

Client Alert
March 24, 2023

United States Supreme Court Opens the Door for Special Education Students' Right to Bypass Due Process Hearings When Also Suing School District for Money Damages Under ADA: Perez v. Sturgis Public Schools, 598 U.S. ____ (2023)

In a unanimous ruling issued on March 21, 2023, the United States Supreme Court decided in favor of a 27-year-old deaf student who sued his Michigan school district, claiming he was denied the services of a qualified interpreter for years, and was misled by teachers and administrators about his progress in school. The student, Miguel Perez, only sought monetary damages. The Court held that he was free to sue the district for money damages due to discrimination under Title II of the Americans with Disabilities Act (ADA). The Court found that he did not have to “exhaust his administrative remedies,” prior to bringing such an action for damages. The doctrine of exhaustion of administrative remedies in a case involving the rights of a disabled student requires a litigant to file and complete a due process hearing before an agency like the Bureau of Special Education Appeals (BSEA) on all claims stemming from a school district's requirement to provide a student with a Free Appropriate Public Education (FAPE) under the Individuals with Disabilities Education Act (IDEA).

Perez moved to Sturgis, Michigan with his family from Mexico when he was nine years old and in the third grade. He spoke only Spanish, was deaf, and used only his own invented sign language to communicate. He was placed in a special education program and was promised an aide to support him as a deaf student.

However, the aide was often absent from his program, and when in place, was unable to converse with him in any sign language. Perez was passed from grade to grade, with inflated grades. Just weeks before his anticipated graduation from high school, he was told he would not graduate, but would rather receive a “certificate of completion.” He continued to read at the third-grade level.

Perez initiated legal action under both the ADA and the IDEA. His IDEA dispute was then settled through an agreement with the school district which provided educational support and sign language instruction. Perez graduated from the Michigan School for the Deaf in 2020.

Although Perez had reached a settlement for ongoing services under the IDEA, he continued to pursue his legal claims for damages in federal court. In his suit, he claimed entitlement to money damages, which are unavailable under the IDEA, but which are available under Title II of the ADA.

Prior to obtaining his favorable Supreme Court ruling, the lower federal courts found that Perez was barred from pursuing his claims in federal court. This determination was based on the

Client Alert
March 24, 2023

generally accepted legal requirement that claims involving IDEA violations need to be “exhausted,” that is, heard and decided through a due process hearing before proceeding to court.

However, as stated by Justice Gorsuch writing for the Court, “... nothing (in the IDEA) bars his way.” In other words, the student’s immediate access to federal court to file suit for damages under the ADA, is not barred or delayed by any need to proceed first through a due process hearing, resulting from the IDEA claims also raised by the student.

This Supreme Court decision stands as a warning to districts that special education cases involving IDEA as well as non-IDEA federal law claims, such as ADA discrimination claims, may not be easily dismissed for failure to exhaust administrative remedies. While “failure to exhaust administrative remedies” may still be an available defense for FAPE claims only, such a defense may not be successful in certain actions under Title II of the ADA seeking a determination of disability discrimination and resulting ADA-based monetary damages.

Also, in any settlement of such cases, districts should ensure that the settlement language covers all legal claims “from the beginning of time,” that is, retroactive as well as prospective claims. As always, ensuring compliance with FAPE as students progress through their educational placements, and addressing parental concerns as they arise, continues to be the best guard against all types of district liability.

This Client Alert was prepared by Mary Ellen Sowyrda. This Alert was reviewed by Regina Williams Tate, Alisia St. Florian, Felicia Vasudevan, and Kevin Bresnahan. If you have any questions about this issue, please contact the attorney responsible for your account, or call (617) 479-5000.

This Alert is for informational purposes only and may be considered advertising. It does not constitute the rendering of legal, tax, or professional advice or services. You should seek specific detailed legal advice prior to taking any definitive actions.

© 2023 MHTL