

U.S. Supreme Court Ruling in *Endrew F. v. Douglas County School District* (2017) &

Application of IEP Construction for School Psychologists

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Abstract

The ruling in the United States Supreme Court case *Endrew F. v. Douglas County School District Re-1* (2017) has implications on certain key elements of the Individuals with Disabilities Education Act (IDEA). Most important, because it centers around what the law considers as a free and appropriate public education, the Endrew case changed the standards in which an individual education program (IEP) is constructed to enable a student with disabilities to make educational progress. The court decision determines that school districts must do more in effort to improve academic outcomes for students with disabilities, such as offering an IEP that is reasonably calculated and appropriately ambitious. This pilot study aims to investigate whether the important outcomes of the Endrew case have made practical changes in the way school psychologists construct IEP goals and monitor progress toward those goals. Additionally, whether or not school psychologists have had access to professional development that provides learning opportunities about the Endrew case is explored.

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In 2018-2019, 7.1 million (14%) of all public-school students ages 3-21 received special education services under the Individuals with Disabilities Education Act (IDEA) (NCES, n.d.). All students eligible for special education services are entitled to an individualized education program (IEP), which must include a statement of measurable annual goals designed to meet the child's needs that result from their disability and are written to enable progress in the general education curriculum (IDEA 34 U.S.C §300.320 2004). Through a collaborative process with school-based personnel and the student's parent(s)/legal caregiver, an IEP is determined and implemented based on the student's personal level of academic achievement and functional performance. An individualized assessment is used to guide the development of measurable annual goals, determine the student's special education program, including related services and supports, and decides the method in which progress is measured and reported (Couvillion, Yell, & Katsiyannis, 2018). The IEP guides a student's educational program and is based on the student's unique needs. It lays out how a student with disabilities legal rights, such as free appropriate education, will be ensured.

One cornerstone of the IDEA regarding the educational rights of students with disabilities is the right to a free appropriate public education (IDEA 34 U.S.C § 300.101), also known as FAPE. The definition of FAPE has been unchanged since the law's original passing through congress in 1975 and constitutes that special education and related services are (a) provided by public expense, (b) meet the standards of the state education agency (SEA), (c) include an appropriate education at the preschool, elementary, and secondary levels, and (d) are developed in conformity with a student's IEP (IDEA 20 U.S.C. § 1401[9]). Although central to the

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educational entitlements of students with disabilities, the legal definition of FAPE is more so cryptic than it is comprehensive (Couvillion, Yell, & Katsiyannis, 2018). Thus, two landmark cases have reached the Supreme Court of the United States (SCOTUS) in attempt to interpret and clarify the school district's responsibility to provide FAPE: *Board of Education v. Rowley* (1982) and *Endrew F. v. Douglas County School District* (2017).

Board of Education v. Rowley

In 1982, Amy Rowley was a deaf student enrolled in a New York public school. Upon her annual IEP review, her parents requested a sign language interpreter be included in her IEP and were denied this service on the grounds that she was academically able without the service of an interpreter. Her parents believed without such accommodation, Amy would not have the same academic opportunity as those of her non-deaf peers. After lower courts sided with the Rowley family, stating that the district failed to provide a FAPE because she had been denied an opportunity to reach her full potential, the school district appealed to the high Supreme Court. Upon a 6-3 majority, the court justices reached a decision that reversed the lower court's ruling, stating that school districts are not responsible to provide services if the student demonstrates more than minimal academic or functional progress (Yell & Bateman, 2017).

The Supreme Court also created a two-part test to guide courts in future decision regarding what constitutes a FAPE: first, had the school district complied with procedures set forth by the law, and second, was the IEP reasonably calculated to enable a student to receive educational benefit (Yell, 2019)? This test set a procedural and substantive standard to determine compliance with FAPE requirements of the IDEA (Yell, et al., 2016). Procedural standards

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require that districts comply with the process delineated by IDEA, such as adhering to timelines, involving student's parents, etc. Substantive standards of an IEP refer to the quality of content that confers meaningful educational benefit. Thereafter the court decision, lower-level courts determined if a FAPE has been conferred by lower standard of educational benefit, referred to as *de minimis*. This meant that if the student's benefit was more than trivial, then FAPE had been appropriately conferred by the school district and substantive standards had been met.

Andrew F. v. Douglas County School District

The second landmark case to reach SCOTUS regarding the reinterpretation of FAPE was the *Andrew F. v. Douglas County School District* in 2017. Andrew, a fourth-grade public school student in Colorado, qualified for special education and related services under autism spectrum disorder (ASD) and attention deficit hyperactive disorder (ADHD). Due to lack of academic or functional progress in his fourth-grade year, his parents rejected his IEP and enrolled him in a private school. They went to due process, stating the school district failed to provide a FAPE. When the case reached the Supreme Court, the question asked to rule on was this: "what is the level of educational benefit school districts must confer on children with disabilities to provide them with a free appropriate public education guaranteed by IDEA" (Yell, 2019, p.160)?

The justices unanimously ruled in favor of Andrew, focusing on the ideal that children with disabilities should receive an education that shows progress. The ruling replaced the former *de minimis* standard used to determine FAPE with a higher standard for educational benefit. Such that instead of a reasonably calculated IEP to "confer some education benefit" the law now mandates a reasonably calculated IEP to enable a student to make appropriate progress in light of

the child's current circumstance (Yell, 2019). Contrary to the *de minimis* standard, all children have the right to an appropriately ambitious educational program where progress, not benefit, is the measurement for educational appropriateness (Turnbull, Turnbull, & Connors, 2017).

