



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

AUG 2 1999

Dear [REDACTED]

Your email communication to President Clinton dated March 4, 1999, which was received in the Department on April 6, 1999, has been forwarded to the Department's Office of Special Education Programs (OSEP) for response. The issue raised in your correspondence is how school districts will be able to finance the costly services that they will be required to provide to certain disabled students as a result of the U.S. Supreme Court's decision in Cedar Rapids Community School District v Garret F. (decided Mar. 4, 1999). Please excuse the delay in issuing this response.

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) .

In your letter, you urge the need for further legislative action to either reverse the Supreme court decision or to provide the necessary funding to help school districts finance the cost of the services that they will be required to provide as a result of the Supreme Court's decision. In particular, you are concerned that the imposition of such financial burdens will have an adverse impact on regular education students. We do not believe that any amendments to the Individuals with Disabilities Education Act (IDEA) are needed because the Cedar Rapids decision should not represent a change in practice for most States and school districts. 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. Many school districts have long regarded the types of services at issue in the Cedar Rapids

600 INDEPENDENCE AVE.. S.W. WASHINGTON. D. C.
20202

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

decision. as a part of their responsibility in educating disableded 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 non-physicians, 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, States can use a portion of the IDEA grant to help districts pay for high cost children. States and school districts can also use a portion of their IDEA grants 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 California law relevant to these matters, you may wish to contact the named official of the California State Department of Education at the following address and telephone number:

Dr. Alice Parker
State Director
Special Education Division
California State Department of Education
515 L Street, #2-70
Sacramento, CA 95814

Telephone: (916) 445-4613

I hope that you find this explanation helpful. Enclosed for your information are final regulations implementing the IDEA Amendments of 1997, in the event that you have any question about the explanation set out in this letter.

If this Office can be of further assistance, please contact Dr. JoLeta Reynolds or Ms. Rhonda Weiss of the Office of Special Education Programs at (202) 205-5507, or Ms. Ellen Safranek, the California State contact for Part B of IDEA in the Monitoring and State Improvement Planning division at (202) 205-9131.

Sincerely,

Thomas Hehir
Director
Office of Special Education
Programs

CC: Dr. Alice Parker
California State Department of
Education

Enclosure