

From the Field: Practical Applications of Research

Is 'Just More Than Trivial' the Best We Can Do?

By Kate Anderson Foley, Ph.D.

Abstract

This is not a legal brief. This is an article written by a special education expert who has witnessed the very best and the very worst education has to offer. This article is meant to serve as a springboard for examining what is meant by education for all, high expectations, schools as laboratories for innovation, high caliber academic and social emotional learning, and comprehensive data systems used to gauge growth. This article advocates for the use of a higher standard because children with disabilities are general education students first and they deserve the very best education has to offer. I encourage readers to refer to legal articles and state and local education agency definitions of the standard used to determine a Free Appropriate Public Education or a FAPE under the Individuals With Disabilities Act [IDEA].

Introduction

In 2017, the Supreme Court (SC) decided 8-0 the case of *Endrew F. v. Douglas County School District RE-1*. Depending on one's perspective, the ruling was hailed for raising the standard of education for the wide spectrum of children with disabilities or it had little impact. Consider that it wasn't until the 1982 *Rowley* decision that state education agencies and local school districts had to wrestle with what a free appropriate public education or FAPE meant. The *Rowley* standard required school districts to offer an individualized education program [IEP] that was 'appropriate' and 'reasonably calculated to enable a child to receive educational benefits such as earning passing grades and grade advancement. But the *Rowley* decision did not substantively address the 'how' for determining whether a FAPE was met.

Further, the Court did not address the wide continuum of students served under the Individuals with Disabilities Act [IDEA]. Instead, the Court held that an IEP only needed to provide some benefit meaning a *de minimis* standard or a '**just more than trivial**' education. Hence, because an IEP is the vehicle for a FAPE, school districts and state education agencies should recognize the shifts detailed in *Endrew F.* and advocate for a higher standard so that students served under the IDEA are insured equitable opportunities.

Outcomes

When the Supreme Court decided the *Endrew F. v. Douglas County School District RE-1* case, it ushered in a broader vision by writing, "to meet its substantive obligation under the IDEA, a school must offer an IEP that is reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances; and, that "every child should have the chance to meet challenging objectives." As a result, the shift from a basic floor of education (*de minimis*) to being held accountable for substantive progress was viewed by many to have answered the question about the wide continuum of children served under the IDEA. Whereas *Rowley* was educated for the most part in the regular education setting, *Endrew* required more intensive academic and behavioral services. Thus, regardless of where a child sat on the continuum of disability, the SCOTUS decision ushered in clear criteria that state education agencies, local school districts, charter schools, and other education organizations must consider. The new standard includes the following features:

- Address the child's potential for growth
- Implement an IEP that is reasonably calculated to enable the child to make progress in light of h/his circumstances
- Develop an IEP aligned to challenging standards
- Use a variety of data sources to determine the amount of progress
- Determine a FAPE via multiple data sources
- In order to meet this higher standard, each feature has been translated into an ethical and legal consideration.
- Set high, non-negotiable, expectations for all adults who serve children under IDEA
- Provide deep professional development focused on equitable systems of support
- Make the I in Individual Education Program (IEP) the driver
- Develop a cogent and prospective IEP
- Implement a comprehensive data system

Commentary

First, it is paramount for educators, families, and board members to understand that the federal education law, *The Every Student Succeeds Act*, encompasses the needs of ALL children, meaning that a student with a disability is a general education student first. Thus it is incumbent upon state education agencies to set the tone and communicate high expectation for students' learning and for teachers' teaching. It also means local school districts and charter schools must set asset-based policies that recognize the wide spectrum of learners and implement effective practices that result in tangible measures of growth. Relentless implementation of high expectations benefits all children including those served under the IDEA because a meaningful and substantive opportunity will have been provided rather than a 'just more than trivial' education.

Second, teacher preparation programs and licensure systems must change. Teachers should come out of college with a dual license as a generalist and a specialist in order to design and facilitate learning across the wide array of student profiles. For example, leveraging personalized and project-based learning, universal design, artificial intelligence, cultural, linguistic, and social emotionally responsive practices can effectuate the needed change.

Third, since an IEP is the vehicle for a FAPE, it must be individualized at the deepest level. It doesn't mean that IEPs become longer; rather, the converse could be true. Specifically, future-oriented IEPs should be developed with a laser-focus on results-based, specially designed instruction and accountability measures that demonstrate substantive progress. Further, the local school district has the responsibility of drafting an ambitious and cogent IEP, thus the fourth standard can be appropriately addressed when multiple sources of data are used.

A comprehensive data system widely implemented across an asset-based education system would benefit all students while also meeting the critical requirement of determining meaningful progress under the IDEA. Finally, by

implementing a comprehensive data system that is, nimble and transparent for how students learn, teachers can leverage better information that can be used to plan and facilitate learning and families can become more engaged. In turn, the IEP process can become more authentic and progress toward achieving challenging goals measured more accurately.

Conclusion

So why does all this matter? It matters because for the past forty-three years, children served under the IDEA have experienced their education via a parallel system. Shifting from a 'test and place' framework to an asset-based system that asks, 'How is the student smart?' is hard work but this author would argue is the right work. Furthermore, that is precisely how schools become labs of innovation and where students become owners of their education. Think how the trajectory of a child's life can change when potential is considered expansively rather than limited by low expectations and labels. Think about the number of children who came to school and whose background or circumstance resulted in being inadequately prepared for learning. For many of these children, they get mistakenly labeled as disabled and endure a '*just more than trivial*' education. Is that really the best we can do? The Supreme Court of the United States determined it wasn't. While we wait for the reauthorization of the IDEA reauthorized to occur, states, local districts, and charter schools should become the authors of audacious change that focuses on the assets students exhibit for continuous learning.

Citations Referenced:

Board of Education of Hendrick Central School District V. Rowley, 458 U.S. 176,202 (1982).

Endrew F. v. Douglas County School District RE-1, 580 U.S. (2017).

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