3. *Id*.

4. The Court's landmark decision in *Board of Education of Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176 (1982). In this decision, the Court analyzed FAPE as having the procedural and substantive dimensions. For the substantive dimension, the *Rowley* Court required that the individualized educational program (IEP), which is developed through the Act's procedures, be ''reasonably calculated to enable the child to receive educational benefits.'' *Id*. at 207. The Court noted that if the placement of the student with disabilities was in a regular classroom, like the *Rowley* child, ''the achievement of passing marks and advancement from grade to grade will be one important factor in determining educational benefit.'' *Id*. at 207 n.28. More generally, one part of the Court's majority opinion referred to the intended extent of educational benefit as being ''some'' (*id*. at 200), whereas another part seemed to indicate that the applicable qualifier was ''meaningful'' (*id*. at 192).

5. 580 U.S. 386 (2017).

6. *Supra* note 4.

7. *Endrew F*., 580 U.S. at 399; *see also id*. at 403.

IDEA,[8] the major change in the *Endrew F*. formulation is the adjective ''appropriate.'' The malleability of the ''new'' standard is based on defining the ''A'' in FAPE as what it represents, with nothing more of a more specific nature, thus explaining the unanimous agreement within the relatively polarized Court.[9] This circular and ultimately flexible qualifier did not directly and definitively address the Circuit split between the ''some'' and ''meaningful'' interpretations of *Rowley*.[10] Although the Court's rejection of the ''more than de minimis'' standard seemed to eliminate the lower of these two choices and the retention of the ''reasonably calculated'' predicate from the *Rowley* formulation dampened the extent of any higher alternative, the residual ambiguity in the *Endrew F*. holding and dicta left ample room for interpretation.[11]

Published Interpretations and Analyses

Non-Empirical Analyses

The literature addressing *Endrew F*. is rather extensive. In general, the news and magazines have interpreted it as either a dramatic elevation or a nonsignificant change in the applicable legal substantive standard for FAPE, depending on whether the perspective is that of a parent or district advocate.[12] The legal literature is generally more tempered when the authors are law school faculty members,[13] although the same polar perspectives are evident

8. As *Rowley* illustrated and instructed, indicators of benefit included advancing progress in terms of report card grades and promotion. *Supra* note 4. Similarly rather simply, the individualization amounts to the ''I'' in IDEA.

9. Chief Justice Roberts wrote the opinion, which was without dissent.

10. *See, e.g*., Richard D. Marsico, *From* Rowley *to* Endrew F.*: The Evolution of a Free Appropriate Public Education for Children with Disabilities*, 63 N.Y.L. Sch. L. Rev. 29 (2018/2019); Ronald D. Wenkart, *The* Rowley *Standard: A Circuit by Circuit Review of How* Rowley *Has Been Interpreted*, 247 Educ. L. Rep. 1 (2009) (providing successive categorizations of the circuits that both put the majority of the jurisdictions, including the Tenth Circuit, as being in the ''some'' benefit category and the minority of the jurisdictions, including the Third Circuit, as being in the ''meaningful'' benefit category).

11. The *Endrew F*. court's clarifying dicta rejecting the Tenth Circuit's ''more than de minimis'' interpretation (580 U.S. at 402) did not decisively resolve the choice between ''some'' and ''meaningful'' in part due to the imprecise and limited use of ''more than de minimis'' in the elaboration of these two polar interpretations and overall because *Endrew F*. neither adopted ''meaningful'' nor otherwise defined the higher meaning of ''appropriate.'' In any event, the holding's retention of ''reasonably calculated'' continued to effectively eliminate a guarantee of any, much less substantial, actual progress. *See, e.g*., *Endrew F*., 580 U.S. at 398 (reiterating the repeated dicta in *Rowley* that the intent of the Act was not to guarantee any particular outcome).

12. For examples of the prevailing news and magazine accounts expressing the view of parent advocates, see John Aguilar & Mark K. Edwards, *U.S. Supreme Court Ruling on Student Disabilities Case*, Denver Post (Mar. 23, 2017), http://www.denverpost.com/2017/03/22/supreme-court-ruling-tangled-neil-gorsuch-hearing/; 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); Laura McKenna, *How a New Supreme Court Decision Could Affect Special Education*, The Atlantic (Mar. 23, 2017), https://www.theatlantic.com/education/archive/2017/03/ how-a-new-supreme-court-ruling-could-affect-special-education/520662/; Christina Samuels, *Advocates Hail Supreme Court Ruling on Special Education Rights*, Educ. Wk. (Mar. 22, 2017). For a corresponding example from the school attorney perspective, *see* Timothy E. Gilsbach, *Supreme Court Rules on What a FAPE Requires: Has the Court Raised the Bar? or Lowered It in the Third Circuit?* Sch. L. Bull. (Mar. 2017), http://www.kingspry.com/supreme-court-rules-on-what-a-fape-requires/.

13. *See, e.g*., Maureen A. MacFarlane, *In Search of the Meaning of an ''Appropriate Education'': Ponderings on the Fry and Endrew Decisions*, 46 J.L. & Educ. 539 (2017) (questioning whether *Endrew F*. has added clarity to the substantive meaning of FAPE); Clair Raj & Emily Suski, *Endrew F's Unintended Consequences*, 46 J.L. & Educ. 499, 503 (2017) (explaining that *Endrew F*. was a ''hollow [victory] for many

for the authors who are practitioners.[14] The literature in special education tends to interpret *Endrew F*. to fit the authors' professional interest, often stretching well beyond the scope of the Court's decision[15] or occasionally directly conflicting with its contents.[16]

Previous Empirical Analyses

In contrast to the rest of the literature on *Endrew F*., the empirical analyses of the judicial outcomes of its progeny have been relatively few and rather uniform. More specifically, the three independent analyses all used a straddling approach that included pre- and post-*Endrew F.* decisions, but ending in varying periods up to three years after *Endrew F.* As summarized next in order of the shortest to the longest post-*Endrew F*. period, each of these analyses found that *Endrew F*.'s impact on the judicial rulings for substantive FAPE was negligible.

