

## The Legal and Practical Implications of *Perez* for Youth with Disabilities

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The recent United States Supreme Court decision in *Luna Perez v. Sturgis Pub. Schools* changed how youth with Individualized Educational Plans (“IEP”) could sue their school. Until the decision, youth with disabilities receiving special education services under the Individuals with Disabilities Education Act (“IDEA”) had to exhaust their administrative remedies before filing a lawsuit against a school district that violated their educational rights.<sup>1</sup>

Generally, before a student on an IEP can file a lawsuit under the IDEA, the student must complete their State Department of Education’s due process hearing and receive a written decision from a hearing officer. In Idaho, a hearing officer has 45 calendar days from the beginning of the hearing to issue an opinion.<sup>2</sup>

Now, with the *Perez* decision, students and their families can utilize remedies under federal laws that protect youth with disabilities, including those granted under the Americans with Disabilities Act (“ADA”), when a school district has

violated a student’s educational rights without first wading through often lengthy administrative procedures.

But *Perez* did not merely change procedurally how students can protect their rights. The decision also opens the door for students to access broader remedies

and exposes how schools should assess students for special education services to comply with federal guidelines. This article provides the facts of *Perez*, explains the Supreme Court’s decision, and explores *Perez*’s impact nationally and to Idaho students locally.

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## Perez Facts

Miguel Luna Perez, who is deaf, enrolled in the Sturgis Public School (“Sturgis”) system in Michigan at age 9 after moving to the United States from Mexico.<sup>3</sup> Unbeknownst to his parents at the time, Miguel was assigned paraprofessionals who were either unqualified or were completely absent from the classroom for hours. Miguel received passing grades every year, but when he was ready to graduate, he was only awarded a certificate of completion rather than a high school diploma. Miguel’s parents, who spoke only Spanish, were unaware that Miguel did not receive an appropriate education because the district failed to provide Spanish/English language interpreters during parent meetings. Sturgis did not meet the communication needs of either Miguel, or his parents, as mandated by IDEA regulations.<sup>4</sup>

As a result of Sturgis violating Miguel’s and his families’ rights under the IDEA, the Perez family filed an administrative complaint (“Complaint”) with the Michigan Department of Education. Miguel settled with Sturgis because the district offered to pay for Miguel to attend the Michigan School for the Deaf and provide sign language instruction for Miguel and his family.

However, after this settlement, Miguel filed a lawsuit under the ADA in federal court. He alleged Sturgis discriminated against him for failing to provide him with equal access to education. He sought compensatory damages for emotional distress and projected loss of potential wages.

Sturgis argued that a provision in the IDEA barred Miguel from bringing an ADA claim. The IDEA provision Sturgis relied on provides, in relevant part:

Nothing in this chapter shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 *et seq.*], . . . or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this subchapter, the procedures . . . shall be exhausted.”<sup>5</sup>

Therefore, Sturgis’s argued that before one can file a civil action under another federal law seeking relief that is also available under the IDEA, one must first exhaust their administrative remedies under the IDEA.

## Perez Decision

The Supreme Court, in a unanimous decision, held the IDEA’s exhaustion requirement does not prevent a person from filing a lawsuit under other federal laws for remedies that are not provided under the IDEA.<sup>6</sup>

The only relief IDEA’s administrative process can supply to families is relief for a denial of a free appropriate public education (“FAPE”) according to a 2017 Supreme Court decision.<sup>7</sup> The FAPE provision requires schools to provide special education that meets the unique needs of youth with disabilities. In other words, the district is responsible for creating specially designed instruction for the student. To meet a student’s unique needs, a district might also be required to provide related services which help the youth benefit from special education, such as sign language interpretation. As the “F” in FAPE indicates, additional education and services are provided at no cost to the parents, guardians, or students.

Additionally, adhering to the FAPE provision of the IDEA requires the school to create an IEP, outlining the plan for the youth’s education and services, and it

requires administering the youth’s education in the least restrictive environment. The least restrictive environment means youth need to be provided accommodations and modifications to participate in the general education curriculum to the fullest extent possible.

