

Court Ruling:

Court held that while the allegations of failure to address behavior were violations of IDEA, there was no evidence that the “mistake rises to the level of bad faith or gross misjudgment”. Similarly, the Court held that the school “was actively working to remedy the issue” of the peer that attacked the student, which meant that the school did not act with deliberate indifference. The Court thus granted the school summary judgment on the 504 and ADA claims.

Note—It’s increasingly common to see 504/ADA claims for money damages added to IDEA court of appeals, but the bad faith/gross misjudgment standards are a difficult one; likely reserved for the most heinous of school failure.

Takeaways:

When we notice an issue (behavioral, social, academic, etc...) we need to respond (i.e. hold IEP meetings, hold 504 meetings, get permission to evaluate, and/or to start working the problem). Furthermore, deliberate indifference typically only happens when we fail to act, even if what we are trying to implement does not work. If what we try to implement does not work, we must continue to work the problem and look for other solutions.

This was obtained from presenter Jose Martin (Attorney at Law, Richards Lindsay & Martin, LLP, Austin, Texas) at the Special Education Law Conference in Yakima 2022.