Representing the shortest ending period in relation to the March 22, 2017 issuance of *Endrew F*., Connolly and Wasserman identified 186 FAPE decisions between May 2012 and November 2019 decided under *Rowley* (n=106) or *Endrew F*. (n=80).[17] They found that whether the case was decided before or after *Endrew F*. was not statistically significant.[18]

Extending the ending date to two years after *Endrew F.*, Zirkel identified eighty-four decisions that yielded eighty-eight substantive FAPE rulings that started with a hearing or

low-income students with disabilities'').

14. *Compare* Julie Waterstone, Endrew F.: *Symbolism v. Reality*, 46 J.L. & Educ. 527 (2017); 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) (parent side), *with* 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) (district side).

15. *See, e.g*., Janet R. Decker, Francesca Hoffman, & Suzanne Eckes, *Behavior Intervention Plans More Important than Ever after "Endrew*,'' 18 Principal Leadership 56 (Jan. 2018) (recommending FBAs and BIPs as a result of the *Endrew 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); Janet Decker & Sarah Hurwitz, *Post-Endrew Legal Implications for Students with Autism*, 344 Educ. L. Rep. 31, 38, 40 (2017) (predicting an increase in ABA lawsuits for children even though *Endrew F*. did not address any methodology); Kohn William McKenna & Frederick J. Brigham, *More than De Minimis: FAPE in the Post* Endrew F. *Era*, 45 Behav. Modification 3 (2021) (misconstruing the *Endrew F*. standard as requiring IEPs to ''yield more than de minimis progress'' and ''plac[ing] LRE and FAPE back on equal footing''); Mitchell L. Yell & David Bateman, *Defining Educational Benefit: An Update of the Supreme Court's Decision in* Endrew F. v. Douglas County School District (2017), 52 Teaching Exceptional Child. 8, 289 (2020) [hereinafter Yell & Bateman, *Defining Educational Benefit*] (''The *Endrew F.* ruling seemed to shift the burden of proof from the parents to school district officials''); Mitchell L. Yell & David Bateman, Endrew F. v. Douglas County School District (2017): *FAPE and the Supreme Court*, 50 Teaching Exceptional Child. 8, 14 (2017) (identifying ''top 10 implications of *Endrew F*.'' that extend beyond the holding or even dicta of the Court's decision, such as ''Adhere to the IDEA's procedures when developing students' IEPs'').

16. *See, e.g.,* Margaret P. Weiss & Holly Glaser*, Instruction in Co-Teaching in the Age of* Endrew F., 45 Behav. Modification 39 (2021) (characterizing *Endrew F*. as ''guarantee[ing] more than de minimis progress'').

17. John P. Connolly & Lewis M. Wasserman, *Has* Endrew F. *Improved the Chances of Proving a FAPE Violation under the Individuals with Disabilities Education Act?* 18 J. Articles Support Null Hypothesis 51, 54 (2021). Their case selection was limited to federal district court decisions. *Id*. at 57.

18. *Id*. at 57. They also found that the change in the ''violation rate'' between the decisions before and after *Endrew F.* was not in the expected direction for the circuits in either the ''some'' and ''meaningful'' benefit interpretations of *Rowley*'s substantive FAPE standard. *Id.* at 56. Moreover, although the pro-district skew in their violation rates was moderate (i.e., ranging between 57% under *Rowley* and 66% under *Endrew F*.), they did not clearly explain (a) how they determined this outcome measure, (b) the treatment of decisions as compared with rulings, and (c) whether they limited their *Rowley* decisions to substantive (as compared to procedural and failure-to-implement) FAPE cases.

review officer decision before *Endrew F.* and a judicial decision within the subsequent two-year period.[19] Based on a two-category outcomes scale (i.e., for the parent or for the district), he found that only 9% of the rulings resulted in a reversal after *Endrew F*., including three that were originally in the parents' favor.[20] On a more qualitative basis, he found that the lower courts' treatment of *Endrew F*. was cursory, with limited and scattered use of the various potentially decisional features in the dicta of *Endrew F*.[21] Although he did not report the overall outcome distribution of the eighty-eight rulings, the Appendix provides the basis for this information by identifying the outcome in each case.[22]

Finally, extending the post-period to three years and expanding the scope of the decisions for the pre-*Endrew F.* period, Moran identified 142 decisions that yielded 146 separate substantive FAPE rulings.[23] He found no difference between the dominant pro-district outcomes distribution for those rulings that arose from the appeal of a hearing officer or district court decision issued before the date of *Endrew F*. (eighty-three rulings, with 78% in favor of school districts) and those that arose from an appeal of a decision issued after that date (sixty-three rulings, with 79% in favor of districts).[24] He also found that the majority (62%) of the decisions did not mention what he regarded as the other ''key FAPE requirements'' of *Endrew F*. on a par with its ''reasonably calculated'' holding—appropriately ambitious goals and challenging objectives.[25] His recommendations for follow-up research included monitoring the lower courts' application of *Endrew F.* to a more recent period to determine whether the trend continues.[26]

The purpose of the present analysis is to determine whether the trend in the case law within the immediate years after *Endrew F*. has changed during a more recent and longer period. The primary question is quantitative, focusing on an outcomes analysis of whether the

19. Perry A. Zirkel, *The Aftermath of* Endrew F.*: An Outcomes Analysis Two Years Later*, 364 Educ. L. Rep. 1, 3 (2019). The difference was expressly attributable to the four decisions that each contained two substantive FAPE rulings. *Id*. at 3 n.21.

