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INDIANA DISABILITY RIGHTS' REACTION TO *ENDREW F. v. DOUGLAS CO. SCH. DIST.*

The United State Supreme Court's March 22, 2017, ruling in *Endrew F. v. Douglas Co. Sch. Dist.* is an important decision for children with disabilities receiving public education. It will expand the level of educational benefits that students with disabilities are able to receive by overruling a lower court's standard. For years, there was confusion regarding what level of educational benefit is required for students who are entitled to a Free Appropriate Public Education (FAPE) under the federal Individual with Disabilities Education Act (IDEA). The longstanding standard, created in a 1982 United States Supreme Court case, *Board of Ed. of Hendrick Hudson Central School Dist., Westchester City. v. Rowley*, stated that the IDEA requires that a school provide an educational program that is "reasonably calculated to enable the child to receive educational benefits." However, the Court didn't define what level of educational benefits is required. Several United States Circuit Courts have interpreted this to mean that all that is required is that the student receive *some* educational benefit; the result of school services had to have a "more than *de minimis*" benefit to the student – resulting in just more than trivial progress in school. Other United States Circuit Courts, though, interpreted the *Rowley* language to mean that the educational benefit had to be meaningful.

The parents in *Endrew* alleged that their son was not making academic progress in his public school. His Individualized Education Plan (IEP) goals remained largely the same from year to year, an indication of lack of academic progress. Dissatisfied, they eventually removed him from public school and placed him privately in a school where he did make significant academic progress. They filed a due process administrative complaint asking that the public school reimburse them for the price of the private school placement, since the services he was receiving in the school were not benefiting him. A hearing officer found that Endrew had made some academic progress in the public school and, therefore, the parents were not entitled to reimbursement. This ruling was consistent with the lower court's standard of receiving "more than *de minimis*" benefit.

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In *Andrew*, the Supreme Court rejected the more than *de minimis* standard stating “[w]hen all is said and done, a student offered an educational program providing ‘merely more than *de minimis*’ progress from year to year can hardly be said to have been offered an education at all.” The Court therefore provided more clarity on what level of educational benefit is required: “The IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” This language will allow parents and students to insist on better educational programs with more rigorous goals, not simply rely on *de minimis* progress from year to year.

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The mission of Indiana Disability Rights is to protect and promote the rights of individuals with disabilities through empowerment and advocacy.