

# Endrew F: A New Tool for Enhancing the Family Voice at the IEP Decision-making Table

Presented by  
The National Center for Parent Leadership, Advocacy, and  
Community Empowerment (National PLACE)



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## Presenter

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## Welcome to National PLACE!

### Mission

- To educate and empower families and family-led organizations and support them to advocate for enhanced parent involvement and leadership in education, health and human services decision-making with regard to services for children and families.

### Motto

- *Advocating to ensure the parents' PLACE at decision-making tables*

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## Purpose of today's presentation

- Explain court decision & implications in Andrew F.
- Brainstorm strategies for families and family organizations to use Andrew F. to strengthen parent voice at IEP tables



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## Purpose of IDEA

### Congress:

- Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

### US ED OSERS Regulations:

- To ensure that all children with disabilities have available to them a "free appropriate public education" that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living

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## IDEA IEP Requirements

Present levels of performance	Extent of participation in assessment
Annual education goals (& objectives for some students) tied to general curriculum/standards – academic & functional	Accommodations to be provided to participate in assessment (regular or alternate assessment)
Special education & related services to be provided to help achieve the goals	How & when progress towards goals will be measured & reported
Any needed modifications & accommodations	Location(s) where services will be provided; LRE
Supplementary aids & services (for student, teacher, others)	Access to non-academic programs; interaction with non-disabled peers

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## IEP PLEP & Services

PLEP that summarizes how the child's disability affects:

- Involvement & progress in the general curriculum
- Social-emotional development, behavior, functional life skills, self-awareness, ability to communicate

An IEP that helps the student build skills to access, participate in, and make progress in the academic curriculum & the life of the school

IEP services should be based on peer-reviewed research to the extent practicable

- Supplementary aids, services or other supports provided in general education or other settings to help the child be educated with children who are not disabled to the maximum extent appropriate

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## IEP Special Considerations

Consider need for:

- Functional behavioral assessment & positive behavioral support plan
- Extended school year services
- Communication skills & strategies (especially if deaf or hard of hearing)
- Assistive technology
- Braille for students who are blind/visually impaired
- Language access needs
- Transition to adult life (age 14 in some states; 16 under IDEA)

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## US ED Guidance

- Each child's IEP must be designed to enable the child to advance appropriately toward attaining his or her annual IEP goals and to be involved in, and make progress in, **the general education curriculum based on the State's academic content standards for the grade in which the child is enrolled.**
- IEP must include **behavioral interventions and supports** to a child that needs them.

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## Starting Place: Rowley Standard

1982 US Supreme Court decision that held:

- Students who require special education have a substantive right to receive free, appropriate public education (FAPE)
- This is met "if the child's IEP sets out an educational program that is 'reasonably calculated to enable the child to receive educational benefit'"
- More than a de minimus (trivial) benefit
- A determination of whether special education programming provides FAPE is very fact specific



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## Question in Endrew



Must schools provide a meaningful education in which children show significant progress and are given substantially equal opportunities as children without disabilities, or can they provide an education that results in just *some* improvement?

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## Summary of Decision & Implications

Parents need to fully understand that their child is entitled to an IEP that enables their child to make **academic progress** - which means for most children, the opportunity to advance from grade to grade.

**Progress must be appropriate** in light of the child's circumstances; the adequacy of a given IEP turns on the unique circumstances of the child.

Every child should have the chance to meet **challenging objectives**.

The Supreme Court clearly articulated a shift to **higher expectations** for children with disabilities.

**Advocacy** begins and ends with the families directly impacted and the family organizations that educate and support them.

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## Unanimous SCOTUS Decision

A standard which fails to focus on "student progress would do little to remedy the pervasive and tragic academic stagnation that prompted..." Congress to enact IDEA

"For children with disabilities, receiving instruction that aims so low would be tantamount to 'sitting idly . . . awaiting the time when they were old enough to "drop out."'"

"To meet its substantive obligation under the IDEA, a school must offer an IEP **reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.**"

A student who can generally pass his coursework in the general education curriculum and participate in a regular education class with the aid of an IEP which meets the procedural requirements of the IDEA is receiving FAPE

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## SCOTUS Decision



Students, whose disabilities range on a continuum, must each have an IEP which is tailored to their needs and involves a prospective judgment of how each one will progress

For a child who cannot progress smoothly through the regular curriculum:

- "... his IEP need not aim for grade-level advancement. But his educational program must be **appropriately ambitious in light of his circumstances**, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but **every child should have a chance to meet challenging objectives**"

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## Applies to All SWDs



"For a child fully integrated in a regular classroom, an IEP typically should be 'reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.'" But note Chief Justice Roberts' footnote:

- "[t]his guidance should not be interpreted as an inflexible rule...do not hold today that every handicapped child who is advancing from grade to grade... is automatically receiving a [Free Appropriate Public Education]

For children for whom advancement from grade to grade is "not a reasonable prospect," an IEP "must be appropriately ambitious in light of his circumstances."

For **all** students, the chance to meet challenging objectives!