20. *Id*. at 3. He also found that no significant distinction in the change pattern between the circuits with the some-benefit and those with a meaningful-benefit interpretation of *Rowley*. *Id.*

21. *Id*. at 4-5. ''Decisional'' here refers to dicta in *Endrew F*. that may have a direct and explicit effect on the outcome of the lower courts' substantive FAPE rulings after the issuance of *Endrew F*.

22. Not counting the six rulings that were remanded and, thus, inconclusive, the overall outcomes distribution of the remaining eighty-two rulings was sixty-seven (82%) in favor of districts and fifteen (18%) in favor of parents.

23. William Moran, Note, *The IDEA Demands More: A Review of FAPE Litigation after* Endrew F., 22 N.Y.U. J. Legal & Pub. Pol'y 495 (2020). The difference between 142 and 146 is likely attributable to the decisions that had more than one substantive FAPE ruling because more than one IEP was at issue. *Id*. at 409.

24. *Id*. at 511. He also found that for the first subsample, the vast majority of rulings were the same between those issued before and after *Endrew F*., even for the two circuits he identified as having the ''more than de minimis'' standard, which *Endrew F.* expressly rejected. *Id*. at 513. Conversely, he found that in the relatively small proportion of these decisions that changed on a pre-post basis, three of nine were in the unexpected direction. *Id*. at. 516.

25. *Id*. at 512. The tripartite ''key requirements'' characterization (*id*. at 518) of these features in the unanimous *Endrew F*. opinion is questionable for more than one reason. First, they do not seem to have the same level as the undisputed ''holding'' (*id*. at 499) of *Endrew F*. Second, although they may be regarded as part of what he referred to as the ''analytical framework'' (*id*.) for applying this holding, so may various other parts of the *Endrew F*. opinion. *Infra* notes 31–37 and accompanying text. Finally, although implying the context of the IDEA's least restrictive environment (LRE) continuum, his separation of ambitious goals as applicable to students who are not fully integrated (*id*. at 498), he missed the *Endrew F*. Court's second and more stringent criterion of not having the capability of achieving on grade level. *Infra* note 35 and accompanying text.

26. *Id*. at 532. His recommendation included examining the trend in the circuits that had not adopted the meaningful benefit interpretation of *Rowley*. *Id*.

district-''dominated'' trend continued.[27] The secondary question is more qualitative, focusing on whether the ''cursory'' judicial treatment of the *Endrew F*. potential decisional dicta continued.[28]

Method of the Analysis

The method starts with the framework for the analysis, which consists of the holding and the seemingly significant dicta of *Endrew F*. Based on said framework, the remaining steps of the method were the case selection and the data collection.

Holding and Potential Decisional Features of *Endrew F.*

The undisputed holding of *Endrew F.* is that ''a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.''[29] As previously identified in more detail,[30] here are potentially significant features within the *Endrew F.* dicta, under the abbreviated labels used in the Appendix:[31]

27. Moran, *supra* note 23, at 516. Although not using the same term, Zirkel's findings reflected the same district-dominant trend. *Supra* note 22.

28. Zirkel, *supra* note 19, at 4–5. Although not using the same term, Moran's narrower findings reflected the same cursory treatment. *Supra* text accompanying note 25.

29. *Endrew F*., 580 U.S. at 399; *see also id*. at 403.

30. 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 EDUC. L. REP. 545 (2017).

31. These features are the leading, but not necessarily all, the examples of potential significance for post-*Endrew F*. judicial substantive FAPE rulings. Examples of language with less likely potential because they are in the background summarizing the statutory provisions are as follows: ''An IEP must aim to enable the child to make progress; the essential function of an IEP is to set out a plan for pursuing academic and functional advancement'' (*Endrew F*., 580 U.S. at 399), and ''An IEP is not a form document. It is constructed only after careful consideration of the child present levels of achievement, disability, and potential for growth'' (*id*. at 400).

snapshot	"The 'reasonably calculated' qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials."[32]
reasonable > ideal	"Any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal."[33]
grade advancement	"[F]or a child fully integrated in the regular classroom, an IEP typically should, as *Rowley* put it, be 'reasonably calculated to enable the child to achieve passing marks and advance from grade to grade'"[34]
appr. ambitious	"[For] a child who is not fully integrated in the regular classroom and not able to achieve on grade level …. [the IEP] must be appropriately ambitious in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom."[35]
beyond > than de minimis	"[The holding] is markedly more demanding than the 'merely more than de minimis' test applied by the Tenth Circuit."[36]
cogent	"A reviewing court may fairly expect those authorities to be able to offer a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances."[37]

[The preceding image contains references for footnotes [32],[33],[34],[35],[36],[37]]

Case Selection

The first step was a Boolean search of the Westlaw database using the following search string for the period from March 22, 2019, which was the end date of Zirkel's two-year

32. *Id*. at 399. This language appears to endorse the so-called ''snapshot'' approach, which the majority of federal circuit courts have adopted for substantive FAPE determinations under the IDEA. *See, e.g*., Perry A. Zirkel, *The Snapshot Standard under the IDEA: An Update*, 358 EDUC. L. REP. 455 (2018).

