On Monday, October 3, the Supreme Court granted certiorari to hear Perez v. Sturgis Public Schools in which a deaf student is challenging the Sixth Circuit’s dismissal of his claims seeking money damages under the Americans with Disabilities Act (ADA). Perez is asking the Court to determine whether and in what circumstances courts should excuse exhaustion of the Individuals with Disabilities Education Act’s (IDEA) administrative proceedings under Section 1415(l). Under the IDEA, students with disabilities have a right to a "free appropriate public education" (FAPE). In this case, Sturgis Public Schools failed to provide Miguel Perez with a qualified sign language interpreter for twelve years. Following administrative proceedings in which ADA claims were dismissed for lack of jurisdiction, the district and the student settled their IDEA claims in full. The administrative hearing to determine whether Perez had received an appropriate education under IDEA was obviated by the settlement. Miguel Perez now brings suit under the ADA seeking money damages for past harms.

The Sixth Circuit ruled that the ADA claim was barred by 20 USC 1415(l) which requires a plaintiff to exhaust non IDEA claims to the same extent as would be required for IDEA claims, if the plaintiff seeks relief in the non-IDEA claim that is also available under the IDEA. The court found that Perez’s claim is fundamentally about the denial of education.Because the IDEA provides relief for that injury the claim was barred for lack of exhaustion. The Sixth Circuit held that the exhaustion requirement in IDEA has no futility exception and that even if one could be found, Perez’s claim was not entitled to such an exception. The court held that an administrative law judge’s (ALJ) inability to provide monetary damages cannot form the basis of futility because procedures, not remedies, are exhausted and IDEA’s administrative process was capable of providing relief for Perez’s denial of a free and appropriate education, even if it was not the relief he sought.

The dissent disagreed with the majority and found that a futility exception to IDEA’s exhaustion requirement exists and would apply to Perez because he is seeking a remedy for discrimination he experienced and the resulting emotional and mental distress for which an administrative law judge is incapable of compensating. The dissent found that Congress could not have intended to require litigants to exhaust their remedies by rejecting an acceptable IDEA settlement offer, forcing students to choose between immediately obtaining the free and appropriate public education to which they are entitled, or forgoing that education so they can enforce their ADA right of equal access to institutions.

Currently, in the 3rd Circuit, W.B. v. Matula, stands for the premise that exhaustion is not required where plaintiffs received all other relief available to them under the IDEA through a settlement agreement and were seeking money damages not available through administrative process. This term, the Supreme Court will decide whether IDEA’s exhaustion requirement is susceptible to a futility exception. A holding that there is no futility exception to IDEA exhaustion requirements will impact settlements of IDEA claims that could potentially involve collateral claims under other anti-discrimination statutes.