

## Emotional Distress Damages Off the Table in ADA Claims, but Liability for other Damages Persists

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Schools cannot be sued for emotional distress under Title II of the Americans with Disabilities Act (ADA), but they may still face financial liability. In *Payan v. Los Angeles Community College District* (9th Cir. 2026) 169 F.4th 971, the Ninth Circuit Court of Appeals determined that emotional distress damages are not an available remedy under the Americans with Disabilities Act (ADA). This follows in the footsteps of the 2022 Supreme Court decision *Cummings v. Premier Rehab Keller, P.L.L.C.* (2022) 596 U.S. 212, where the Supreme Court determined that emotional distress damages were not recoverable under Section 504 of the Rehabilitation Act (Section 504).

### Background

Two blind students enrolled at a community college within the Los Angeles Community College District (LACCD) and were approved for disability accommodations, such as accessible materials and testing support. According to the trial record, despite these approvals, the two students experienced ongoing barriers to their education. The online learning platforms and websites were inaccessible; the course materials were not provided in accessible formats; there was difficulty obtaining testing accommodations; and the students only had limited access to library resources and classroom participation. As a result, these two students sued LACCD in federal District Court. A jury found LACCD had intentionally violated disability laws under the ADA, which requires state and local governments to provide people with disabilities equal opportunity to benefit from all programs, services, and activities. The jury awarded the first student \$218,500 in damages and the other student \$24,000 in damages.

After the verdict, LACCD believed this jury award was likely based on emotional distress damages or lost educational opportunities, both of which LACCD argued are not permitted remedies under the ADA. Believing the damages to be improper, LACCD requested the judge reduce the jury awards, and the judge agreed. The two students then appealed this decision to the Ninth Circuit.

### Ninth Circuit's Decision

Ultimately, the Ninth Circuit agreed that emotional distress damages are not available under the ADA. The two students attempted to distinguish their case from the *Cummings* case, arguing that because the *Cummings* case concerned Section 504 of the Rehabilitation Act (Section 504), rather than the ADA, its decision should not apply.

The Ninth Circuit was not persuaded. While the students brought their argument under the ADA and not Section 504, the ADA outlines its rights and remedies to be the same as Section 504, putting the *Cummings*' decision directly on point. The Ninth Circuit determined that, because Section 504 receives its remedial scope from Title VI of the Civil Rights Act, so too does the ADA.

However, the Ninth Circuit agreed with the students that compensatory damages for lost educational opportunities are available under the ADA and Section 504. The Ninth Circuit provided that in order to receive lost opportunity damages, plaintiffs must prove the amount of damages with reasonable certainty. Here, only two of the judges determined the students had proven these original amounts with reasonable certainty, with one judge believing the students had not. The Ninth Circuit then sent this case back to the district court with instructions to reinstate the original jury awards of \$218,500 and \$24,000 in damages for lost educational opportunities.

## Takeaways

This case further expands the *Cummings* decision by applying the bar of emotional distress damages to the ADA, and emphasizes the importance of understanding the remedies available under specific statutory schemes.

Although plaintiffs cannot get emotional distress damages, they can still get significant financial awards from other types of damages. This serves as a good reminder for clients to audit their programs and facilities for accessibility, including electronics, and ensure any accommodations granted are actually being implemented.

If you have any questions about *Payan v. Los Angeles CCD*, emotional distress damages, or ADA or Section 504 claims in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#) and [LinkedIn](#), or download our [mobile app](#).

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