33. *Id*. (citing *Rowley*, 458 U.S. at 206–07).

34. *Id*. at 401; *see also id*. at 402 (''When a child is fully integrated in the regular classroom, as the Act prefers, what that [holding] typically means is providing a level of instruction reasonably calculated to permit advancement through the general curriculum.'').

35. *Id*. at 402. The Court addressed two polar segments of the LRE continuum, with this second segment of the not ''fully integrated'' residuum limited to those students with disabilities who are not capable of grade advancement. While emphasizing that ''appropriately ambitious'' within this limited category ''need not aim for grade-level advancement'' the Court reinforced its over-arching rationale that ''every child [with disabilities] should have the chance to meet challenging objectives.'' *Id*. Yet, the Court did not specifically address the role of grade advancement for the intermediate category of students with disabilities who are not fully integrated but are able to achieve on grade level.

36. *Id*. at 402.

37. *Id*. at 404. The Court elucidated this feature as a qualification of the *Rowley* dicta for judicial deference to school authorities. *Id.*

analysis,[38] to March 22, 2025, which was the most recent anniversary of the Court's decision: ''*Endrew F*.'' ''reasonably calculated,'' ''Individuals with Disabilities Education Act,'' and ''school.''[39] The next and much more time-consuming step was an initial screening of the resulting 419 decisions for those that appeared, on a preliminary review, to have applied *Endrew F*.'s holding for substantive FAPE. This step resulted in the identification of 247 decisions, which retained the sequential numbering in the original Westlaw list. The final step was to select a representative sample of one-third of the decisions, by using a random number generator until reaching eighty-two final relevant decisions.[40]

Data Collection

This step was to review each decision and enter into a table, which is the Appendix herein, the following information for each decision: the citation, any of the aforementioned six dicta mentioned in the court's opinion, the outcome for the substantive FAPE ruling, and optional clarifying comments.[41] The ruling entry did not take into consideration the court's determination of any other issues in the case. Moreover, the four cases that had a mix of different rulings for substantive FAPE, such as a ruling that one IEP met the *Endrew F*. standard but another ruling that the next two IEPs did not meet this standard, were disaggregated into their separate outcome rulings. As a result, the eighty-two decisions yielded a final sample of ninety rulings.

Findings and Discussion

The primary finding was that the outcomes distribution for the ninety rulings was as follows: 79% (n=71) in favor of districts and 21% (n=19) in favor of parents. This pronounced pro-district distribution was virtually the same as those for the two most recent previous empirical studies, which used a similar method for the outcomes determination—82%-18% for Zirkel's analysis of the first two years after *Endrew F*. and 79%-21% for Moran's analysis of the first three years after *Endrew F*.[42]

Thus, this stable pattern serves to counter rather than confirm the projections of a belated elevation in the *Endrew F*. progeny's interpretation and application of the substantive standard for FAPE.[43] Similarly, the simplistic attribution of the lack of significant change to

38. The use of the end date of Zirkel's two-year analysis rather than Moran's three-year analysis was due to the more specific similarity in the approach for identifying and tabulating the relevant judicial rulings. As a result, the six-year period of the present analysis overlaps with one year of Moran's analysis.

39. The purpose of adding ''reasonably calculated,'' as an abbreviated reference to the holding, and the selected search terms was to serve as the initial step in eliminating court decisions that merely mentioned *Endrew F*. but did not apply its substantive standard for FAPE. Using ''*Endrew F*.'' along yielded 574 decisions. Using all the search terms except ''reasonably calculated'' yielded 509 decisions.

40. The most recent relevant decision (i.e., meeting the overall selection criterion) was identified via using the Westlaw ''history'' feature for each case selected via the random process. This random selection process continued during the subsequent data collection to replace those decisions that upon closer review were determined to be ''false positives.'' This continuation, which amounted to approximately sixteen such false positives in the initially identified eighty-two decisions, effectively reduced the target pool from 247 to 199, thus moving the sample from one third to approximately 40% of them.

41. The mere mention of these dicta sufficed because it was infeasible to reliably determine whether it was merely background or played a direct decisional role in the ruling.

42. *Supra* note 22 and text accompanying note 24. The methodology of the first of the three empirical analyses was not sufficiently similar in methodology for a direct comparison. *Supra* notes 17–18.

43. *See, e.g.,* Yell & Bateman, *Defining Educational Benefit*, *supra* note 15, at 288 (conjecturing that hearing officer decisions under the *Endrew F.* standard

the settlement process is not persuasive because (1) the odds of winning or losing is only one of multiple factors that determine whether the parties settle an IDEA case, (2) the major difference between the number of filings or appeals and the number of decisions for these filings or appeals includes a substantial segment of withdrawals and abandonments, which tend to mitigate the sifting effect of cases perceived as likely losers for school districts, and (3) there is no evidence or even inference that the settlement rate changed from the post-*Rowley* to the post-*Endrew F*. filings or appeals.

