No. 11-539

IN THE **Supreme Court of the United States**

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ARTONDALE ELEMENTARY SCHOOL: JODI COY. in her

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A. Congress included the exhaustion

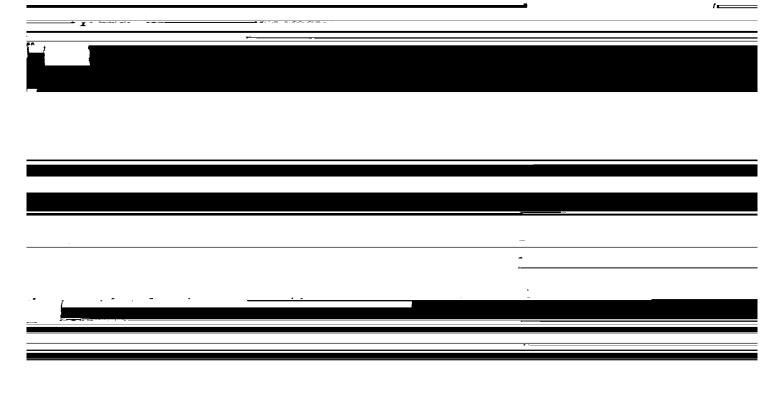


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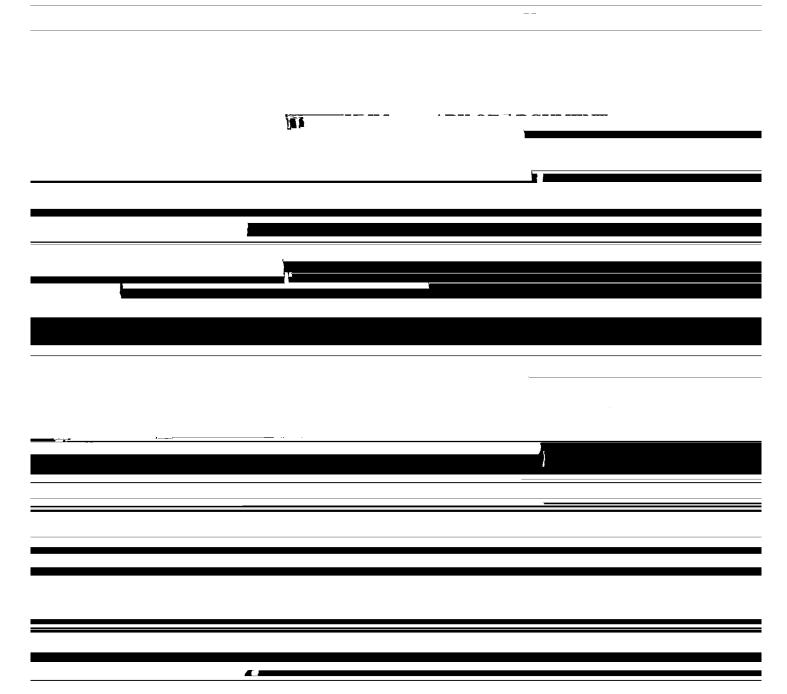
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the ability to formulate and implement a student's educational program without the specter of costly litigation, knowing instead that the parties will take part in a more predictable and expedient administrative dispute resolution process should disagreements arise



A. Congress included the exhaustion requirement to encourage parents and schools to work together to resolve educational issues concerning children with disabilities.

Congress enacted what is now 20 U.S.C. § 1415(l) in response to the Supreme Court's decision in *Smith v. Robinson*, 468 U.S. 992 (1984), which found that the IDEA was "the exclusive avenue through which" claims related to special education could be asserted. The *Smith* Court foreclosed the picture to each demonstrate or dether proveding which are

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When Congress enacted § 1415(l), its intent was to open the door that *Smith* closed, specifically allowing claims under "other Federal laws protecting the rights of children with disabilities." However, while § 1415(l) permits other federal claims, it limits those claims as follows:

> before the filing of a civil action under such laws seeking relief that is also available under this subchapter, the procedures under sections (f) and (g) [administrative dispute resolution procedures] shall be exhausted to the same extent as would be required had the action been brought under this subchapter.

By requiring the exhaustion of administrative remedies prior to seeking relief under other federal laws, Congress preserved "the rationale of *Smith* which had used the primacy of the IDEA process as a reason for precluding plaintiffs from resorting to other _theories_to_get_into_court" __Terry _Jean_

agency to develop a factual record, to exercise its discretion, and to correct its own mistakes, and is credited with promoting accuracy, efficiency . . . and judicial economy." *Frazier*, 276 F.3d at 60 (*quoting Christopher W. v. Portsmouth Sch. Comm.*, 877 F.2d 1089, 1094 (1st Cir. 1989)). When plaintiffs are given a "back door," allowing them to circumvent the exhaustion requirement, the underlying purposes of the UDEA are constant.

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a manner that creates no barrier at all to artful pleading.

The Ninth Circuit's exhaustion test exposes a conflict within the majority's own reasoning. On one hand, the test gives no means to prohibit artful pleading. On the other hand, it asserts that plaintiffs should not be allowed to escape exhaustion merely by limiting their claims to a request for

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action was filed." Dissent at 9783. . . 14. ____ -

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then such evidence was 'also available' before the

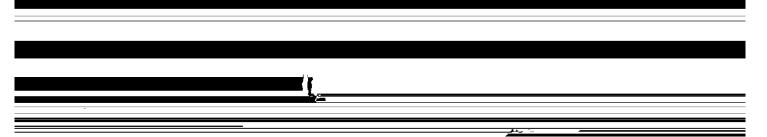
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The IDEA recognizes that the courts are illequipped to act as fact-finders in matters relating to special education. See Doe v. Alfred, 906 F.Supp. 1092, 1100 (S.D. W.Va. 1995); Zasslow v. Menlow

caseload will be especially dramatic in California, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia. The due process hearings held in these states account for approximately 80% of all hearings nationwide. ç — 1 4.

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education, those services must be provided. Nothing in the statute requires any inquiry as to why those services are required. Thus, if a child suffers from crippling anxiety at school, and that anxiety must be alleviated before he can learn (or, in the words of "benefit from special the statute, education"), the IDEA plainly requires psychological services to be provided. It makes no difference whether that anxiety was caused by the school or whether it was caused by some external factor.

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