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# Supreme Court Holds Districts May Be Sued for Damages Even When IDEA Administrative Process Is Not Exhausted

## By Adrienne Kirshner & David Hirt

The Supreme Court unanimously held in *Perez v. Sturgis Public Schools*, No. 21-887 (Mar. 21, 2023) that a student can sue for compensatory damages under the Americans with Disabilities Act ("ADA") even when they have not exhausted the administrative process required under the Individuals with Disabilities Education Act ("IDEA") if the compensatory damages sought are not available under IDEA. In *Perez*, the adult former student filed an ADA disability discrimination complaint seeking only compensatory damages based on the school district's failure to provide a free appropriate public education.

*Perez* may change the legal landscape in Ohio because previously the Sixth Circuit Court of Appeals had held that IDEA precluded lawsuits under ADA where the claim seeks relief for the same underlying harm IDEA exists to address, a failure to provide FAPE, unless all IDEA administrative remedies were exhausted. As Justice Gorsuch in the opinion stated, the decision "holds consequences not just for Mr. Perez but for a great many children with disabilities and their parents." *Id.* at 2.

*Perez* involved Miguel Luna Perez, a deaf student, who was educated by the Sturgis Public School District in Michigan from ages 9 through 20. While Perez's parents believed their son was on track to graduate high school, months before graduation they received notice Perez would not be receiving a diploma. In response, Perez filed a complaint with the Michigan Department of Education alleging the district failed its duties under IDEA and other laws. Before an administrative hearing was held, the parties entered into a settlement where the district agreed to provide forward-looking equitable relief, including additional schooling. After entering into the settlement, Perez filed a federal lawsuit under the ADA seeking backward-looking relief in the form of compensatory damages. Perez's ADA case was dismissed by the trial court, and the dismissal was upheld by the Sixth Circuit because it had interpreted IDEA as barring the ADA claim. As there was disagreement among the Circuit Courts, the Supreme Court decided to decide the issue of when does IDEA require exhaustion prior to filing a lawsuit under other federal laws, such as the ADA.

In reaching its decision, the Supreme Court examined the exhaustion requirement. The Supreme Court focused on the language of IDEA that stated that IDEA's "administrative exhaustion requirement applies *only* to suits that "see[k] relief . . . also available under' IDEA." *Perez*, 21-887 at 4. Accordingly, where the relief being sought is not something obtainable under IDEA, such as compensatory damages for emotional distress or lost wages, failure to exhaust IDEA administrative remedies will not preclude a lawsuit.

*Perez* opens the door to lawsuits for money damages for disability discrimination based upon a failure to provide appropriate special education and related services to a student without requiring students and their parent from filing a due process complaint and exhausting the process. The Court in *Perez*

speculated, however, that if a plaintiff seeks damages for both relief that is available under IDEA (i.e., equitable relief or reimbursement for educational costs spent by parents or the student) and relief that is not available under IDEA, such a claim may still be subject to IDEA's exhaustion requirement. This may mean more lawsuits being filed for compensatory damages. It also means that if a settlement agreement is entered into with a student or the student's parents, clear language waiving claims under ADA and other federal laws must be included.

If you have questions regarding how this recent Supreme Court decision may affect special education disputes, please contact any of the listed Roetzel attorneys.

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