The secondary finding is that the most recent six full years of the *Endrew F*. progeny have continued the trend of superficial, if any, attention to the potential analytical tools in the dicta of the Court's opinion. More specifically, a tabulation of the eight-two decisions in the Appendix reveals that the repetition or close variations of the dicta requiring the IEP to meet a ''reasonable'' rather than ''ideal'' substantive standard was by far the most frequently mentioned and yet only accounted for less than one third of the decisions.[44] The limited role of these identified factors was further evident because (a) they were mentioned but did not necessarily contribute to the outcome as compared to merely serving as remote background; (b) none of them had a particular outcome-related pattern; and (c) as especially exemplified by the inconsistency in the LRE differentiation of the ''appr. ambitious'' factor, their judicial treatment was cursory rather than careful.[45]

In general, the predominant judicial approach was to recite the *Endrew F*. holding and apply it, with little or no attention to the potentially significant dicta, either in relation to the specific issues identified by the challenging party or in a second, even more limiting way. This second approach is by relying on the preexisting interpretation of *Rowley*'s benefit standard, which are the First and Third Circuit's versions of the ''meaningful'' alternative or by relying on the Second and Fifth Circuit's formulations of *Rowley*.[46]

would cause, via the deference doctrine, a change in the *Rowley* standard after the first few years after March 2017). Similarly contrary to their repeated prediction that the circuits with the lower substantive standard under *Rowle*y would be the area for the most change, the combined rulings of the 4th, 8th, 10th, 11th and D.C. Circuits, which are those that interpreted *Rowley* as only requiring ''some'' educational benefit, had an outcomes distribution of 78% for districts and 22% for parents, which was approximately the same as that for the total sample. Thus, the differential jurisdictional findings for this most recent six-year period are consistent with those of the earlier empirical analyses. *Supra* notes 18, 20, and 24.

44. The specific proportion and number for each of these six potential decisional features were as follows in descending order: reasonable > ideal: 35% (n = 29); appr. ambitious: 18% (n = 15); snapshot: 13% (n = 11); beyond > than de minimis: 10% (n = 8); and in tied last place, grade advancement and cogent: each at 9% (n = 7).

45. Moreover, the reasonable ideal and snapshot factors, although not having an entirely consistent correlation, tended to reinforce the aforementioned dampening effect of the reasonably-calculated predicate of the *Endrew F*. holding. *Supra* note 11 and accompanying text). As an example, the courts often apply the snapshot approach asymmetrically so as disallow the use of lack of actual progress to show a violation of the *Endrew F*. standard unless it was reasonably foreseeable to the IEP team but to allow reliance on evidence that the child did progress to show that the IEP met the standard. *See, e.g.,* Lessard v. Wilton Lyndeborough Coop. Sch. Dist., 18 F.3d 18, 29 (1st Cir. 2008) (''Actual educational progress can (and sometimes will) demonstrate that an IEP provides a FAPE ... But to impose the inverse of this rule--that a lack of progress necessarily betokens an IEP's inadequacy--would contradict the fundamental concept that '[a]n IEP is a snapshot, not a retrospective.'").

46. In these cases, the *Endrew F*. holding appears either as a transition or, in the Fifth Circuit, as a subsumed part of this pre-existing formulation. Decisions preceding this six-year period established that by either equivalence or exceeding, that the preexisting interpretation comported with *Endrew F*. *See, e.g*., Johnson v. Bos. Pub. Schs., 906 F.3d 192, 195 (1st Cir. 2018); K.D. v. Downingtown Area Sch. Dist., 904 F.3d 248, 251, 253 (3d Cir. 2018) (concluding that the meaningful benefit variations meet the *Endrew F.* standard); E.R. v. Spring Branch Indep. Sch. Dist., 909 F.3d 754, 768 (5th Cir. 2018) (concluding that the *Michael F.* four-factor formulation for substantive FAPE functionally meets the *Endrew F*. standard); Mr. P. v. W.

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In conclusion, this more recent analysis shows that its impact on the *Endrew F*. progeny is not at all dramatic. The outcomes continue to be heavily skewed in favor of school districts, and the attention to the potentially significant *Endrew F*. dicta remains relatively negligible in frequency or depth. The next step in exploring its case law impact will be to analyze the outcomes of and use of dicta in a corresponding random sample of the substantive FAPE rulings among the *Rowley* progeny to determine whether the outcomes of the *Endrew F.* progeny significantly differ from them.

Appendix: Summary of the Random Sample of 82 Court Decisions for the Six Years from March 22, 2019 to March 21, 2025

	Case Name	Citation	Identified Features (and Other Factors)	Out-come	Comments
1	C.D. v. Natick Pub. Schs.	924 F.3d 621 (1st Cir. 2019)	• appr. ambitious – not separate std.	SD	citing *Johnson* for meaningful benefit equivalent
2	G.D. v. Swampscott Pub. Schs.	27 F.4th 1 (1st Cir. 2022)	• (ind. circ.) • (not just std. tests)	SD	
3	Falmouth Sch. Dep't	44 F.4th 23 (1st Cir. 2022)	• (ind. circ.)	P	key was lack of "specially designed" approach
4	Doe v. Newton Pub. Schs.	48 F.4th 42 (1st Cir. 2022)	• (remote, background role)	P	marginal at most
5	H.W. v. Comal Indep. Sch. Dist.	32 F.4th 454 (5th Cir. 2022)	• (holistic>goals- or IEP-centric) • reasonable>ideal	SD	citing *E.R.* for *Michael F.* 4-factor equivalence
6	Crofts v. Issaquah Sch. Dist.	22 F.4th 1048 (9th Cir. 2022)	• (not "on par" std. for progress)	SD	
7	Perkiomen Sch. Dist. v. S.D.	405 F. Supp. 3d 620 (E.D. Pa. 2019)	• (holistic) • snapshot • reasonable>ideal	SD	citing *D.S.* for meaningful benefit equivalence, incl. potential
8	Alex W. v. Poudre Sch. Dist. R-1	94 F.4th 1176 (10th Cir. 2024)	• reasonable>ideal • (calculation, not guarantee)	SD	
9	E.P. v. N. Arlington Bd. of Educ.	2019 WL 1495692 (D.N.J. Apr. 1, 2019)	• reasonable>ideal • cogent: procedural 2-step	SD	citing *K.D.* for meaningful benefit equivalence
10	Abigail P. v. Old Forge Sch. Dist.	105 F.4th 57 (3d Cir. 2024)	• snapshot	SD	