A Rationale for Examining Knowledge of the Endrew Case Outcomes and the Role of School Psychologists

The outcome of the *Endrew* case and the revision of FAPE has implications for strengthening the protected rights of students with disabilities. Parents/caregivers, educators, administrators, and school psychologists should be aware of those changes in order to meet the lawful expectations put forth by the IDEA, service students with disabilities in light of these changes, and avoid negative outcomes from education-related litigation. According to Bateman (2017), student IEPs' are so important they are often at the center of most educational disputes in hearings or court. Schools continue to struggle with the basic procedural and substantive requirements of IEP's (Drassgow et al. 2001, Etscheidt, 2003) and if substantive error is made, the district risks violating the Endrew standards of FAPE (Weatherly & Yell, 2017). Thus, competence in areas of special education law is integral for educators and school psychologists to carry out standards of FAPE effectively.

School psychologists are responsible for the collaboration with other school personnel to create and maintain services to support academic, social, emotional, and behavioral goals for students with disabilities (NASP, n.d). **School psychologists administer psychoeducational or psychological assessment for students referred for special education services. If a student qualifies for special education services, school psychologists serve to coordinate appropriate**

academic and behavioral goals through the student's IEP. As the IEP is implemented, it is best practice for school psychologists to monitor progress toward goals and intervene if progress is not sustained. Collaboration with a student's parent(s)/caregivers, teachers, and other school or community supporters is a key aspect of the assessment, IEP development, and progress monitoring process. Considering the involvement school psychologists have in educational assessment, progress monitoring, collaborating with educators in special education, and IEP goal writing, it is reasonable to explore how knowledge of the *Andrew* case improves ways in which school psychologists are servicing students with disabilities through construction of students' IEP.

Purpose of Pilot

This pilot study explores whether school psychologists have experienced professional opportunities to learn about the *Andrew* case and if the outcomes of their learning have had practical implications. Specifically, the study intends to explore how the outcomes of the recent *Andrew* case have made impact on the construction and monitoring of IEP goals for qualifying students with disabilities. While school psychologists and other school personnel receive training in special education law and procedures, there is little understanding of how changes to the law have implications on standards of practice (Yell & Bateman, 2020). Thus, this pilot study is a first step toward better understanding school psychologists' understanding of the *Andrew* case outcomes and the extent of which changes to special education law have practical outcomes that benefit education programs for students with disabilities. Results will help guide future studies in examining the intersection of law, policy, and practice for school psychologists.

Method

Participants

Participants of this survey were school psychologists who work in public K-12 school settings. Participants were recruited through direct contact from the principal investigator. Email addresses were obtained from the Director of Pupil Services at a school district in Connecticut and an online survey through Qualtrics was distributed to school psychologists working in this school district.

Procedure

To ensure that data collection remains anonymous, the *Qualtrics* web tool was used. A collector was created and named anonymous using the Web Link type for data collection. A Secure Sockets Layer Encryption was used to protect data. The collector was configured not to track or store IP addresses. Participant name, email or IP address were not collected. Participants also had the option to skip any questions they did not wish to answer.

Data collected in the survey were anonymous. No identifying information was collected. All responses were collected and stored using a third party, *Qualtrics*. *Qualtrics* is password-protected and the survey itself can only be accessed by the research team. *Qualtrics* did not collect IP addresses of those who chose to participate. This information was stored in the *Qualtrics* online system for the duration of the study, data analysis, and following dissemination of results.

Only licensed school psychologists were invited to participate. Participants excluded from the study included professionals that were not certified school psychologist in Connecticut,

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or **were** other mental health professionals. If an individual **was** contacted **that** does not meet the inclusion criteria, there **were** built in questions to exclude them (survey item 1). In item 1, participants **were** asked if they are a certified school psychologist practicing in Connecticut. If they selected the option “no” the survey ended, and partial data **were** not analyzed. Additionally, if certified School Psychologists had not learned about the *Andrew* case and select “no” to survey item 3, the survey ended, and partial data **were** not analyzed.

Survey Instrument

The survey was created by the student investigator for purposes of this pilot study.

The items are listed in Table 1.

Table 1: Survey Items

Survey Question	Response Options:
Are you a certified School Psychologist practicing in the state of Connecticut?	Yes or No. (If answer to question is “no”, survey ends)
Years of certified practice in CT:	0-5 years; 6-10 years; 11-15 years; 16-20 years or; 21+ years
Do you know about the Supreme Court Case <i>Andrew vs. Douglas County School District</i> ? If no, please discontinue the survey.	Yes or No. (If answer to question is “no”, survey ends)

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Where did you learn about it?	Professional development; Graduate training program; Professional consultation; Self-informed or; Other: _____
Has learning about the Andrew case changed how you write and monitor IEP goals in any of the following ways? Check all that apply.	Identifying child's present levels of need; Setting evidence-based annual goals that include <i>functional</i> outcomes Setting evidence-based annual goals; that include <i>academic</i> outcomes Writing measurable IEP goals using the SMART goal framework ; Indicating progress toward goals by ensuring all special education and related services are outlined in the IEP Making appropriate modifications as required; Ensuring modifications are provided Using data collection procedures with fidelity; Relying on progress data to make decisions and; Other: _____

Limitations and Future Directions

One major limitation of this study is the small projected sample size and low participation rate. As a result, the status of this pilot study remains open as the research team has received zero responses from participants. In interest of advancing this study, researchers are considering next steps in disseminating the survey at the state and national level. A revision to the survey that includes a qualitative component, as well as adding demographic items (sex, ethnicity, education

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level, etc.) will be deliberated. Expanding this research study to reach a broader recruitment base will increase the number of participating school psychologists in which data can be analyzed. Recruitment on the national level will also reveal differences in training opportunities across states and districts within those states. Lastly, researchers hope to recruit a representative sample of school psychologists that permit reasonable conclusions about the data.

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