

Supreme Court Case on Nursing Services for Students with Disabilities

Q: The Supreme Court asked, on Monday, for the Administration's views on a case involving the provision of nursing services to a child with disabilities in a public school. Has the Administration been involved in this case and what advice will the Administration give the Court?

A: This case (Cedar Rapids Community School District v. Garrett F.) raises the question whether the Individuals with Disabilities Education Act (IDEA), which guarantees a free appropriate public education to all children with disabilities, requires a school district to provide continuous nursing services to a child with significant disabilities, where those services are needed to enable the child to attend school. The Administration has not been involved in this case. The Department of Justice will consult with the Department of Education, which administers the IDEA, in preparing a response to the Court's request.

October 8, 1997



FORTUNA_D @ A1
10/06/97 04:58:00 PM

Record Type: Record

To: William H. White Jr., William R. Kincaid

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Subject: COURT ASKS ADMINISTRATION OPINION ON NURSES FOR ...

Date: 10/06/97 Time: 10:55

SCourt asks administration opinion on nurses for disabled students

WASHINGTON (AP) The Supreme Court today asked the Clinton administration whether it thinks public school districts must pay for nurses to accompany some disabled students throughout the school day.

The court wants to hear Justice Department lawyers' view of rulings that require a Cedar Rapids, Iowa, school district to pay for the nursing services needed by a teen-age boy identified in court papers as Garret F.

The justices are not expected to say whether they will grant full review to the Iowa case until hearing from the government lawyers, which could take months.

At issue is the scope of the federal Individuals with Disabilities Education Act. The law provides that all children with disabilities receive a "free appropriate public education."

Under the law, public schools are required to provide various "special education and related services." But an exception is made for medical services.

Garret, injured in a motorcycle accident at age 4, is a quadriplegic and ventilator dependent. His mental abilities were unaffected, and he is now in the ninth grade.

During the school day, he requires a personal attendant to see to his health-care needs. Through most of his schooling, a licensed practical nurse has served as that attendant.

In 1993, Garret's mother asked the school district to pick up the costs of providing an attendant for Garret.

She said such costs are to be free "related services" provided under the federal law. But school officials said one-on-one nursing services are medical, not educational, and do not have to be provided at taxpayer expense.

A federal trial judge and the 8th U.S. Circuit Court of Appeals ruled for Garret and against the school district.

The appeals court relied heavily on a 1984 Supreme Court ruling that said public school officials had to pay for and provide a special procedure for a child disabled by spina bifida and unable to urinate by herself.

Such services, the high court said then, "are no less related to the effort to educate than are services that enable the child to reach, enter or exit the school."

But that 1984 opinion added: "It bears mentioning that not even the services of a nurse are required."

In the appeal acted on today, lawyers for the Cedar Rapids school officials noted that three other federal appeals courts have ruled that schools don't have to pay for continuous services provided by licensed nurses.

The case is Cedar Rapids Community School District vs. Garret F., 96-1793.

APNP-10-06-97 1058EDT

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Cedar Rapids Community School District v. Garret F.

The U.S. Supreme Court has asked the Administration's views on reviewing a decision by the United States Court of Appeals for the Eighth Circuit under the Individuals with Disabilities Education Act (IDEA). The Eighth Circuit ruled that the IDEA requires the provision of continuous nursing services to a quadriplegic elementary school student who requires catheterization, suctioning of a tracheostomy, repositioning, ventilator setting checks, and a number of other services in order to permit his attendance at school.

The IDEA requires school districts to provide "related services," i.e., supportive services, that are necessary to assist a child with disabilities to benefit from special education. However, districts are generally not required to provide "medical" services. In 1984, the Supreme Court held in the Tatro case, that the provision of catheterization services to a disabled student was a required related service, and not an excluded medical service. The Court considered whether the service could be provided by a nurse or other qualified professional, rather than a physician, but did not state that students' medical needs must be met in all cases where a physician's services are not required. Since that time, some courts have held that the provision of "private duty" (i.e., continuous service) nursing services are not required by the IDEA.

The Department of Education has not taken a position on the Garret case or on the other cases that have addressed the provision of nursing services. In response to inquiries, in the past the Department has stated that the determination of whether particular services are required related services, as opposed to medical services, must be made on a case-by-case basis. If the team that develops the individualized education program (IEP) for a child determines that nursing services are a required related service for a particular child, those services must be provided at no cost to the parents.



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NUMBER OF PAGES INCLUDING COVER SHEET: 3

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