	Case Name	Citation	Identified Features (and Other Factors)	Out-come	Comments
11	M.G. v. McKnight	653 F. Supp. 3d 202 (D. Md. 2023)		SD	reimbursement remedy was based on separate, prejudicial procedural violation
12	L.C. v. Arlington Cnty. Sch. Bd.	2022 WL 2293902 (E.D. Va. June 24, 2022)	• reasonable>ideal	SD	concluded that car analogy was consistent
13	Edward M.R. v. District of Columbia	128 F.4th 290 (D.C. Cir. 2025)	• (reasonable design>actual progress)	SD	
14	Uhlenkamp v. District of Columbia	2025 WL 2298659 (D.D.C. Aug. 8, 2025)(R&R)	• reasonable>ideal • snapshot	Mix	2 of 3 IEPs were not appropriate but no remedy
15	B.B. v. District of Columbia	2025 WL 834146 (D.D.C. Mar. 21, 2025)	• snapshot • cogent: not blind deference	SD	cogent: for district witnesses testimony – not supported in the record
16	Banwart v. Cedar Falls Cmty. Sch. Dist.	489 F. Supp. 3d 846 (D. Iowa Sept. 24, 2020)	• appr. ambitious (noninteg.) • cogent	SD	marginal – focus on whether residential placement was necessary
17	G.A. v. Williamson Cnty. Bd. of Educ.	594 F. Supp. 3d 979 (M.D. Tenn. 2022)	• reasonable>ideal	SD	marginal – intertwined with procedural FAPE
18	D.C. v. Klein Indep. Sch. Dist.	860 F. App'x 894 (5th Cir. 2021)	• reasonable>ideal • appr. ambitious (integ.)	P	*Michael F.* factors 1 (individualized design), 2 (meaningful benefit) citing *E.R.*
19	J.T. v. Denver Pub. Schs.	2023 WL 1100456 (D. Colo. Jan. 23, 2023)	• reasonable>ideal • snapshot • appr. ambitious (noninteg.)	SD	
20	Michael F. v. Upper Darby Sch.	2023 WL 2815940	• reasonable>ideal	SD	

Hartford Bd. of Educ., 885 F.3d 735, 757 (2d Cir. 2018) (concluding that the *Walczak* "likely to produce progress" formulation meets the *Endrew F*. standard). Further showing the relatively limited effects of *Endrew F*., occasional cases in these circuits decided the substantive FAPE issue without mentioning *Endrew F*. at all. *See, e.g.,* N.P. v. Lago Vista Indep. Sch. Dist., 2025 WL 888561 (W.D. Tex. Mar. 20, 2025); R.A. v. Middletown Twp. Pub. Schs., 2024 WL 3493797 (D.N.J. July 22, 2024); Zayas v. Banks, 2024 WL 216761(S.D.N.Y. Jan. 19, 2024), *aff'd*, 2025 WL 1091225 (2d Cir. Apr. 8, 2025); Bradyn S. v. Waxahachie Indep. Sch. Dist., 2022 WL 953319 N.D. Tex. Mar. 29, 2022); A.A. v. Avon Bd. of Educ., 2020 WL 13658086 (D. Conn. Jan. 14, 2020).

	Case Name	Citation	Identified Features (and Other Factors)	Out-come	Comments
	Dist.	(E.D. Pa. Feb. 6, 2023)	• snapshot		
21	A.D. v. District of Columbia	2022 WL 683570 (D.D.C. Mar. 8, 2022)	• reasonable>ideal	SD	
22	Dep't of Educ., Haw. v. L.S.	2019 WL1421752 (D. Haw. Mar. 29, 2019)	• snapshot	Mix	1 pro-parent of 4 rulings (as alternative to procedural FAPE→parent particip.)
23	J.F. v. Felder	2025 WL 437059 (D. Md. Feb. 7, 2025)		SD	
24	Plotkin v. Montgomery Cnty. Pub. Schs.	2022 WL 4280170 (D. Md. Sept. 15, 2022)	• reasonable>ideal	SD	second step of procedural FAPE (>FTI analysis) – 4th Cir. aff'd w/o *Endrew F.*
25	I.S. v. Fulton Cnty. Sch. Dist.	2024 WL 4635026 (11th Cir. 2024) – *cert. denied*	• reasonable>foolproof • appr. ambitious (noninteg.)	SD	
26	B.M. v. Pleasantville Union Free Sch. Dist.	WL 4392281 (S.D.N.Y. Sept. 24, 2021)	• cogent: district witnesses	SD	citing *Mr. P.* for equivalent 2d Cir. std.
27	Moynihan v. W. Chester Area Sch. Dist.	2022 WL 837182 (E.D. Pa. Mar. 18, 2022)	• appr. ambitious (noninteg.)	SD	
28	R.S. v. Smith	2021 WL 3633961 (D. Md. Aug. 17, 2021)	• appr. ambitious (integ.)	SD	
29	Ruari C. v. Pennsbury Sch. Dist.	2023 WL 5339603	• reasonable>ideal	SD	

