

5-2018

How the Supreme Court's Ruling in Endrew v. Douglas Will Affect Special Education

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**How the Supreme Court's Ruling in Endrew v. Douglas
Will Affect Special Education**

by

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A Starred Paper

Submitted to the Graduate Faculty of

St. Cloud State University

in Partial Fulfillment of the Requirements

for the Degree

Master of Science in

Special Education

May, 2018

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Table of Contents

	Page
List of Tables	3
Chapter	
1: Introduction.....	5
Introduction.....	5
Historical Background	6
Theoretical Background.....	11
Focus of the Paper.....	11
Rationale	12
Definitions.....	14
2: Review of the Literature	16
Problem to be Investigated.....	16
Participants.....	16
Tables of Statistics	16
Conclusions.....	32
3: Conclusions and Recommendations	33
Conclusions.....	33
Recommendations for Future Research	34
Implications for Practice	34
Summary.....	38
References.....	39

List of Tables

Table	Page
1. Number of Children and Students ages 3-21 served in the United States under IDEA, Part B.....	16
2. Number of Children and Students served under IDEA, Part B, by age group: Minnesota.....	17
3. Number of Children and Students served under IDEA, Part B, by age group: United States	18
4. Number of Students ages 6-21 served under IDEA, Part B, by disability: Minnesota.....	19
5. Number of Students ages 6-21 served under IDEA, Part B, by disability: United States	20
6. Number of Students ages 6-21 served under IDEA, Part B, by race/ethnicity: Minnesota.....	21
7. Number of Students ages 6-21 served under IDEA, Part B, by race/ethnicity: United States	22
8. Number of Students ages 6-21 served under IDEA, Part B, by educational environment: Minnesota	23
9. Number of Students ages 6-21 served under IDEA, Part B, by educational environment: United States.....	24
10. Number of Male Students ages 6-21 served under IDEA, Part B, by educational environment: Minnesota.....	26

Table	Page
11. Number of Male Students ages 6-21 served under IDEA, Part B, by educational environment: United States	27
12. Number of Female Students ages 6-21 served under IDEA, Part B, by educational environment: Minnesota.....	28
13. Number of Female Students ages 6-21 served under IDEA, Part B, by educational environment: United States	29
14. Number of Minnesota Teachers and Student Enrollment.....	30
15. Minnesota Student Enrollment Data for Special Populations.....	31

Chapter 1: Introduction

Introduction

Over six million children and/or students receive special education services each year. They can begin as early as three years old and receive them through the age of 21. These services vary greatly because they are based on their disabilities and needs. Providing these services are thousands of general education teachers, special education teachers, paraprofessionals, and school administrators. Based on numbers from the Bureau of Labor Statistics (2017), there were about 439,000 full time equivalent (FTE) special education teachers across the United States in 2016.

In March of 2017, the Supreme Court of the United States rendered a verdict that, depending on your profession, could change one's life forever. They did not decide some groundbreaking case that will touch everyone directly. They did not overturn a judgement that will be detrimental to every American citizen. What did they do then? They updated case law that has lain dormant for 35 years. Whom will it affect? Potentially, anybody and everybody that is associated with special education in public schools. Here is some background of the case.

Andrew is a student who has autism. He attended school in the Douglas County School District from preschool through fourth grade. Andrew's parents had started to question his progress both academically and functionally (Andrew, 2017). In fifth grade, the school district presented an Individualized Educational Plan (IEP) for Andrew that resembled the previous ones. Andrew's parents immediately removed him from his school and enrolled him in a school that specializes in students with autism. Andrew's parents state that during that school year he started making significant progress. Later in the year, Douglas County Schools presented another IEP to Andrew's parents. They considered it no more adequate than the previous plans. They then

sought reimbursement for Endrew's private school tuition with the Colorado Department of Education, filing a complaint under the Individuals with Disabilities Education Act (IDEA). Their claim was denied. A Federal District Court affirmed the determination. The Tenth Circuit Court also affirmed stating that Endrew had received a Free Appropriate Public Education (FAPE), based on Board of Education of Hendrick Hudson Central School District., Westchester County v. Rowley (Rowley, 1982).

Many different dynamics have brought us to this point. There is precedent, as I mentioned, at both the Supreme Court level, as well as numerous cases in District and/or Circuit Courts. There is also legislation that has helped pave the way for millions of students to have access to a public education. Data and statistics will also be presented to help see the bigger picture.

Historical Background

Mills & PARC. Before we can talk about Rowley, we must look to previous case law and legislation that got us to Endrew. Two cases in 1972 led to the "Education for All Handicapped Children Act of 1975." They were PARC v. Commonwealth of Pennsylvania and Mills v. Board of Education, DC.

The Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania, 1972 (PARC) and Mills v. Board of Education, DC. 348 F.Supp. 866 (D. DC 1972), 1972 (Mills) prompted the future legislation. In PARC, a class action suit was brought on behalf of 13 children who were mentally retarded and excluded from public education. There were four state statutes that were the basis for the complaint. The first statute relieved the State Board of Education from any obligation to educate a child whom a public school psychologist certifies as uneducable and untrainable. The second allowed an indefinite postponement of

admission to public school of any child who has not attained a mental age of five years. The third excused any child from compulsory school attendance whom a psychologist finds unable to profit therefrom. The fourth and final statute defined compulsory school age as 8-17 years but had been used in practice to postpone admissions of retarded children until 8 or eliminate them from public schools at age 17. A Consent Agreement was reached and “the Commonwealth of Pennsylvania agreed to provide, a free public education for all of its children between the ages of six and twenty-one years.”

