

Supreme Court Expands Rights for Students with Disabilities

The move overturns a decision that Supreme Court nominee Neil Gorsuch helped interpret.

By [Lauren Camera](#), Education Reporter | March 22, 2017, at 4:21 p.m.

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In a unanimous decision, the U.S. Supreme Court ruled Wednesday that schools must provide higher educational standards for children with special needs. (HISHAM IBRAHIM/GETTY IMAGES)

In a unanimous decision with major implications for students with disabilities, the U.S. Supreme Court ruled Wednesday that schools must provide higher educational standards for children with special needs.

The 8-0 ruling in the *Endrew F. v. Douglas County School District* case states that schools must do more than provide a “merely more than de minimis” education for students with disabilities and instead must provide them with an opportunity to make “appropriately ambitious” progress in line with the federal education law.

“When all is said and done,” wrote Chief Justice John G. Roberts, “a student offered an education program providing a ‘merely more than de minimis’ progress from year to year can hardly be said to have been offered an education at all.”

He continued, citing a 1982 Supreme Court ruling on special education: “For children with disabilities, receiving an instruction that aims so low would be tantamount to ‘sitting idly ... awaiting the time when they were old enough to drop out.’”

There are roughly 6.4 million students with disabilities between ages 3 to 21, representing roughly 13 percent of all students, according to Institute for Education Statistics. Each year 300,000 of those students leave school and just 65 percent of students with disabilities complete high school.

"School for students with disabilities today can be a disaster," said Jennifer Laszlo Mizrahi, president of RespectAbility, a nonprofit that advocates for increased opportunities for people with disabilities. "Every child should have access to the education and skills they need to succeed. This Supreme Court decision can mean that students with disabilities can succeed, just like anyone else."

The case originated with an autistic boy in Colorado named Andrew, whose parents pulled him out of Douglas County School District public schools in 5th grade after they took issue with his individualized education plan. Under federal law, the Individuals with Disabilities Education Act, schools must work with families to develop individualized learning plans for students with disabilities.

While Andrew had been making progress in the public schools, his parents felt his plan for that year simply replicated goals from years past. As a result, they enrolled him in a private school where, they argued, Andrew made academic and social progress.

Seeking tuition reimbursement, they filed a complaint with the state's department of education in which they argued that Andrew had been denied a "free appropriate public education" – a requirement of states under IDEA. The school district won the suit, and when his parent filed a lawsuit in federal district court, the judge also sided with the school district, as did the U.S. Court of Appeals for the 10th Circuit after his parents appealed the ruling.

In the Supreme Court case, Andrew and his family asked for clarification about the type of education benefits the federal law requires of schools, specifically, whether it requires "merely more than de minimis," or something greater.

"The IDEA demands more," Roberts wrote in the opinion. "It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."

Notably, the "merely more than de minimis" standard was set by the U.S. Court of Appeals for the 10th Circuit, and used in a 2008 ruling by Supreme Court nominee Judge Neil Gorsuch in deciding a separate special education case.

Opponents have skewered Gorsuch for that opinion, including both national teachers unions.

"It is incomprehensible that Judge Gorsuch has gone out of his way to impose extra legal barriers for students with disabilities rather than helping them to overcome obstacles," Lily Eskelsen García, president of the 3-million-member National Education Association, said prior to Wednesday's Supreme Court ruling. "In his court decisions, Judge Gorsuch endorsed the lowest of expectations for students with disabilities, which allowed public schools to provide our highest-needs students with the bare minimum educational benefit."

Democrats on the Senate's Committee on the Judiciary, including Sen. Richard Durbin of Illinois and Sen. Amy Klobuchar of Minnesota, asked Gorsuch Wednesday morning to defend his ruling.

Durbin asked Gorsuch why he attempted to "lower the bar" for students with disabilities in his ruling.

"If anyone suggests I like an outcome where an autistic child happens to lose, that is a heartbreaking outcome to me," Gorsuch replied, arguing he was bound by circuit precedent to rule that way.

“To suggest that we were in any way out of the mainstream or that I was doing anything unusual would be mistaken because it’s the standard used by many circuits up until, I guess, today,” he said later after a round of questions from Klobuchar.