

Schools told to reach for disabled children's potential

State departments of education and courts throughout the country continue to interpret and apply the Supreme Court's landmark decision in *Endrew F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S.Ct. 988 (2017), that significantly altered the special education landscape a year ago. The *Endrew F.* decision held that "a school must offer an IEP (Individualized Education Program) reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."

Prior to this ruling, a student's IEP was sufficient even if the student made only minimal progress. The new standard requires that an IEP include more challenging objectives to provide an education that is appropriately ambitious.

What meets this heightened threshold will continue to be hotly disputed. The U.S. District Court for the Northern District of Ohio in *Barney v. Akron Bd. of Ed.*, Case No. 5:16CV112, 2017 WL 4226875, was one of the first in Ohio to interpret the new standard. In finding in favor of the Akron schools on a multitude of claims under the Individuals with Disabilities Education Act (IDEA), the district court held that "an IEP would be judged as appropriate based on the individual child's potential."

The *Barney* court found that while a student's advancement does not have to be equal to non-disabled grade-level peers, the student should advance based on his or her "potential" as determined by formal evaluations, such as those conducted by teachers and other medical service providers. The court's decision has been appealed to the 6th U.S. Circuit Court of Appeals.

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