In *Mills*, a class action suit was brought on behalf of seven school-aged children for excluding and/or denying them from a public education. Unlike *PARC*, where the students were all mentally retarded, many of the students in *Mills* were either exhibiting behavior problems or hyperactivity. All named, minor plaintiffs in *Mills* were poor, black children without financial means to obtain private education. The defendants in *Mills* admitted that they are obligated to provide these students with an education. Their argument, however, was that it would be financially impossible to provide them with the necessary programming. The court was not persuaded stating, “If sufficient funds are not available to finance all of the services and programs that are needed and desirable in the system then the available funds must be expended equitably in such a manner that no child is entirely excluded from a publicly supported education consistent with his needs and ability to benefit therefrom.”

EHA. If *PARC* and *Mills* had students with disabilities knocking at the doors to public schools, the “EHA” blew the doors off their hinges. In 1975, Congress passed Public Law 94-142, or the “Education for All Handicapped Children Act” (the EHA). The EHA essentially opened the doors to schools so children with disabilities could receive an education. Before this ruling, many students were not allowed to attend public schools. Approximately 3.7 million

students were affected in the first few years of implementation by being allowed to start school, come back to school, or return to their home school (Timeline of the Individuals with Disabilities Education Act, 2017). The EHA also initiated FAPE, which stands for free, appropriate, public, education. Through the years, many changes have been made in legislation, but the definition of FAPE has remained unchanged:

FAPE is special education and related services that:

- A. Are provided at public expense, under public supervision and direction and without charge.
- B. Meet standards of the state educational agency.
- C. Include an appropriate preschool, elementary, or secondary school education in the state involved.
- D. Are provided in conformity with the individualized education program (IDEA, 20 U.S.C. §1401[a][9][A-D]).

When there is a problem in regards to FAPE, it is typically an issue of whether or not the free, public education was appropriate. This issue was presented in *Endrew*. It is also the issue that was decided on in *Rowley*.

Rowley. The Board of Education, Hendrick Hudson Central School District v. Rowley was the first case that revolved around special education services to reach the Supreme Court of the United States. Amy Rowley was a first grade student that was deaf with minimal residual hearing. She had successfully completed her kindergarten year with the assistive technology of an FM hearing aid that amplified words spoken through a wireless receiver worn by whoever was speaking in Amy's class. During a trial period, it was deemed that an interpreter was not needed because Amy did better than most of her peers without it.

The school wanted to implement the same plan the following year: using the FM radio and other modifications and/or accommodations. Amy's parents claimed that she could have done even better with her academics, and she was denied FAPE because she was not allowed to have an interpreter with her all day, every day. The Supreme Court held that the EHA and FAPE were, for the most part, just to get students with disabilities through the door. As long as schools show "minimum benefit," it should be deemed appropriate. This came to be known as the "De Minimis" standard. The Supreme Court did not want to make an "all-encompassing rule" that all students would have to fit under. Instead, they came up with a two-part test to determine if a school district had provided a student with FAPE:

1. Has the state complied with the procedures of the EHA?
2. Is the individualized education plan developed through the EHA's procedures reasonably calculated to enable the child to receive educational benefits?

In *Rowley*, the Court determined that, "the district had in fact complied with the procedures of the EHA," and "that Amy had received an appropriate education because she was performing better than many of the children in her class and was advancing easily from grade to grade." (*Rowley*, 1982). They did note that the FAPE standard could be determined on a case-by-case basis.

IDEA. In 1990, the EHA was "reauthorized" and renamed the Individuals with Disabilities Education Act (IDEA). The other major change was the addition of mandated transition services once a student reaches a certain age. In Minnesota, the age is 14. With the update of IDEA also came additions of disability areas: Traumatic Brain Injury (TBI) and Autism, which is the disability that Andrew has.

In 1997, IDEA was again reauthorized to make all curriculums in schools available to every student, regardless of disability. It again added disability areas to ensure that services were being provided to all those that needed them and met the criteria.

In 2004, the latest round of amendments to IDEA took place. This time an emphasis was put on early interventions, raising the standards for instructors that teach students with disabilities, and increased monitoring to assure there was not a disproportionate amount of minorities placed in special education.

Endrew. Parents in Endrew claimed that a FAPE must “aim to provide a child with a disability opportunities to achieve academic success, attain self-sufficiency, and contribute to society that are substantially equal to the opportunities afforded children without disabilities.” (Endrew, 2017). This standard is considerably more ambitious than the “merely more than de minimis” standard in Rowley, which is what the school district was arguing for.

The Supreme Court found middle ground and developed what they referred to as a, “general standard not a formula” (Endrew, 2017). It states:

1. Has the school district complied with the procedures of IDEA?
2. Is the IEP reasonably calculated to enable a child to make appropriate progress in light of a student’s circumstances?

What changed? The Supreme Court of the United States refused to develop a “bright line test” to determine whether or not a student with disabilities education, provided by a public school district, is appropriate. It also refused to adopt the “merely more than de minimis” standard set forth in Rowley 35 years prior. At the same time, it rejected the petitioner’s claims that students with disabilities should be educated to the same level as their non-disabled peers.

The ruling did, however, give significant deference to the professional judgment of educators. It also, accentuated the importance of writing Individual Education Plans specifically and precisely for each student and their unique set of needs.