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		(E.D. Pa. Aug. 18, 2023)	• snapshot		
30	J.P. v. McKnight	2022 WL 4548463 (D. Md. Sept. 9, 2022)		SD	
31	William V. v. Copperas Indep. Sch. Dist.	826 F. App'x 374 (5th Cir. 2020)		SD	marginal – background for *Michael F.*
32	J.G. v. L.A. Unified Sch. Dist.	2023 WL 8125847 (C.D. Cal. July 23, 2023)		SD	marginal–specific to augment. alternative communication device/services
33	B.Z. v. Hewlett Woodmere Union Free Sch. Dist.	2025 WL 339140 (E.D.N.Y. Jan. 27, 2025)	• (could be expected to make progress>reasonable IEP)	P	
34	A.D. v. Upper Merion Sch. Dist.	2022 WL 16553379 (E.D. Pa. Oct. 28, 2022)		Mix	one year was appropriate, but first two weeks of next year was not
35	Wishard v. Waynesboro Area Sch. Dist.	2020 WL 4924566 (M.D. Pa. Aug. 21, 2020)		SD	
36	Round Rock Indep. Sch. Dist. v. Amy M.	2022 WL 4589102 (W.D. Tex. Aug. 22, 2022)		P	marginal – 1st factor of *Michael F.*
37	Gallup McKinley Cnty. Schs. Bd. of Educ. v. Garcia	2019 WL 7596273 (D.N.M. Sept. 24, 2019)	• outmoded > de min. std. • appr. ambitious	P	

	Case Name	Citation	Identified Features (and Other Factors)	Out-come	Comments
			(integ.)		
38	Zachary J. v. Colonial Sch. Dist.	2024 WL 266180 (E.D. Pa. Jan. 31, 2024)	• (deference to SD) • grade advancement et al.	SD	
39	Does v. Vilonia Sch. Dist.	2025 WL 2984997 (E.D. Ark. Mar. 6, 2025)		P	marginal – odd fact pattern
40	Jennifer F. v. Austin Indep. Sch. Dist.	WL 13610360 (W.D. Tex. Nov. 30, 2020)	• appr. ambitious subsumed • reasonable>best	SD	more detail within 1st factor of *Michael F.*
41	Moreland Family v. Mary M. Knight Sch. Dist.	2020 WL 3521607 (W.D. Wash. July 24, 2020)		SD	
42	O.P. v. Jefferson Cnty. Bd. of Educ.	2023 WL 1805832 (N.D. Ala. Feb. 7, 2023)	• beyond > than de minimis • reasonable > maximum	SD	lack of progress is not determinative specific here to OT/PT
43	S.M. v. Chichester Sch. Dist.	2024 WL 4438472 (E.D. Pa. Oct. 7, 2024)	• reasonable > ideal	P	"likely to produce progress" std. (*K.D.*) 3d Cir. aff'd w/o *Endrew F.*
44	Daniels v. Northshore Sch Dist.	WL18587788 (W.D. Wash. July 13, 2022)	• reasonable > ideal	SD	*adopted*, 2023 WL 1778931 (W.D. Wash. Feb. 6, 2023)
45	Maggie J. v. Donegal Sch. Dist.	2021 WL 2711531 (E.D. Pa. June 30, 2021)		SD	
46	Ryan S. v. Downingtown Area Sch.	2024 WL 2925314	• beyond > than de	SD	

	Case Name	Citation	Identified Features (and Other Factors)	Out-come	Comments
	Dist.	(E.D. Pa. June 10, 2023)	minimis • reasonable > maximum		
47	I.K. v. Manheim Twp. Sch. Dist.	2023 WL 3477830 (3d Cir. May 15, 2023)	• (subsumed within 3d Cir. std.) • beyond > than de minimis	SD	"meaningful educational benefits in light of [his] intellectual potential" (citing *G.L.*)
48	Esposito v. Ridgefield Park Bd. of Educ.	856 F. App'x 367 (3d Cir. 2021)	• reasonable > ideal • grade advancement (integ.)	SD	
49	N.G. v. District of Columbia	2022 WL 969964 (D.D.C. Mar. 31, 2022)	• beyond > than de minimis	SD	"likely to produce progress" std. fits with "overarching" *Endrew F.* std.
50	Sch. Bd. of St. Johns Cnty. v. C.L.	2025 WL 1031959 (M.D. Fla. Jan. 30, 2025	• beyond > then de minimis	P	*adopted*, 2025 WL 876951 (M.D. Fla. Mar. 21, 2025)
51	Wade v. District of Columbia	2021 WL 3507866 (D.D.C. Feb. 11, 2021)	• snapshot • reasonable > ideal	SD	*adopted*, 2022 WL 17485678 (D.D.C. Dec. 7, 2025)
52	M.S. v. Downingtown Area Sch. Dist.	2022 WL 16531962 (E.D. Pa. Oct. 28, 2022)	• snapshot • beyond > than de miminis • appr. ambitious • deference w. cogent	SD	citing meaningful benefit as aligned with beyond >de minimis
53	Peters Twp. Sch. Dist. v. B.B.	2022 WL 2359431 (E.D. Pa. June 30,		SD	

