

UPPAC NEWS

A BI-ANNUAL NEWSLETTER FROM THE UTAH PROFESSIONAL
PRACTICES ADVISORY COMMISSION

U.S. Supreme Court Case Review: *Endrew F. v. Douglas County School District Re-1* New Guidance from the U.S. Supreme Court Regarding the Scope of FAPE

On March 22, 2017, the U.S. Supreme Court decided a watershed case in special education. *Endrew F. v. Douglas County School District Re-1*, 137 S. Ct. 988 (2017), clarified what it means to provide a “free appropriate public education,” or FAPE, to a child eligible for an IEP. Prior to *Endrew F.*, the U.S. Supreme Court ruled that in cases where a student was integrated into a regular classroom, that the FAPE requirement was met where the student’s IEP is, “reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.” *Board of Ed. Of Hendrick Hudson Central School Distr., Westchester City v. Rowley*, 458 U.S. 176, 204 (1982). While many children with IEPs are fully integrated in a regular classroom, other students are not, and their progress in school cannot be measured by grade advancement.

In *Endrew F.*, the U.S. Supreme Court considered the case of Endrew, a fourth-grade student with autism and significant behavioral problems. The Douglas County School District created a new IEP for Endrew each year, but the IEP’s basic goals remained the same, and Endrew continually failed to make meaningful progress towards his goals. *Endrew F.*, 137 S. Ct. 988, 996.

The U.S. Supreme Court found that in order for FAPE to be met, a child must be provided an “educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” *Id.* at 999. The Court reasoned that a student’s 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 the chance to meet challenging objectives.” *Id.* at 1000.

In practice, the *Endrew F.* standard reflects the reality that there is a spectrum of child learning: an IEP must account for each child’s special needs by providing objectives appropriate for his or her individual circumstances.

FURTHER CLARIFICATION OF *ENDREW F.*

On December 7, 2017, the U.S. Department of Education released an *Endrew F.*, “Question and Answers,” document that provides additional guidance on how an LEA or IEP team can implement FAPE requirements. A summary of a few of the issues addressed in the Q&A are listed below.

Positive behavioral interventions in IEPs. When a student’s behavior “impedes their own learning or the learning of their peers,” the student’s IEP must include appropriate behavioral goals and objectives to support the students’ learning objectives.

Application of *Endrew F.* to Other IDEA Cases. The *Endrew F.* standard applies to all IDEA-eligible students with disabilities, regardless of the type of disability, the age of the child, or the child’s current placement.

Review IEPs Yearly. The IEP team must review a student’s IEP yearly to ensure that the child’s annual goals are being met. If a child is not making the progress expected, the IEP team must revise the IEP as appropriate to address the lack of progress. IEP meetings may occur more often, if necessary for the child.

New Considerations for the IEP Team. As the IEP team creates a student's IEP, they must review and implement policies, procedures and practices related to: (1) "identifying present levels of academic achievement and functional performance; (2) the setting of measurable annual goals, including academic and functional goals; and (3) how a child's progress toward meeting annual goals will be measured and reported, so that the *Andrew F.* standard is met for each individual child with a disability."

You can find the U.S. Department of Education's Q&A regarding the *Andrew F.* case at the following link:

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

UPPAC EDUCATOR DISCIPLINE

A summary of Utah State Board Licensing Actions from July-December 2017

Revocation

UPPAC Case no. 15-1300

An educator was convicted of producing child pornography and sentenced to 22 years in prison. The educator's license was permanently revoked.

UPPAC Case no. 17-1398

An educator engaged in a sexual relationship with a 15-year old student. The educator pleaded guilty to Sexual Abuse of a Minor, a third degree felony. The educator's license was permanently revoked.

UPPAC Case no. 17-1388

An educator engaged in a sexual relationship with a 16-year old student. The educator pleaded guilty to Attempted Forcible Sodomy, a first-degree felony; Attempted Object Rape, a first-degree felony; and Forcible Sexual Abuse, a second-degree felony. The educator's license was permanently revoked.

Surrender

UPPAC Case no. 16-1324

An educator engaged in inappropriate conduct with a minor student inside her home. The educator permanently surrendered her license.

UPPAC Case no. 17-1397

An educator exchanged nude photos with an 18-year old student and engaged in sexually explicit conduct with the

student. The educator permanently surrendered his license.