Theoretical Background

All teachers are different. All students are different. Teachers relate, react, and collaborate differently with each of their students and vice versa. Special Education teachers in particular work with students that not only have varying personalities, but varying disabilities. In one classroom alone, a special education teacher may be asked to work with students that have a learning disability, emotional/behavioral disability, an Autism disorder, developmental disorder or be cognitively delayed, Attention Deficit Hyperactivity disorder, Post Traumatic Stress disorder, a traumatic brain injury, a hearing impairment, and/or a physical impairment.

A teacher cannot be expected to teach each one of these students to an “A” level. At the same time, they can be expected to get them to learn something. It may very well be that a student is placed in a class and can participate 100% and be expected to receive an A or B. It is also possible that a class is the “most appropriate” or “best available option.” In this example, a student may only be expected to reach their goals and objectives in their IEP, improve their scores each assignment/assessment, or maintain certain behavioral standards. Ultimately, the goal of any teacher, especially in special education, is to teach each student enough skills or trades that they can gain employment and become a productive member of society.

Focus of the Paper

Will the results of this case affect the job retention of special education teachers and staff? Other questions that helped guide my research were:

- How will the ruling in *Endrew v. Douglas* affect Special Education students?

- How will the ruling in *Endrew v. Douglas* affect Special Education teachers?
- How will the ruling in *Endrew v. Douglas* affect parent involvement in Special Education?
- How will the ruling in *Endrew v. Douglas* affect Special Education Departments in public schools?

I believe that these are important questions because the harder it is for special education staff to do their job, the harder it is for schools to retain quality staff. For example, if there is more pressure from parents on the school district, the school district will increase its monitoring of due process, procedural safeguards, and overall quality of work. This will mean either more meetings, more observations, more paperwork, or all of the above. This will increase the workload of the special education teacher, making it even harder for them to do their job with the limited amount of time provided.

Rationale

Special Education teachers, coordinators, and school officials have been put on notice; the bar has been raised in regards to drafting IEPs. “The effect of this ruling on special education personnel seems to be straightforward. IEPs should be developed through meaningful collaboration with a student’s parents and should meet the procedural requirements of the IDEA. Moreover, IEPs must (a) be based on relevant and meaningful assessments, (b) include ambitious but reasonable measurable annual goals, (c) be composed of special education and related services that are designed to confer benefit, and (d) involve the collection of relevant and meaningful data to monitor student progress” (Yell & Bateman, 2017).

Many parents want a teacher that has had years of experience and likely have better classroom management skills. Some parents are not as worried about the experience level of the

teacher. They struggle with not being able to manage the ins and outs of school, so they want a teacher they can control, intimidate, or coerce into doing what they want.

Other parents are largely uninvolved with their child's education. Sometimes the only reason they make them go to school is that truancy laws force them to do so. These parents are partly to blame for students in special education who are so far behind in academics and therefore require services.

Most parents just want to support their child and do what is in his or her best interest. If they have an opinion about something, they share it, and it is discussed at the IEP/Evaluation meeting. The case manager, teachers, parents, administrators, and student all try to brainstorm and work together to create the best learning atmosphere possible.

Special Education teachers and case managers have the most direct contact with the student in the school setting. It is up to them to build a rapport with parents and help them acclimate to the nuances of the education setting. Special Education teachers, for the most part, are willing to accommodate most reasonable requests from the parents (e.g. having tests read aloud, extra time on tests, or even requesting their student be placed in a paraprofessional supported class). What special educators cannot do is make far-reaching promises that come with a price tag (e.g. one-on-one para support, assistive technology that may or may not be necessary or special transportation that is not within the boundaries of the district). That is not to say that those things cannot and/or will not be provided; it is just that they have to be approved by a special education district coordinator or director, as they are beyond the case manager's scope of authority.

Definitions

Autism, or Autism Spectrum Disorder, or ASD. This refers to a range of conditions characterized by challenges with social skills, repetitive behaviors, speech and nonverbal communication, as well as by unique strengths and differences (Autism Speaks, 2018)

Consent Agreement. A formal consent agreement in the employment context is an agreement concluded after preliminary investigation uncovers major unfair labor practices (U.S. Legal, 2016).

Education for All Children Act of 1975 (EHA). This ensures that handicapped children in public schools will get one free meal each school day and will have just access to an education. The schools that must provide this are those that accept federal funds for operations. This act was designed to give the parents the exclusive method to seek remedies to any obstacles in a fair education for their disabled child (Special Ed News, 2014).

Free Appropriate Public Education (FAPE). The term "free appropriate public education" means special education and related services that have been provided at public expense, under public supervision and direction, and without charge; meet the standards of the State educational agency; include an appropriate preschool, elementary school, or secondary school education in the State involved; and are provided in conformity with the individualized education program required (IDEA, 20 U.S.C. §1401[a][9][A-D]).

Individuals with Disabilities Education Act (IDEA). Services provided under idea include early intervention to children birth to five years old, special education services and curriculum modification, and services to those with disabilities. Students with specific disabilities are provided free public education until the age of twenty-one. Included in the education services for these students are preparations for employment and life skills for independent living. During this

point, transitional services are planned and enacted. IDEA applies to educational institutions that receive funding from federal sources, which include most public schools. Students have to meet specific qualifications to be covered under IDEA (Special Ed News, 2014).

