

The Burger Court Opinion Writing Database

Board of Education of Hendrick Hudson Central School District, Westchester County v. Rowley

458 U.S. 176 (1982)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 7, 1982

Re: 80-1002 - Board of Education of the Hendrick
Hudson Central School District v. Rowley

Dear Bill:

I join.

Regards,

Handwritten signature of William Rehnquist, appearing as 'WRB'.

Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

April 5, 1982

RE: No. 80-1002 Bd. of Education, etc. v. Rowley

Dear Byron:

Thurgood, you and I are in dissent in the above.
Would you be willing to undertake the dissent?

Sincerely,



Justice White

cc: Justice Marshall

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

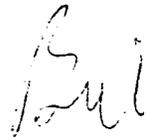
June 3, 1982

RE: No. 80-1002 Board of Education, etc. v. Roxley

Dear Byron:

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "White", written in dark ink.

Justice White

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 8, 1982

Re: 80-1002 - Board of Education
v. Rowley

Dear Bill,

I shall try my hand at a dissent in this
case.

Sincerely yours,

BRW

Justice Brennan

✓ cc: Justice Marshall

cpm

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

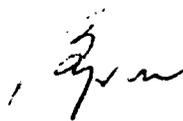
May 18, 1982

Re: 80-1002 - Board of Education of the
Hendrick Hudson School District v. Howley

Dear Bill,

I voted the other way, at least tentatively, and will attempt a dissent in this case, which I find quite difficult.

Sincerely yours,



Justice Rehnquist

Copies to the Conference

cpm

To: The Chief Justice
Justice Brennan
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice White**

Circulated: 2 JUN 1982

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1002

BOARD OF EDUCATION OF THE HENDRICK HUD-
SON CENTRAL SCHOOL DISTRICT BD. OF ED.,
WESTCHESTER COUNTY, ET AL., PETI-
TIONERS *v.* AMY ROXLEY, BY HER PAR-
ENTS AND NATURAL GUARDIANS,
CLIFFORD AND NANCY
ROWLEY ETC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SECOND CIRCUIT

[June —, 1982]

JUSTICE WHITE, dissenting.

In order to reach its result in this case, the majority opinion contradicts itself, the language of the statute, and the legislative history. Both the majority's standard for a "free appropriate education" and its standard for judicial review disregard congressional intent.

I

The majority first turns its attention to the meaning of a "free appropriate public education." The Act provides:

The term "free appropriate public education" means special education and related services which (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required

To: The Chief Justice
Justice Brennan
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice White**

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES:

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1002

BOARD OF EDUCATION OF THE HENDRICK HUDSON CENTRAL SCHOOL DISTRICT BD. OF ED., WESTCHESTER COUNTY, ET AL., PETITIONERS *v.* AMY ROWLEY, BY HER PARENTS AND NATURAL GUARDIANS, CLIFFORD AND NANCY ROWLEY ETC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June —, 1982]

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To: The Chief Justice
Justice Brennan
✓ Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice White**

- Stylistic & pp. 3-5 -

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8 JUN 1982

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1002

BOARD OF EDUCATION OF THE HENDRICK HUD-
SON CENTRAL SCHOOL DISTRICT BD. OF ED.,
WESTCHESTER COUNTY, ET AL., PETI-
TIONERS *v.* AMY ROWLEY, BY HER PAR-
ENTS AND NATURAL GUARDIANS,
CLIFFORD AND NANCY
ROWLEY ETC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SECOND CIRCUIT

[June —, 1982]

JUSTICE WHITE, dissenting.

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STYLISTIC CHANGES THROUGHOUT.
SEE PAGE 4

To: The Chief Justice
Justice Brennan ✓
Justice Marshall ✓
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice White**

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4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1002

BOARD OF EDUCATION OF THE HENDRICK HUD-
SON CENTRAL SCHOOL DISTRICT BD. OF ED.,
WESTCHESTER COUNTY, ET AL., PETI-
TIONERS *v.* AMY ROWLEY, BY HER PAR-
ENTS AND NATURAL GUARDIANS,
CLIFFORD AND NANCY
ROWLEY ETC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SECOND CIRCUIT

[June —, 1982]

JUSTICE WHITE, dissenting.

In order to reach its result in this case, the majority opin-
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islative history. Both the majority's standard for a "free ap-
propriate education" and its standard for judicial review
disregard congressional intent.

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provided at public expense, under public supervision and
direction, and without charge, (B) meet the standards of
the State educational agency, (C) include an appropriate
preschool, elementary, or secondary school education in
the State involved, and (D) are provided in conformity
with the individualized education program required

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 2, 1982

Re: No. 80-1002 - Bd. of Ed. of the Hendrick Hudson
Central School District v. Roxley

Dear Byron:

Please join me in your dissent.

Sincerely,

J.M.

T.M.

Justice White

cc: The Conference

to: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Blackmun

Circulated: JUN 14

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No. 80-1002 - Board of Education of the Hendrick Hudson
Central School District v. Rowley

JUSTICE BLACKMUN, concurring in the judgment.

Although I reach the same result as the Court does today, I read the legislative history and goals of the Education for All Handicapped Children Act differently. Congress unambiguously stated that it intended to "take a more active role under its responsibility for equal protection of the laws to guarantee that handicapped children are provided equal educational opportunity." S. Rep. No. 94-168, p. 9 (1975) (emphasis added). See also 20 U.S.C. §1412(2)(A)(i) (requiring States to establish plans with the "goal of providing full educational opportunity to all handicapped children").

