

Supreme Court Holds Emotional Distress Damages Are Not Recoverable for Claims Arising Under Some Antidiscrimination Statutes

May 2, 2022

On April 28, 2022, the U.S. Supreme Court issued its 6-3 decision in **Cummings v. Premier Rehab Keller, P.L.L.C.**, holding that emotional distress damages are not recoverable in a lawsuit brought under the Rehabilitation Act of 1973 (Section 504) or the Affordable Care Act (ACA). The court's ruling also applies to claims arising under other antidiscrimination statutes where the courts have implied a private right of action, including Title VI of the Civil Rights Act, which prohibits race, color, and national origin discrimination in federally funded programs or activities and Title IX of the Education Amendments Act of 1972, which similarly prohibits sex-based discrimination.

In *Cummings*, a deaf and legally blind individual sought physical therapy services. When her request for a sign language interpreter was declined, she sued, alleging that the physical therapist's failure to provide an interpreter constituted discrimination on the basis of disability. The Supreme Court affirmed the dismissal of the plaintiff's claims, holding that the plaintiff was only alleging emotional distress damages and humiliation and that such damages were not available.

The court ruled that Congress has broad powers under the Constitution's Spending Clause to enact statutes prohibiting recipients of federal assistance from discriminating against individuals on the basis of a protected category. Such statutes have been held to be akin to a contract between the government and the recipient of the federal funds. The court held that "[r]ecipients cannot 'knowingly accept' the deal with the Federal Government unless they 'would clearly understand . . . the obligations' that would come along with doing so." The court held that this notice requirement included any potential penalties for the recipient's violation of the statute.

The impacts of the court's decision include the following:

- Certain antidiscrimination statutes enacted under the Spending Clause are silent as to available remedies and therefore, a federal funding recipient is only on notice of potential penalties for a violation of the statute if: (1) the statute explicitly includes the remedies available for a violation or (2) the remedy requested is generally available in a breach of contract lawsuit.
- Emotional distress damages are not generally available when applying general principles of contract law, thus recipients of federal funds are not on "clear notice" regarding such potential liability.
- Unless the statute at issue specifically provides for emotional distress damages, a plaintiff is foreclosed from seeking such relief from a recipient of federal funds concerning any statute enacted under the Spending Clause, including the Rehabilitation Act, the ACA, Title VI, and Title IX.

If you have any questions about these developments or how they may impact your educational institution or business, please contact the authors of this alert or your Miller Canfield attorney.