Individual Education Plan (IEP). Centerpiece of the statute's (IDEA) education delivery system and is the means by which special education and related services are tailored to the unique needs of a particular child. An IEP must include: a statement of a child's present levels of academic achievement and functional performance and how the child's disability affects their involvement and progress in the general education setting. A student's IEP team includes: the student, parents(s) and/or guardians, teachers, school administration and if necessary related services. (IDEA, 20 U.S.C. §1401[a][9][A-D]).

Least Restrictive Environment (LRE). This is the requirement in federal law that students with disabilities receive their education, to the maximum extent appropriate, with nondisabled peers and that special education students are not removed from regular classes unless, even with supplemental aids and services, education in regular classes cannot be achieved satisfactorily (20 U.S.C. §1412(a)(5)(A)).

Related Services. Services that help children meet their educational goals, but they are not necessarily specialized instruction. They are as varied an individual as the students who use them. The federal special education law, IDEA, lists the following as possible related services but is not an extensive list: Speech-Language, Social Work, Counseling, and/or Occupational-Physical Therapy (20 U.S.C. §1412(a)(5)(A))

Chapter 2: Review of the Literature

Problem to be Investigated

The purpose of the statistical information that I have found is to look at the discrepancies in which students are allowed access to the public education system and what, if anything, precludes them. Since the EHA was passed in 1975, there had been a steady rise for decades in the numbers of students receiving services in special education. The number seemed to have peaked in during the 2004-2005 school year. The numbers declined until the 2012-2013 school year when they started to increase gradually again.

Participants

The specific students that will be used in each table will be listed before each table is presented. Any special education students in the given years will be represented in one or multiple tables during this chapter.

Tables of Statistics

Table 1

Number of Children and Students ages 3-21 served in the United States under IDEA, Part B

Years	Numbers	Percentages
1976-77	3,694,000	8.3
1980-81	4,144,000	10.1
1990-91	4,710,000	11.4
2004-05	6,720,000	13.8
2013-14	6,464,000	12.9

Source: U.S. Department of Education (2017)

The statistics from above are pulled from a larger table titled “Children 3 to 21 years old served under Individuals with Disabilities Education Act, Part B, by type of disability: Selected years, 1976–77 through 2013–14.” I selected these specific numbers based on how they correlate to significant dates presented in Chapter 1. The EHA was enacted in 1975, so the 1976-77 school year would have been the first under its legislation. In 1980-81, there was a significant increase in numbers largely in part to substantial rise in the areas of Specific Learning Disabilities (SLD) and Emotional Behavioral Disorder. Nineteen-Ninety was the year the EHA was reauthorized and re-named the Individuals with Disabilities Education Act (IDEA). Again, there was a slight increase. IDEA was amended again in 2004. Based on the information in the table this is when the numbers peaked. The last year that data was available (2013-14), we see a minor decline in overall enrollment in special education.

Table 2

Number of Children and Students served under IDEA, Part B, by age group: Minnesota

Years	2014-15	2015-16	2016-17
3-21	125,437		131,865
3-5	15,296		16,586
6-11	51,125		54,066
12-17	51,657		53,867
6-17	102,782		107,933
18-21	7,359		7,346

Source: U.S. Department of Education (2017)

Table 3

Number of Children and Students served under IDEA, Part B, by age group: United States

Years	2014-15	2015-16	2016-17
3-21	6,697,938		6,808,683
3-5	753,697		759,801
6-11	2,791,674		2,868,816
12-17	2,801,955		2,837,905
6-17	5,593,629		5,706,721
18-21	350,612		342,161

Source: U.S. Department of Education (2017)

Overall, in the 3-21 age range, there was a 2% increase in the number of children and students served by IDEA from the 2014-15 school to the 2016-17 school year. There was, however, a significant decrease in the number of students participating in the 18-21 program. Most of these programs are likely a transition program for students who do not have the necessary skills to gain employment or live independently. In Minnesota, there was a 5% increase during the same period. There was also a slight decrease in the 18-21 program.

Table 4

Number of Students ages 6-21 served under IDEA, Part B, by disability: Minnesota

	2014-15	2015-16	2016-17
All Disabilities	110,141	112,357	115,279
Autism	15,552	16,084	16,782
Deafness And Blindness	51	71	80
Developmental Delay	2,709	2,745	2,918
Emotional Disturbance	14,553	14,736	15,192
Hearing Impairments	1,996	2,072	2,051
Intellectual Disabilities	7,541	7,503	7,552
Multiple Disabilities	1,420	1,421	1,449
Orthopedic Impairments	1,477	1,456	1,429
Other Health Impairments	18,051	18,679	19,303
Learning Disabilities	29,615	30,298	31,255
Speech/Language Impairments	16,636	16,491	16,441
Traumatic Brain Injury	426	420	419
Visual Impairments	384	399	408

Source: U.S. Department of Education (2017)

Table 5

Number of Students ages 6-21 served under IDEA, Part B, by disability: United States

	2014-15	2015-16	2016-17
All Disabilities	5,944,241	6,050,725	6,048,882
Autism	513,688	550,405	578,765
Deafness And Blindness	1,243	1,280	1,278
Developmental Delay	141,887	149,306	154,034
Emotional Disturbance	347,752	346,488	335,301
Hearing Impairments	67,884	67,426	65,465
Intellectual Disabilities	415,335	418,540	416,205
Multiple Disabilities	125,535	125,232	125,868
Orthopedic Impairments	46,268	41,232	36,253
Other Health Impairments	857,544	907,207	934,020
Specific Learning Disabilities	2,328,530	2,348,891	2,336,960
Speech/Language Impairments	1,047,589	1,044,286	1,014,817
Traumatic Brain Injury	25,419	25,488	25,210
Visual Impairments	25,567	24,944	24,706