	Case Name	Citation	Identified Features (and Other Factors)	Out-come	Comments
		2022)			
54	A.W. v. Tehachapi Unified Sch. Dist.	810 F. App'x 588 (9th Cir. 2020)		SD	
55	A.C. v. W. Windsor-Plainsboro Bd. of Educ.	2022 WL 17340687 (D.N.J. Nov. 30, 2022)	• outmoded > de minimis (error though here seemingly harmless)	SD	subsumed within meaningful benefit/ intellectual potential std. citing *K.D.* et al.
56	H.L. v. Tri-Valley Sch. Dist.	2023 WL 2505491 (M.D. Pa. Mar. 14, 2023)	• appr. ambitious (noninteg.) • reasonable>ideal • snapshot	SD	same subsumed characterization, incl. likely to produce progress std.
57	J.D. v. Pa. Virtual Charter Sch.	2020 WL 7024286 (E.D. Pa. Nov. 30, 2020)	• "significant learning …, not simply *de minimis*"	SD	marginal; same but briefer subsumed characterization
58	H.R. v. W. Windsor-Plainsboro Bd. of Educ.	2023 WL 4744284 (D.N.J. July 25, 2023)		SD	similar brief subsumed characterization
59	L.B. v. Radnor Twp. Sch. Dist.	2021 WL 1224077 (E.D. Pa. Apr. 1, 2021)	• reasonable>ideal	SD	
60	Bd. of Educ. of Wappingers Cent. Sch. Dist. v. D.M.	2020 WL 508845 (S.D.N.Y. Jan. 30, 2020)	• reasonable>ideal	P	
61	P.B. v. Thorp Sch. Dist.	2021 WL 6275114 (D. Or. Mar. 29, 2021)	• reasonable>ideal	SD	appeal did not extend to the ALJ's relatively few denial-of-FAPE rulings
62	Smith v. Arlington Cnty. Sch. Bd.	2021 WL 2324164	• grade advancement	SD	

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		(E.D. Va. June 7, 2021)	• (deference w/o cogent)		
63	C.S. v. Johnston Sch. Dep't of Educ.	2021 WL 872834 (D.R.I. Mar. 9, 2021)		SD	marginal; *adopted*, 2021 WL 1172691 (D.R.I. Mar. 29, 2021)
64	E.C. v. U.S.D. 385 Andover	2020 WL 2747222 (D. Kan. May 27, 2020)		SD	
65	E.S. v. Clarksville Montgomery Cnty. Sch. Sys.	2023 WL (M.D. Tenn. Aug. 18, 2023)	• reasonable>ideal • grade advancement (integ.)	SD	*adopted,* 2023 WL 6213722 (M.D. Tenn. Sept. 25, 2023)
66	Washington v. Katy Indep. Sch. Dist.	2023 WL 2535273 (5th Cir. Mar. 16, 2023)		SD	transition to *Michael F.*
67	C.P.C. v. Boulder Valley Sch. Dist. RE-2	2023 WL 8831330 (D. Colo. Dec. 21, 2023)		SD	marginal (arguably part of FTI analysis)
68	K.R. v. Killeen Indep. Sch. Dist.	WL 19559117 (W.D. Tex. Apr. 19, 2022)		SD	subsumed within factor 4 of *Michael F.* *adopted,* 2023 WL 2993403 (W.D. Tex. Apr. 18, 2023)
69	D.H. v. Fairfax Cnty. Sch. Bd.	2021 WL 217098 (E.D. Va. Jan. 19, 2021)	• reasonable>ideal	SD	
70	S.K. v. Bernards Twp. Bd. of Educ.	2024 WL 863330 (D.N.J. Feb. 29, 2024)		SD	
71	Downingtown Area Sch. Dist. v.	2022 WL 523563	• reasonable>ideal	Mix	FAPE denial for 2 of 3 years

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	D.S.	(E.D. Pa. Feb. 22, 2022)			
72	Fragnito v. Bd. of Educ. of Suffern Cent. Sch. Dist.	2020 WL 4194804 (S.D.N.Y. July 21, 2024)	• cogent	SD	citing 2d Cir. standard in *Mr. P.*
73	P.C.D.V. v. Dep't of Educ.	2021 WL 6691683 (P.R. Ct. App. Dec. 16, 2021)		SD	
74	A.A. v. Northside Indep. Sch. Dist.	951 F.3d 678 (5th Cir. 2020)	• beyond > than de minimis	SD	equivalence with *Michael F.*, citing *E.R.* factors 1 and 4 here
75	Wong v. Bd. of Educ.	478 F. Supp. 3d 229 (D. Conn. 2020)		SD	
76	ABL v. Providence Pub. Schs.	2023 WL 7279304 (D.R.I. Nov. 3, 2023)		P	
77	E.D. v. S. Lehigh Sch. Dist.	2019 WL 3714484 (E.D. Pa. Aug. 7, 2019)	• appr. ambitious (integ.)	SD	equivalence of 3d Cir. std., citing *E.P.*, though secondary here
78	J.M. v. Christina Sch. Dist.	2024 WL5135900 (D. Del. Dec. 17, 2024)	• reasonable>ideal • grade advancement	SD	
79	C.B. v. Smith	2019 WL 2994671 (D. Md. July 9, 2019)	• grade advancement • appr. ambitious (integ.)	SD	
80	Schiff v. District of Columbia	2019 WL 5683903 (D.D.C. Nov. 1, 2019)(R&R)		P	marginal – novel arguments re obligation to provide FAPE in this situation

	Case Name	Citation	Identified Features (and Other Factors)	Out-come	Comments
81	Osseo Area Schs. v. A.W.	96 F.4th 1062 (8th Cir. 2024)	• appr. ambitious (noninteg.) • beyond > than de minimis • cogent: lacking for indiv. needs	P	
82	A.M. v. Wallingford-Swarthmore Sch. Dist.	629 F. Supp. 3d 385 (E.D. Pa. 2022)	• appr. ambitious (integ.) • grade advancement	SD	