Youth must complete assessments to determine if they qualify for special education. Ultimately this decision is made by the school’s multidisciplinary team, which often includes: a general education teacher; a special education teacher or director; the individual providing the related service; a school administrator who can make decisions regarding what services the district can provide; and the student’s parents or guardians. The team must determine what assessments the student should complete and then interpret the data from these assessments to create a plan that will enable the student to reach their educational goals. However, since the team is made up of people at each student’s school, the system may not be uniform even within the same school district.

When a district fails to provide youth with disabilities a FAPE, according to the statute, the IDEA provides broad discretion to the court or hearing officer to award damages it determines is appropriate based on the preponderance of the evidence.<sup>8</sup> However, as the Court in *Perez* noted, compensatory damages are not a remedy the IDEA can supply.<sup>9</sup> As a result, Miguel pursued a claim for services from Sturgis instead of loss of income or recovery of other damages.

Other examples of remedies available under the IDEA include:

- Compensatory education where a student is provided special education or related services (e.g. speech therapy) for a school’s failure to provide the appropriate education or service;
- Orders relating to evaluations, IEPs, or a youth’s placement if a parent has refused consent to evaluate the youth for special education or related services or if a school district has not conducted complete evaluations of the student or provided an appropriate IEP;
- Reimbursement for private tuition or other expenses the family incurred for the school district violating the IDEA, which differ from compensatory damages; and
- School district training or changes to the district’s policy if a school violated the IDEA in a systemic way that impacted more than just the individual student who filed the complaint.

## Perez's Impact Nationally

The decision in *Perez* provides more avenues for families to hold systems accountable under federal civil rights laws. The decision also allows families to seek more immediate relief rather than having to navigate lengthy IDEA administrative procedures before obtaining appropriate remedies.

The real beneficiaries of this decision, however, are youths with disabilities impacted by unfair treatment in schools that are not receiving a FAPE. The decision highlights the importance of school districts completing comprehensive assessments for youth with disabilities in order for them to obtain a FAPE.

The IDEA states that “A State educational agency, other State agency, or local educational agency shall conduct a *full and individual* initial evaluation in accordance with this paragraph. . . .”<sup>10</sup> Therefore, under the statute, school districts are required to complete full evaluations of students to assess all their needs including communication, assistive technology, related services, etc.

In *Perez*, Miguel's communication and cultural needs should have been assessed by Sturgis and accommodated in his IEP. More transparency should have been provided to him and his family regarding his educational progress.

The holding in *Perez* clearly comports with the plain language of the IDEA and further showcases the harmful effects to youth with disabilities if a school district fails to conduct complete assessments. *Perez* holds that school districts must view students with disabilities for who they are – whole people with entire cultures, languages, and abilities that should be honored and included. This decision demonstrates the holistic approach that should be taken when assessing students with disabilities.

According to the National Center for Education Statistics, in 2021-22, the number of students ages 3-21 who received special education under the IDEA was 7.3 million or 15% of all public-school students.<sup>11</sup> With more classrooms emerging that have more youth with varying needs, educators need the skills to ensure their students have what they need to succeed.

Some critics of this opinion worry that it creates a culture of litigation instead of promoting collaboration – which is the goal of the special education process. However, if the current dispute resolution options fail families, then they do not have other recourses available except litigation. This is costly for school districts and families which is why *Perez* is so important.

The Court's decision in *Perez* depicts how the IEP team is meant to work together

for the benefit of the youth to provide them a FAPE. Parents or guardians and the student (whenever appropriate) are legally part of the IEP team, which means they have a seat at the decision-making table regarding the student's education.<sup>12</sup>

If Miguel and his family had been incorporated in his educational team in a transparent and inclusive way, the *Perez* decision may not have occurred. The FAPE provision of the IDEA requires schools provide services that are reasonably calculated to help a youth make progress, which entails due diligence on the part of the IEP team to create a program for the youth that meets their unique needs. *Perez* furthers the IDEA's requirements that special education is a collaborative, team effort by showing us the detrimental effects of excluding individuals who need to be teammates in this process.