Source: U.S. Department of Education (2017)

From 2014-15 to 2015-16, there was only an increase of 2%. From 2015-16 to 2016-17, there was actually a decrease of 1%. There were, however, some noteworthy changes in multiple disability areas. Developmental Delay grew by 13,000 students, or by 8%, over the three years. Other Health Disabilities grew by 77,000 students, or 9%. The largest gain, however, was in the

area of Autism. Although the number of students increased (65,000) was smaller than Other Health Disabilities, the percentage was greater at 12%. Minnesota had larger overall increases, 2% and 3%, but there were minimal increases spread out across several disability areas. The largest disability category for both tables was Specific Learning Disabilities. The smallest for both was Deafness/Blindness.

Table 6

Number of Students ages 6-21 served under IDEA, Part B, by race/ethnicity: Minnesota

	2014-15	2015-16	2016-17
Race/Ethnicity Totals	110,141	112,375	115,279
American Indian or Alaska Native	3,175	3,284	3,266
Asian	4,496	4,476	4,688
Black or African American	13,771	13,943	14,356
Hispanic/Latino	10,639	11,384	12,130
Native Hawaiian or Other Pacific Islander	67	70	82
Two or more Races	4,862	5,537	6,274
White	73,131	73,571	74,483

Source: U.S. Department of Education (2017)

Table 7

Number of Students ages 6-21 served under IDEA, Part B, by race/ethnicity: United States

	2014-15	2015-16	2016-17
Race/Ethnicity Totals	5,944,241	6,050,725	6,048,882
American Indian or Alaska Native	83,854	85,690	83,536
Asian	135,810	140,382	142,915
Black or African American	1,098,117	1,107,606	1,101,705
Hispanic/Latino	1,471,367	1,531,699	1,586,009
Native Hawaiian or Other Pacific Islander	22,616	23,420	23,322
Two or more Races	178,276	195,147	212,133
White	2,954,201	2,966,782	2,899,258

Source: U.S. Department of Education (2017)

The “total” numbers are the same as in Tables 3. However, there are still some notable movements. There was a 5% increase in the number of Asian students during the 3 year period. The largest of any race/ethnicity in the table. There was also a 2% decrease in the number of white students, which was the largest decline. The largest overall group of students was “White,” and the smallest was “Native Hawaiian or Other Pacific Islander.” The “total” numbers were also the same for Minnesota. There were not any noteworthy movements.

Table 8

Number of Students ages 6-21 served under IDEA, Part B, by educational environment:
Minnesota

	2014-15	2015-16	2016-17
Environmental Totals	110,141	112,375	115,279
Correctional Facility	116	103	121
Homebound/ Hospital	246	287	297
Regular Class Less Than 40% of the Day	11,117	11,324	11,604
Regular Class 40% to 79% of the Day	25,764	26,512	26,999
Regular Class 80% or more of the Day	66,652	67,931	69,956
Parentally Placed in Private School	1,800	1,845	1,836
Residential Facility	105	91	85
Separate School	4,341	4,282	4,351

Source: U.S. Department of Education (2017)

Table 9

Number of Students ages 6-21 served under IDEA, Part B, by educational environment: United States

	2014-15	2015-16	2016-17
Environmental Totals	5,944,241	6,050,725	6,048,882
Correctional Facility	13,972	12,129	11,328
Homebound/Hospital	24,301	24,053	23,334
Regular Class Less Than 40% of the Day	802,576	815,981	811,335
Regular Class 40% to 79% of the Day	1,107,225	1,129,070	1,109,547
Regular Class 80% or more of the Day	3,722,023	3,792,901	3,819,290
Parentally Placed in Private School	84,557	88,755	85,008
Residential Facility	17,158	16,522	15,467
Separate School	172,429	171,294	173,573

Source: U.S. Department of Education (2017)

The numbers for the “totals” again remain the same. The largest increase in the number of students was in the environment of being in the mainstream classroom 80% or more during each day. That increase was 97, 267 or about 3%. Two areas had a significant decline in student numbers: Residential Facility (1,691 or 10%) and Correctional Facility (2,644 or 19%).

Minnesota, on the other hand, had an increase in number of students in the Correctional Facility (5 or 12%). Another environment that grew considerably was Homebound/Hospital. That grew by 18% (51 students). There was a major decrease in the numbers at Residential Facilities, however (20 students or 20%).

Another thing to note is that these tables do not follow the Federal Instructional Settings, which are (The Arc: Greater Twin Cities, 2016):

1. The student receives the majority of their education in regular classes. Students are outside of the regular classroom less than 21% of the school day.
2. The student receives education in a resource room. Students are outside of the regular classroom 21 – 60% of the school day.
3. The student receives education in a separate class that includes students with disabilities. Students are outside of the regular classroom more than 60% of the day.
4. The student receives education in a separate day school facility for more than 50% of the school day. This is a specially designed educational program only for students with disabilities.
5. The student receives education services in a private separate day school (at public expense) for more than 50% of the school day. This is a specially designed educational program only for students with disabilities.
6. The student receives educational services in a public residential program for more than 50% of the school day. This is a specially designed educational program only for students with disabilities.
7. The student receives educational services in a private residential facility (at public expense) for more than 50% of the school day. This is a specially designed education program only for students with disabilities.
8. The student receives education services in a homebound/hospital setting.

