



Solano County SELPA January Newsletter

Happy New Year!

With the year upon us, we look to the upcoming issues facing special education across the nation, Specifically, we look to the pending case of Perez v Sturgis which is before the US Supreme Court. You may be thinking, of the famous Sturgis in South Dakota, home of the annual motorcycle rally, however, this case takes us eastward to Sturgis, Michigan.

This petition, on appeal from the 6th Circuit will likely significantly impact the nature of special education litigation. What's it all about? It is about exhaustion...

In special education matters, the current legal interpretation is that a plaintiff must go through the due process hearing procedure and get a hearing decision that they can appeal to federal court to seek "damages." That means they "exhausted" the legal remedy at the hearing level and can move on to higher courts and seek damages.

This can be viewed as disincentive for petitioners to mediate their disputes and reach a settlement via mediation or other dispute resolution. Why? Because if a plaintiff settles in mediation and doesn't get a hearing decision to appeal, they can't go after the big bucks in damages by going to federal court and seeking damages in a discrimination claim!

This is the crux of the Perez v. Sturgis case that sits ...

— Exhaustion Continued—

Professional Development Opportunities

- 1/18 - 11:30-1 PM - [Creating a safe and supportive classroom through enhancing the environment with Tier 1 strategies for all students](#)
- 1/18 - 1:30-3:30 PM - [Tips for Students w/ ODD \(Oppositional Defiant Disorder\)](#)
- 1/18 - 3:30-5:00 PM - [Math Engagement Strategies](#)
- 1/24 - 3:30-5:00 PM - [Supporting struggling students throughout the day: Demystifying Tier 2 social emotional supports in the classroom](#)
- 1/25 - 2:00-3:30 PM - [Reinforcement \(R+\) Session 2 of 3](#)

— Exhaustion Continued —

... before the Supreme Court. In essence, plaintiffs have asked the court, Does the IDEA's require plaintiffs to go through the full administrative hearing process before seeking money damages not available under the IDEA (e.g., suing in federal court for discrimination or violation of the ADA)?

No one knows for sure how the Supreme Court will rule, yet there are indicators that the court may alter this long standing rule and allow direct suites for money damages after a mediated agreement.

Specifically, the court requested a brief by the US Solicitor General, who sported the court taking up this issue. The Supreme Court agreed to take up the matter on October 3, 2022. If the Court had not, there would be no change to the current interpretation. Numerous briefs have been filed in support of the plaintiffs and only a few from school professional organizations in opposition. The writing, is seems, is on the wall and schools should brace for change and increased damages claims.

The Court will hear the argument on January 18, 2023. Stay tuned.

January Events

Date	Event
1/9	Special Education Council
1/18	SELPA Governance and Finance Committee
1/19	Council of Superintendents (COS)
12/15	Community Advisory Committee (CAC)