Suspension

UPPAC Case No. 16-1340

An educator inappropriately disciplined special needs students, including pulling a student's pony tail, forcing students to eat to the point of vomiting, biting a student's finger, and spanking students. The educator also gave an inappropriate finger gesture to a co-worker in front of students. The educator received a minimum five-year suspension of her educator's license.

UPPAC Case No. 16-1377

An educator went to school under the influence of alcohol. The District placed her on a last chance agreement. On another occasion, the administration believed the educator was again under the influence of alcohol at school, but the educator refused to submit to a breath test. The educator received a minimum one-year suspension of her educator's license.

UPPAC Case No. 17-1390

An educator viewed pornographic material on his work computer while he was alone in his classroom after school. The educator received a minimum one-year suspension of his educator's license.

UPPAC Case No. 16-1357

An educator allowed students to rub his head and scratch his back. The educator had a prior UPPAC letter of reprimand for engaging in similar conduct. The educator

received a minimum 3-year suspension of his educator's license.

UPPAC Case No. 16-1353

An educator went to school intoxicated. Her principal requested a drug/alcohol test, and the result showed a .182 BAC. The educator was already on probation for coming to a district workshop under the influence of alcohol previously. The educator received a minimum 1-year suspension of her educator's license.

UPPAC Case No. 16-1341

An educator had inappropriate images on his work computer. The educator denied knowing the images were on his computer. He entered into a plea in abeyance to a Class A misdemeanor for Accessing Pornographic or Indecent Material on School Property. The educator received a minimum 1-year suspension of his educator's license.

UPPAC Case No. 17-1393

An educator engaged in two incidents of inappropriately accusing a student of stealing, including yelling at the students and accusing them of lying. In one instance, the educator questioned the student for over an hour. The educator received a minimum 6-month suspension of his educator's license.

Letter of Reprimand

UPPAC Case No. 16-1364

An educator opened a browser on his laptop, which projected to the front of his classroom. The browser showed several thumbnail images, one of which was an inappropriate image. The educator received a letter of reprimand to remain on his educator's license for two years.

UPPAC Case No. 17-1383

An educator's teaching certificate was suspended in another state's jurisdiction. The educator submitted an employment application to a Utah District responding that he had never been under investigation or received discipline to a teaching license. The educator received a letter of reprimand.

UPPAC Case No. 17-1386

An educator applied for a job with a District and called the human resources employee derogatory and racist

names. The educator called another employee by a racist name. The educator received a letter of reprimand to remain on her educator's license for two years.

UPPAC Case No. 16-1347

A school psychologist performed services for students in his private practice that could have received free services through the district's special education department. These services created a conflict of interest between the educator's private interest and his public duties as a District employee. The educator received a letter of reprimand to remain on his educator's license for two years.

UPPAC Case No. 17-1401

An educator showed an un-rated documentary in two of his classes. The documentary included profanity and other mature material that would be rated "R" if it were rated. The educator failed to screen the video before showing it to his class and failed to turn it off once it was clear the video was inappropriate. The educator received a letter of reprimand to remain on his educator's license for two years.

Letter of Warning

UPPAC Case no. 16-1380

An educator was helping a student use the copy machine in class. When another student came forward to help, the educator pushed him away, causing the student to stumble. The educator received a letter of warning.

UPPAC Case no. 17-1384

An educator engaged in an inappropriate phone conversation with an adult male that was harassing one of his students. He then confronted a student during school hours for fabricating a rumor that the educator had engaged in a sexual relationship with a student. The educator received a letter of warning.

UPPAC Case no. 17-1408

An educator entered a plea in abeyance to Possession of a Firearm by a Restricted Person and Possession of a Controlled Substance. The educator used marijuana and armed herself in an attempt to deal with her fear and anxiety over threats and harassment from a violent, abusive ex. The educator received a letter of warning.

UPPAC Case No. 16-1388

An educator failed to recognize and correct problems with a private basketball program that blurred with district's basketball program, creating a possible conflict of interest. The educator received a letter of warning.

QUESTIONS? PLEASE CONTACT US

Our UPPAC team is available if you need to report an ethical violation, have questions about the ethics of a situation, or if you would like us to provide training to your LEA regarding the educator standards. Please contact Brandie at (801) 538-7745.