Table 10

Number of Male Students ages 6-21 served under IDEA, Part B, by educational environment:
Minnesota

	2014-15	2015-16	2016-17
Environmental Totals	74,763	76,130	78,019
Correctional Facility	116	103	118
Homebound/ Hospital	149	175	189
Regular Class Less Than 40% of the Day	7,674	7,841	8,075
Regular Class 40% to 79% of the Day	17,183	17,604	17,900
Regular Class 80% or more of the Day	45,241	45,989	47,242
Parentally Placed in Private School	1,166	1,199	1,211
Residential Facility	60	52	47
Separate School	3,174	3,167	3,237

Source: U.S. Department of Education (2017)

Table 11

Number of Male Students ages 6-21 served under IDEA, Part B, by educational environment:
United States

	2014-15	2015-16	2016-17
Environmental Totals	3,919,565	3,984,041	3,974,568
Correctional Facility	12,550	10,784	10,039
Homebound/ Hospital	15,099	14,915	14,288
Regular Class Less Than 40% of the Day	551,991	562,299	560,077
Regular Class 40% to 79% of the Day	725,054	740,172	727,604
Regular Class 80% or more of the Day	2,426,097	2,465,862	2,473,842
Parentally Placed in Private School	53,561	55,997	53,610
Residential Facility	11,367	10,965	10,367
Separate School	123,846	123,047	124,741

Source: U.S. Department of Education (2017)

Across the United States there was a 2% increase in the numbers of male students from 2014-15 to 2015-2016 and then a 1% decrease from 2015-16 to 2016-17. Most of the areas has slight increases in numbers. Two areas had significant decreases. They were Residential Facilities (9%) and Correctional Facilities (20%). These same areas declined in tables 5.

In Minnesota, however, there was a 2% increase from 2014-15 to 2015-2016 and then another 3% increase from 2015-16 to 2016-17 of male students. Much like the previous tables, there was an increase in Homebound/Hospital services (22%) while there was a decrease in male students in Residential Facilities (22%).

Table 12

Number of Female Students ages 6-21 served under IDEA, Part B, by educational environment:
Minnesota

	2014-15	2015-16	2016-17
Environmental Totals	35,378	36,245	37,260
Correctional Facility	0	0	3
Homebound/ Hospital	97	112	108
Regular Class Less Than 40% of the Day	3,443	3,483	3,529
Regular Class 40% to 79% of the Day	8,581	8,908	9,099
Regular Class 80% or more of the Day	21,411	21,942	22,744
Parentally Placed in Private School	634	646	625
Residential Facility	45	39	38
Separate School	1,167	1,115	1,114

Source: U.S. Department of Education (2017)

Table 13

Number of Female Students ages 6-21 served under IDEA, Part B, by educational environment:
United States

	2014-15	2015-16	2016-17
Environmental Totals	1,965,204	2,007,174	2,014,120
Correctional Facility	1,152	1,119	1,037
Homebound/ Hospital	9,101	9,056	8,956
Regular Class Less Than 40% of the Day	245,620	248,549	246,329
Regular Class 40% to 79% of the Day	368,817	375,913	368,830
Regular Class 80% or more of the Day	1,256,754	1,287,431	1,305,081
Parentally Placed in Private School	30,401	32,196	30,821
Residential Facility	5,396	5,238	4,868
Separate School	47,963	47,672	48,198

Source: U.S. Department of Education (2017)

The number of female students served under IDEA across the United States increased 2% from 2014-15 to 2015-2016 and then another 1% from 2015-16 to 2016-17. There were not many large gains though. The biggest was a 4% increase of female students staying in the mainstream classroom for 80% or more of the day.

In Minnesota, the number of female students served went up 3% each of the corresponding years for a 6% increase total. There was a 300% increase in students in Correctional Facilities, escalating from 0 to 3. Another growing area was the number of female students receiving Homebound or Hospital services at 11%. The biggest decline was a 16% reduction in the number of female students enrolled in a Residential Facility.

One thing to note about the last three sets of tables is that there is a specific category of “Parentally Placed in Private Schools.” This is important based on the facts of Endrew where his parents pulled him out of public school to put him into a private school that specialized in students with Autism. From the statistics shown above, we see that about 1.5% of the total number of students and/or children ages 3-21 are pulled out of public school by their parents and placed in a private school. There was minimal change over the 3 years noted in the data. Across the United States there was a 1% increase in each year based on the growth in numbers. This was slightly higher in Minnesota, averaging closer to 3% increases each year.

Table 14

Number of Minnesota Teachers and Student Enrollment

Years	Teachers	Enrollment
2010	56,790	822,697
2011	55,388	823,235
2012	56,943	824,858
2013	57,763	830,482
2014	58,211	836,207
2015	59,574	842,062
2016	60,090	848,742

Source: Minnesota Department of Education (2017)

The number of teachers has increased slightly since the 2009-10 school year. A 5.8% increase across the seven school years. During the same time period, public school enrollments increased by 3.2%. This increase represents a decrease in the student teacher ratio from 14.4 students per teacher in 2010 to 14.1 students per teacher in 2016 (MDE, 2017).

