

Updates in Federal Education Policy

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National EHDI Conference

March 2018

- Administration Priorities
- Endrew F. case
- Alice Cogswell and Anne Sullivan Macy Act
- Capitol Hill Advocacy Day Feb 28, 2018

Administration's 2018-2019 Priority Performance Goals

- School choice options for K-12 students
- Customer service for borrowers
- Student privacy and data security colleges and universities
- “Regulatory relief”
By September 30, 2019, no fewer than 25 deregulatory actions

Rescissions

- Policy vs. law or regulations
- Title IX policy guidance on transgender students
- 70 out of date guidance documents
- Wants to delay “significant disproportionality” regulations

Assistant Secretary of Education Johnny Collett

- Program director of special education outcomes at the Council of Chief State School Officers
- Special education director, assistant division director, exceptional children consultant, Kentucky Department of Education
- High school special education teacher and church pastor
- Master of Arts in education
- Bachelor's degree from Clear Creek Baptist Bible College



Andrew F. v. Douglas County School District

- Issue: IDEA FAPE level of educational benefit
- Facts:
 - Student with autism
 - Attended public school in Colorado
 - Parents withdrew him from the school and placed him in a specialized private school
 - Parents sought reimbursement from school district
 - Parents can be reimbursed only if school did not provide FAPE
 - Tenth circuit – “some educational benefit”
 - School district prevailed.

What is FAPE standard?

- Rowley (1982) – “some educational benefit”
- “meaningful educational benefit”
- “substantial educational progress”
- “some educational benefit” = “just above trivial” benefit
- “more than *de minimus*”
- “more than only trivial advancement”

Andrew F.

- How much educational benefit must the school provide?
- Court rejected the “merely more than *de minimis*” standard
- Child’s educational program must be “appropriately ambitious in light of his circumstances”
- “Advancement from grade to grade is appropriately ambitious for most children in the regular classroom.”
- “The goals may differ, but every child should have the chance to meet challenging objectives.”

Andrew F. (con't)

- School to pay Andrew's tuition, attorney's fees, and litigation costs
- Andrew's attorney: Amount is "in the seven figures"
- Tuition \$70,000/year
- Seven years in the legal system
- U.S. Department of Education Q & A
<http://blogs.edweek.org/edweek/campaign-k-12/qa-andrewcase-12-07-2017.pdf>

Zirkel Analysis

- Based on 34 rulings
- Compared pre-Andrew hearing officer with post-Andrew court
- In only two cases (out of the 34) was the outcome different. One of these was a reversal of a hearing officer decision in favor of the parent.
- In three of the cases, the court expressly concluded that the *Andrew F.* standard was not substantively distinguishable from the “meaningful benefit” standard.
- *Andrew F.* as a “game-changer,” is “hyperbole.”
- Key will be the identification and weighting of the relevant factors within the key phrase “appropriate under the circumstances.”

Alice Cogswell and Anne Sullivan Macy Act, H.R. 1120, S. 2087

- Introduced in the 115th Congress
 - Rep. Matt Cartwright, PA
 - Rep. David McKinley, WV
 - Senator Ed Markey, MA
 - Senator Shelley Moore Capito, WV
- 45 House sponsors/cosponsors so far

Education and Advocacy Summit

- Tour of Gallaudet University
- Workshops for parents and professionals
- Workshops for high school students
- Capitol Hill Advocacy Day
- Message
 - School and community
 - Alice Cogswell and Anne Sullivan Macy Act
 - Personnel prep funding issues
 - Overall education issues

Questions??