UNITED STATES DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

SEP 21
1999

[redacted]

Dear [redacted]

Your letter dated March 4, 1999, written to U.S. Senator Richard J. Durbin, has been referred to the Office of Special Education and Rehabilitative Services (OSERS) for response.

In your letter to Senator Durbin, you express concerns about the effects of the recent decision of the United States Supreme Court in Cedar Rapids Community School District_ v. Garret F(1999). You believe that the Court's decision will require school districts to provide a full-time nurse to each student with a disability who is eligible for services under the Individuals with Disabilities Education Act (IDEA). You are also concerned that this decision will require school districts to provide more services to disabled students than to other students and will divert scarce resources away from nondisabled students. You therefore question how school districts will finance the obligations resulting from the Court's decision.

In the Cedar Rapids case, the Supreme Court concluded that the Individuals with Disabilities Education Act (IDEA) requires the District to provide Garret Frey with the nursing services he requires during school hours, since these services are "school health services", and not the types of "medical services that are excluded from the Act's coverage." This recent Supreme Court decision is consistent with the interpretation of the law first enumerated by the Supreme Court in its earlier decision in Irving Independent School District v Tatro. 468 U.S. 881-(1984). However, nothing in either the Cedar Rapids decision or the earlier Tatro decision requires every school district to provide every disabled student with the services of a full-time nurse. To the contrary,

under IDEA, a school district would be required to provide a disabled student with the types of services at issue in the Cedar Rapids decision only if it is determined through applicable procedures that the student requires those services in order to receive a free appropriate public education. Therefore, the Cedar Rapids decision should not represent a change in practice for any State or school district that has been appropriately implementing IDEA.

The Cedar Rapids decision basically reaffirmed statutory requirements that have been in effect since 1975. As such, it should not result in increased special education costs in districts that are complying with the provisions of the IDEA. Most school districts have long regarded the types of services at issue in the Cedar Rapids decision as a part of their responsibility in educating disabled students.

Under IDEA, children with disabilities are entitled to receive, at no cost to themselves or their families, the related services, including health services that can be provided at school by nonphysicians, that are necessary to allow them access to public education with their nondisabled peers. The Department believes that the Supreme Court's decisions, in both Tatro and Cedar Rapids, are consistent with the primary purpose of the IDEA, "to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs... " 20 U.S.C. §1401 (d) (1) (A) .

The IDEA has provisions designed to help school districts provide special education and related services, including health services. In each State there must be mechanisms such as interagency agreements that require non-educational agencies, such as Medicaid, to provide and pay for the special education and related services that they are otherwise responsible for. These interagency agreements must also include reimbursement procedures so that the schools get paid if they provide a service that another agency covers. In addition, a state can use a portion of the funds it retains for State level activities under IDEA to help districts pay for high cost children. States and school districts can also

use a portion of their IDEA funds to set up and run coordinated services systems designed to improve results for all children, including children with disabilities.

Please also note that the number of children across the country who require the type of one-on-one attention that was required by the student in the Cedar Rapids decision is, by all available estimates, small. In addition, the cost of hiring ,health personnel will vary depending on the level of licensure required by State law. To obtain information about Illinois law relevant to these matters, you may wish to contact the named official of the Illinois State Board of Education at the address and telephone number listed below:

Dr. Gordon M. Riffel
Special Assistant to the Superintendent
Special Education Coordination
Illinois State Board of Education
100 N. First Street, E-216
Springfield, Illinois 62777-0001
Telephone: (217)782-3371

we hope that you find this explanation helpful in clarifying the Supreme Court's decision and the requirements of the IDEA. If you would like further assistance, you should contact Dr. JoLeta Reynolds or Ms. Rhonda Weiss of the Office of Special Education Programs (OSEP) at (202) 205-5507 or Ms. Suzy Rosen Singleton, the Part B of IDEA State contact in Illinois in the Monitoring and State Improvement Planning Division at (202)260-3180 (Federal Relay Service).

Sincerely,

Patricia J. Guard
Acting Director
Office of special Education
Programs

CC: Honorable Richard J. Durbin
United States Senate