Table 15

Minnesota Student Enrollment Data for Special Populations

Years	Free/Reduced Lunch	Limited English	Special Education Students
2006	251,820	58,974	130,911
2007	257,196	63,364	105,336
2008	262,056	62,626	106,637
2009	270,247	68,083	112,057
2010	292,794	62,589	108,258
2011	301,974	63,608	109,894
2012	307,527	63,984	110,567
2013	318,129	65,083	111,221
2014	322,000	68,512	112,273
2015	323,009	70,462	113,111
2016	323,531	71,481	115,192

Source: Minnesota Department of Education (2017)

The number of special education students has increased from 12.6% to 13.5% of the total enrollment. (MDE) Based on the “Teacher Shortage Areas Nationwide Listing 1990-1991 through 2017-2018,” the only teachers that were included in every year that was provided (information was not submitted from 1992-1993 to 1999-2000 and 2002-2003 through 2004-2005) were Emotional and Behaviorally Disabled, English as a Second Language, and Specific Learning Disabilities (USDOE, 2017).

Conclusions

The numbers rise and fall moderately from year to year in special education. They go up when students make their initial qualification. They drop when students age out or meet their goals and objectives. Most of the time students just move around from one facility to facility. One school to another. Once setting to another. Correctional facility to hospitalization. The one constant that these students need are teachers to help them accomplish their goals.

Chapter 3: Conclusions and Recommendations

Looking at the history, the law, and the statistics it is a lot to take in. The sheer numbers alone open the doors to probability for potential conflict. I do think that most people try to do what they think is right. Teachers, parents, students, school officials, and anyone else involved in the IEP process. What we do, as everything else in life, is learn from mistakes and try to improve the process moving forward.

Conclusions

One thing that stood out to me is the decline in the number of special education students from 2004 to 2014. (Table 1) Although not a drastic decline, this was during a time that many students were being identified more in disability areas like Autism Spectrum Disorder, Emotional Behavioral Disorder, and Other Health Disabilities (based on the rise in ADHD diagnosis). The numbers seem to pick back up in the three years after that though, to get back on the increase that it was on. (Table 3) The largest disability area continues to be Specific Learning Disabilities, which has more than twice as many students as the second most, which is Speech/Language Impairments. (Tables 4 and 5) As I noted, the largest growing disability areas by number of students and percentage of growth are Other Health Disabilities and Autism Spectrum Disorder respectively (Tables 4 and 5).

Positively, based on Tables 8 and 9, we see that over the three-year period (2014-2017), there was a decline in the number of students in both Residential and Correctional Facilities. That is assuming that those students moved back into educational settings and were not dropouts. Most of the numbers from the rest of the tables regarding educational environment followed the same pattern as the “males” (Tables 10 and 11). That was likely because males constitute approximately 70% of the students in special education.

Recommendations for Future Research

After searching for information in regards to what an “appropriate education” is based on special education and an IEP, I found that there is not much. I would like to see reviews, interviews, surveys, or evaluations completed by all parties involved in the IEP. Teachers, parents, students, and as well as administrators. I know this is done via teacher observations every three years, but those files are for the school districts eyes only. I would like to have someone come in after each student graduates and have parents give their honest opinion about how they thought their kid’s teachers were.

The problem with that, at least in the special education realm, is that there is already too much paperwork. Parents do not want to look at or fill out any more paperwork than they already have had to do. This is very much the same with meetings and conferences. If a student begins receiving special education services in Kindergarten, and they stay in through their senior year of high school, parents/guardians will attend about 23 meetings. That is just for IEP’s and evaluations for special education. That does not count school conferences, behaviors, etc.

One thing to note is that this case law is only a year old. The issue and precedent will be challenged through litigation more as time goes on. More information and data will come from the cases that are presented.

Implications for Practice

Without seeing Andrew’s school file, it is hard to know all the facts. We do not know what was in the IEP. We do not know how detailed the evaluations were. We do not know what was said at the meetings. We did not get a chance to see the communication log. In today’s society where everyone is under a microscope from parents needing to know and have input on everything, teachers especially need to protect themselves. Document everything!

If a teacher has a problem with a student in class...send an email that puts an electronic stamp on it for the time and date. If a teacher calls home . . . write it in a communication log with the time and date. If you try an intervention, new strategy, modify and assignment . . .

Special Education teachers also have to make sure that they are meeting their deadlines. If they do not, it is just one more reason for parents or the school district to come down on them. Based on the decision in Endrew, I do not think that a lot has changed; however, it brought the issue back into the spotlight so society is likely more aware. Teachers are professionals and they do the best job that then can. Society is not on their side right now though. They need to be meticulous about following guidelines, but in special education, they also need to follow special education due process and procedural safeguards.

In light of that information, special educators need to help teachers better serve their students. Seminars during workshop days keeping them up to speed on the ever-changing environment that is special education is essential, especially in light of the Endrew decision. Reminding staff that “everything” needs to be documented is important. Interventions need to be done. Communication is key. Modifications and accommodations need to be followed. The special education case manager is the one that the responsibility falls on; however, no one will ever see their name on a court case. It is the school district that gets the press, and it ends up falling on everyone.

Administrators should be in the loop on everything. Anything documented should be sent to the principal or assistant principal, especially if there may be a need for a follow up by the teacher or the administration.

In the short time that I have been a special education teacher, I have not been told that I could not have something or do something to help one of my students. That being said, I have

never really asked for anything that amounted to any significant amount of money either. My point is that when something comes up and the parents are requesting something, special educators need to communicate everything properly with their coordinator and or director. They may have curriculum, programs, and/or lesson plans on hand to help. They may have access to assistive technology. They may have alternatives to the current modifications, accommodations, or strategies being used. They may have experience with the same or similar situations. Case managers should not be the ones to promise or deny students or parents something they are requesting.