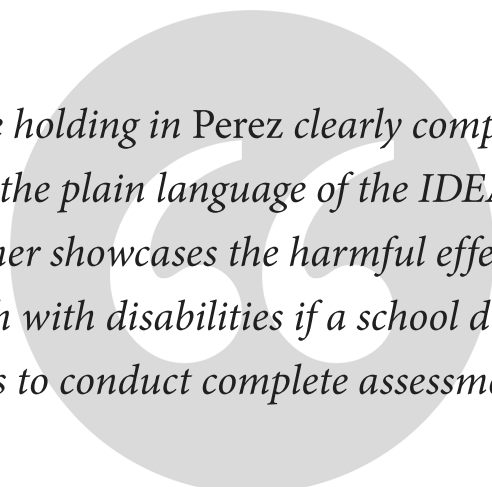
## Perez's Impact Locally

According to an Idaho Education News report in 2023, there were nearly 37,000 students receiving special education in Idaho which was about 11.6% of the state's total student population.<sup>13</sup> This is an increase from the 32,908 students receiving special education services during the 2017-2018 school year.<sup>14</sup> This means more students than ever before require special education services in Idaho.

U.S. News in 2018 reported from the Jerome School District's services director that his concern was such a large part of special education costs were the result of litigation.<sup>15</sup> This director wondered “when that money will be invested into “human capital” rather than fighting lawsuits.”<sup>16</sup>

*Perez* paves the path for school districts in Idaho to invest in comprehensive assessments, which will demonstrate the students emotional, physical, communicative, and other needs, and provide solutions on how to meet these needs. If schools are addressing the students' comprehensive needs, then special education costs will not go towards funding litigation.

Instead, the funds can be used towards helping students achieve their goals. This could look like providing a 1:1 aid to



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manage behavior, an interpreter to provide communication services, or sensory devices to calm a student's anxiety.

In the IDEA, Congress states "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."<sup>17</sup>

As *Perez* demonstrates, we cannot improve these results for students unless they are properly assessed and given the opportunity to fulfill their goals with the support they are guaranteed under the law. IEP teams across school districts in Idaho should collaboratively work to have all voices heard to ensure youth such as Miguel Perez have not fallen through the cracks.



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### Endnotes

1. *Luna Perez v. Sturgis Pub. Schools*, 598 U.S. 142 (2023).
2. Idaho State Department of Education, Dispute Resolution, <https://www.sde.idaho.gov/sped/dispute/>.
3. Corrected Brief of Plaintiff-Appellant Miguel Luna Perez v. Sturgis Public Schools, Sturgis Public Schools Board of Education, Defendants - Appellees., 2020 WL 2543939.
4. 34 C.F.R. § 300.322(e).

5. 20 U.S.C. § 1415(l).
6. *Perez*, 598 U.S. 142, 148 (2023).
7. *Fry v. Napoleon Community Schools*, 580 U.S. 154, 164 (2017).
8. 20 U.S.C. § 1415(i)(2)(C)(iii).
9. *Perez*, 598 U.S. 142, 145 (2023).
10. 20 U.S.C. § 1414(a)(1)(A) (emphasis added).
11. National Center for Education Statistics, (May 2023), <https://nces.ed.gov/programs/coe/indicator/cgg/students-with-disabilities>.
12. 34 C.F.R. § 300.321(a)(1) and (7).
13. Sadie Dittenber, *Special education: Idaho's \$66 million problem*, Idaho Education News, Nov. 1, 2023, Special education: Idaho's \$66 million problem (idahoednews.org).
14. Idaho State Department of Education, Special Education, Special Education Trends Infographic (idaho.gov).
15. Associated Press, *Idaho Schools Grapple with Special Education Rise*, U.S. News, March 31, 2018, Idaho Schools Grapple With Special Education Growth (usnews.com).
16. *Id.*
17. U.S. Department of Education, *About IDEA*, About IDEA - Individuals with Disabilities Education Act.

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