As I have observed before, "[i]t seems plain to me that Congress, in enacting [this statute], intended to do more than merely set out politically self-serving but essentially meaningless language about what the [handicapped] deserve at the hands of state ... authorities." Pennhurst State School v. Halderman, 451 U.S. 1, 32 (1981) (opinion concurring in part and concurring in the judgment). The clarity of the legislative intent convinces me that the relevant question here is not, as the Court says, whether Amy Rowley's individualized education program was "reasonably calculated to enable [her] to receive

P.2

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice Blackmun**

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1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1002

BOARD OF EDUCATION OF THE HENDRICK HUDSON CENTRAL SCHOOL DISTRICT, WESTCHESTER COUNTY, ET AL., PETITIONERS *v.* AMY ROWLEY, BY HER PARENTS AND NATURAL GUARDIANS, CLIFFORD AND NANCY ROWLEY, ETC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June —, 1982]

JUSTICE BLACKMUN, concurring in the judgment.

Although I reach the same result as the Court does today, I read the legislative history and goals of the Education for All Handicapped Children Act differently. Congress unambiguously stated that it intended to "take a more active role under its responsibility for equal protection of the laws to guarantee that handicapped children are provided *equal educational opportunity*." S. Rep. No. 94-168, p. 9 (1975) (emphasis added). See also 20 U. S. C. § 1412(2)(A)(i) (requiring States to establish plans with the "goal of providing full educational opportunity to all handicapped children").

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 9, 1982

80-1002 Board of Education v. Rowley

Dear Bill:

Please join me.

Sincerely,

A handwritten signature in cursive script that reads "Lewis".

Justice Rehnquist

lfp/ss

cc: The Conference

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1002

BOARD OF EDUCATION OF THE HENDRICK HUDSON CENTRAL SCHOOL DISTRICT, WESTCHESTER COUNTY, ET AL., PETITIONERS *v.* AMY ROWLEY, BY HER PARENTS AND NATURAL GUARDIANS, CLIFFORD AND NANCY ROWLEY, ETC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[May —, 1982]

JUSTICE REHNQUIST delivered the opinion of the Court.

This case presents a question of statutory interpretation. Petitioners contend that the Court of Appeals and the District Court misconstrued the requirements imposed by Congress upon States which receive federal funds under the Education for All Handicapped Children Act. We agree and reverse the judgment of the Court of Appeals.

I

The Education for All Handicapped Children Act of 1975 (Act), 20 U. S. C. § 1401 *et seq.*, provides federal money to assist state and local agencies in educating handicapped children, and conditions such funding upon a State's compliance with extensive goals and procedures. The Act represents an ambitious federal effort to promote the education of handicapped children, and was passed in response to Congress' perception that a majority of handicapped children in the United States "were either totally excluded from schools or [were] sitting idly in regular classrooms awaiting the time when they were old enough to 'drop out.'" H.R. Rep. No. 94-332, p. 2 (1975). The Act's evolution and major provi-

Stylistic changes

pp. 8, 12-13, 24-26, 30, 33

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1002

BOARD OF EDUCATION OF THE HENDRICK HUD-
SON CENTRAL SCHOOL DISTRICT BD. OF ED.,
WESTCHESTER COUNTY, ET AL., PETI-
TIONERS *v.* AMY ROWLEY, BY HER PAR-
ENTS AND NATURAL GUARDIANS,
CLIFFORD AND NANCY
ROWLEY ETC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SECOND CIRCUIT

[June —, 1982]

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P.24

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: **Justice Rehnquist**

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3.1d
2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1002

BOARD OF EDUCATION OF THE HENDRICK HUDSON CENTRAL SCHOOL DISTRICT BD. OF ED., WESTCHESTER COUNTY, ET AL., PETITIONERS v. AMY ROWLEY, BY HER PARENTS AND NATURAL GUARDIANS, CLIFFORD AND NANCY ROWLEY ETC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June —, 1982]

JUSTICE REHNQUIST delivered the opinion of the Court.

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 28, 1982

MEMORANDUM TO THE CONFERENCE

Cases held for Board of Education v. Rowley, No. 80-1002.

1. Springdale School District No. 50 v. Grace, No. 81-596. Respondent in this case is a totally deaf child who, at the age of four, was enrolled in a special education program for the hearing-impaired at a regular elementary school in Fayetteville, Arkansas. She made virtually no progress. At the age of six her parents withdrew her from the Fayetteville public school and moved to Little Rock where she was enrolled in the Arkansas School for the Deaf. The child there improved her communication skills markedly, but her parents withdrew her after three years in the school and moved to Springdale, Arkansas where they enrolled her in the Springdale public school.

Springdale tested the child and formulated an Individualized Educational Program (IEP) which stated that the Arkansas School for the Deaf in Little Rock was the proper school to meet her educational needs. Her parents disagreed and sought review of this part of the IEP, and a state hearing officer concluded that the child could receive an appropriate education in the Springdale public school. This decision was affirmed on the state level and in January 1980 a full-time certified teacher for the deaf was provided for the child in the Springdale school.

In February 1980, the Springdale school system initiated this action in federal district court to seek review of the decision that the child be educated in the public school rather than in the state school for the deaf. The DC held that, although the school for the deaf would provide the best education, the public school could provide an "appropriate" education while allowing the child to remain within the mainstream of nonhandicapped students. Accordingly, the DC agreed with the state administrative decision.

CA 8 affirmed. The CA held that the Act's requirement of a "free appropriate public education" does not mean the

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 4, 1982

Re: 80-1002 - Board of Education v. Rowley

Dear Bill:

Please join me.

Respectfully,



Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 12, 1982

No. 80-1002 Board of Education of the Hentrick
Hudson Central School District,
Westchester County v. Rowley

Dear Bill,

Please join me in your opinion.

Sincerely,



Justice Rehnquist

Copies to the Conference

35 45

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