Many times there are special education teachers servicing students in the classroom that are on someone else's caseload. Much like they have to help general education teachers by giving them the necessary information, they need to do the same with other special education teachers. Since the atmosphere is different in a special education classroom or resource room, behaviors, performance, and conduct may be drastically different. Certain students or staff could be triggers as well.

Much like the student, parents struggle with the educational process if their student has difficulties. No parent wants to watch their child go through hours of homework, failing grades, or feeling inadequate. They are under stress to help their student in any way that they can. The IEP team should put them at ease as much as possible. Parents can also help themselves by letting the school know what they need from them. What have they found to work best? What does not work at all? There is no sense trying things if they have been proven to fail. In addition, parents need to be straightforward about their child's strengths and weaknesses. It is not going to do anyone any good if parents say, "She is a great student. We do not have any concerns," and then two weeks later the truth comes out, and the IEP team needs to scramble to

get the proper supports in place. Sometimes parents do not do this on purpose; they just do not know what their child needs. They need to be up front about that too. The same can be said about doing too much for the student when it really is not necessary. As a student gets older, they typically mature and become more responsible for their own obligations. Not always, but typically this means that they require less assistance, and thus, less services from the IEP team. However, parents are often the ones that have the hardest time letting go and letting the student show their independence. The bottom line is that all members of the IEP team need to communicate with each other to help ensure that the student receives the services that they need to be successful.

Students also need to own their part in the IEP team as well. Showing up for IEP meetings is crucial (and legally mandatory) once they reach 9th grade. This gives them the opportunity to speak up for themselves and not let the parents and teachers make decisions they are not on board with. There is no sense of doing something or trying something if the student is not on board from the beginning.

The school district and administration need to be kept up to speed as to what is happening in certain situations. I would guess about 95% of meetings and actual written IEPs there are no issues with. However, if a special education teacher, case manager, or general education teacher feels that there is or may be a concern, then the district should be notified. At every IEP meeting there should be an administrator present as the district representative. If this is the case, then it should be their duty to report if something comes up during the meeting. If there is an issue at school, a phone call, or something that arises when an administrator is not present, they should be notified.

Notifying the district can be as simple as talking to the district's special education coordinator. In my experience, once they get involved, situations get resolved quickly. If not, then the special education director for the district will need to get involved. I have never seen this but based on the many cases regarding special education, I know it happens.

Summary

Bringing this full circle based on my guiding question, "Will the Supreme Court's ruling in Endrew affect special education moving forward?" I would say yes, without a doubt. How much it will affect it cannot be determined right now. New cases will come forward based on the ruling; new law will be enacted based on Endrew or another case, or maybe just school policies will be changed to help ensure what happened in Endrew does not happen in their district.

Special education teachers, specifically case managers, will see the most change. They are the ones who are responsible for due process being followed, ensuring procedural safeguards are in place, and the IEP is written properly. They are also the ones who need to make sure the student is scheduled in the correct classes, insisting that the accommodations and/or modifications are being followed, and advocating for the students when they need a voice.

Ultimately, if proper communication is kept between all parties (case manager, special education teacher, general education teacher, administration, and parents/guardians), things usually work themselves out before it comes to litigation. At the end of the day, everyone is doing what they can do to help the student be successful and become a productive member of society. If we can do that for all students, particularly those in special education, we can be proud of ourselves.

References

- Autism Speaks. (2018). Retrieved from <https://www.autismspeaks.org/what-autism>
- Board of Education, Hendrick Hudson Central School District v. Rowley, 458 U.S. 176. (1982).
- Education for All Handicapped Children Act, Pub. L. No. 94-332. (1975).
- Endrew F. v. Douglas County School District, 580 U.S. (2017).
- Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq. (2006 & Supp. V. 2011); § 1400 (2004); §1401[a][9][A-D].
- Least Restrictive Environment Requirements, 20 U.S.C. 1412(a)(5)(A).
- Mills v. Board of Education, DC. 348 F. Supp. 866 (D. DC 1972).
- Minnesota Department of Education. (2017). 2017 Report of Teacher Supply and Demand in Minnesota's Public Schools. Roseville.
- Pennsylvania Association for Retarded Children v. the Commonwealth of Pennsylvania, 343 F. Supp. 279 (E.D. Pa. 1972).
- The Arc: Greater Twin Cities. (2016). Retrieved from https://arcminnesota.org/content/uploads/sites/3/2016/06/Arc-Guide-to-LRE-in-Special-Education-and-Federal-Setting_June-2016-2.pdf
- Timeline of the Individuals with Disabilities Education Act. (2017). Retrieved from <https://educationonline.ku.edu/community/idea-timeline>
- U. S. Bureau of Labor Statistics. (2017). Special Education Teachers. Washington DC: Office of Occupational Statistics and Employment Projections.
- U. S. Department of Education. (2017). Teacher Shortage Areas Nationwide Listing. Washington DC: Office of Postsecondary Education.
- U. S. Legal. (2016). Retrieved from <https://definitions.uslegal.com/f/formal-consent-agreement/>

Yell, M. L., Bateman, D. F. (2017). Endrew v. Douglas County School District. FAPE

and the U.S. Supreme Court. *Teaching Exceptional Children*, Volume 50, Issue 1, pp. 7-

15.