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## Roles of Professionals & Families

This new standard will require a "prospective judgment by school officials" that "will be *informed* not only by the expertise of school officials, but also *by the input of the child's parents and guardians.*"

"By the time any dispute reaches court, school authorities will have had a complete opportunity to bring their expertise and judgment to bear on areas of disagreement. A reviewing court may fairly expect those authorities to be able to offer a *cogent and responsive explanation* for their decisions that shows the *IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances.*"

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### Guiding Principles for IEP Development



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## Practical application



IEP teams should consider these questions on a broader basis when developing an IEP:

- Have we ensured this IEP includes challenging goals?
- Why do we believe that this IEP will allow this student to progress academically and functionally?
- Have we adequately considered performance problems from the past year and parents' concerns in writing the goals, objectives and assessing what services, including related services, are needed?

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## Practical application



- “School personnel will make decisions that are informed by their own expertise, *the progress of the child, the child’s potential for growth, and the views of the child’s parents*”
- IEP Team members should consider how special education and related services, if any, have been provided to the child in the past, including *the effectiveness of specific instructional strategies and supports and services with the student*
- The IEP Team should consider *the child’s previous rate of academic growth, whether the child is on track to achieve or exceed grade-level proficiency, any behaviors interfering with the child’s progress, and additional information and input provided by the child’s parents.*

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## Practical application



- “Progress appropriate in light of the child’s circumstances:”
  - IEP team including child’s parents must give “careful consideration to the child’s present levels of achievement, disability, and potential for growth.”
- “Chance to meet challenging objectives”
  - “The IEP must aim to enable the child to make progress”
  - An individualized determination that is unique to each child.

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## Practical application



- Review and revisiting of IEP
  - At least annual review of IEP to determine progress
  - Periodic meetings throughout the year if warranted
  - *If a child is not making expected progress toward his or her annual goals, the IEP Team must revise, as appropriate, the IEP to address the lack of progress.*
  - *The parents of a child with a disability have the right to request an IEP Team meeting at any time.*

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## Practical application



- If a child is not making progress at the level the IEP Team expected, despite receiving all the services and supports identified in the IEP, *the IEP Team must meet to review and revise the IEP if necessary*
- IEP Teams should use the periodic progress reporting required at 34 CFR §300.320(a)(3)(ii) to inform parents of their child's progress. Parents and other IEP Team members should collaborate and partner to track progress appropriate to the child's circumstances.

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## Practical application



- Where necessary to provide FAPE, IEPs must include consideration of behavioral needs in the development, review, and revision of IEPs.
- IEP Teams must consider and, if necessary to provide FAPE, include appropriate behavioral goals and objectives and other appropriate services and supports in the IEPs of children whose behavior impedes their own learning or the learning of their peers

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## Key Terms/Concepts



- Chance to meet *“challenging objectives”*
- *“Appropriately ambitious”* IEP/educational program”
- *“The IEP is not a form”*
- Schools must be held to a *“markedly more demanding”* standard than merely *“more than de minimus”*

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## Key Terms/Concepts



- "For a child fully integrated in a regular classroom, an IEP typically should be *'reasonably calculated to enable the child to achieve passing marks and advance from grade to grade'*"
- "*Cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances'*"

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## What parents can do



- Prepare questions for the IEP meeting using the key terms and concepts from Andrew F.:
  - Have we given "careful consideration to my child's present levels of achievement, disability, and potential for growth?"
  - Have we considered my child's "previous rate of academic growth, whether my child is on track to achieve or exceed grade-level proficiency, any behaviors interfering with my child's progress, and my information and input?"

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## What parents can do



- Prepare questions for the IEP meeting using the key terms and concepts from Andrew F.:
  - Are these sufficiently challenging objectives?
  - Are these goals appropriately ambitious?
  - How is this IEP reasonably calculated to enable my child to achieve passing marks and advance from grade to grade?
  - How is this IEP reasonably calculated to enable my child to make progress appropriate in light of his circumstances?

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## What parents can do



- Don't accept an IEP with the same goals & objectives year to year!
  - This indicates that their child has failed to make meaningful progress toward their goals and objectives
- ***What else can/should parents do?***

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## What family organizations can do

- Review current training materials on evaluation, IEP development, service delivery, etc. and make needed revisions to incorporate the key terms, phrases, and concepts
- Provide professional development to staff and volunteers who assist families individually to ensure their awareness, understanding, and ability to apply the information to their individual assistance
- Review current state/district documents including parent guides, IEP "shells," regulations/rules, to identify needed areas of change to comply with Andrew F.

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## What family organizations can do

- Provide specific workshops on how Andrew F. raises expectations & the key concepts, terms, & phrases
- Coach parents receiving individual assistance on how to use the key concepts, terms & phrases & related documents (FAPE/IEP & discipline/PBS guidance, for example) in their individual advocacy
- Work with families & concerned professionals to advocate for needed revisions to state regulations/rules, guides, documents, etc.
- ***What else can family organizations do?***

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## Resources



Parent Center Hub:

<http://www.parentcenterhub.org/endrew-qa/>

US ED Q&A:

<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-endrewcase-12-07-2017.pdf>

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## Questions and Answers



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