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The Individuals with Disabilities Education Act (IDEA): Supreme Court Decisions

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Summary

The Individuals with Disabilities Education Act (IDEA) is both a grants statute and a civil rights statute. It provides federal funding for the education of children with disabilities and requires, as a condition for the receipt of such funds, the provision of a free appropriate public education (FAPE). The statute also contains detailed due process provisions to ensure the provision of FAPE. Originally enacted in 1975, the act responded to increased awareness of the need to educate children with disabilities, and to judicial decisions requiring that states provide an education for children with disabilities if they provided an education for children without disabilities. Since its enactment, the Supreme Court has addressed several issues arising under the act, including the interpretation of FAPE, the interpretation of the "stay-put" provision in the due process requirements, and interpretations of related services. This report discusses the Supreme Court's decisions under IDEA and will be updated as appropriate.

Contents

The Individuals with Disabilities Education Act (IDEA): Supreme Court Decisions

Introduction

The Individuals with Disabilities Education Act (IDEA)[1] is both a grants statute and a civil rights statute. It provides federal funding for the education of children with disabilities and requires, as a condition for the receipt of such funds, the provision of a free appropriate public education (FAPE). The statute also contains detailed due process provisions to ensure the provision of FAPE. Originally enacted in 1975, the act responded to increased awareness of the need to educate children with disabilities, and to judicial decisions requiring that states provide an education for children with disabilities if they provided an education for children without disabilities.[2] Since its enactment, the Supreme Court has addressed several issues arising under the act, including the interpretation of FAPE, the interpretation of the "stay-put" provision in the due process requirements, and interpretations of related services. This report discusses the Supreme Court's decisions under IDEA.

Free Appropriate Public Education

Statutory Provision

The core requirement of IDEA is that a state must provide children with disabilities a free appropriate public education in order to receive federal funding under the act.[3] FAPE is defined in the statute as meaning "special education and related services that — (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary school, or

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[1] 20 U.S.C. §1400 et seq.

[2] For a more detailed discussion of the congressional intent behind the enactment of P.L. 94-142, see CRS Report 95-669, "The Individuals with Disabilities Education Act: Congressional Intent," by Nancy Lee Jones. IDEA has undergone several reauthorizations, including the most recent one, which resulted in P.L. 108-446. For a discussion of this reauthorization, see CRS Report RL32716, *The Individuals with Disabilities Education Act (IDEA): Analysis of Changes Made by P.L. 108-446*, by Richard N. Apling and Nancy Lee Jones.

[3] 20 U.S.C. §1412(a)(1).

secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under section 614(d)."[4]

Hendrick Hudson Central School District v. Rowley

Board of Education of the Hendrick Hudson Central School District v. Rowley,[5] decided in 1982, was the first IDEA case to reach the Supreme Court.[6] When the IDEA complaint was first filed, Amy Rowley was a deaf first grader whose parents were also deaf. Her individualized education program (IEP) provided that she should be educated in a regular classroom, use an FM hearing aid, and receive instruction from a tutor for the deaf for one hour each day and from a speech therapist for three hours each week. Amy's parents agreed with parts of the IEP but insisted that she be provided a sign-language interpreter in all her academic classes. The request for an interpreter was denied, and the Rowleys pursued their due process remedies. The district court found that Amy was a remarkably well-adjusted child who had an extraordinary rapport with her teachers. The court also found that Amy was performing better than the average child in her class and was advancing easily from grade to grade but was understanding considerably less of what goes on in class than she could if she were not deaf. This disparity between Amy's achievement and her potential led the district court to conclude that she was not receiving a free appropriate public education. This decision was affirmed by the court of appeals, but the U.S. Supreme Court reversed.

The Supreme Court noted that there was no substantive language in IDEA regarding the level of education to be accorded to children with disabilities and observed that "(i)mplicit in the congressional purpose of providing access to a 'free appropriate public education' is the requirement that the education to which access is provided be sufficient to confer some educational benefit upon the handicapped child."[7] The Court concluded that "the 'basic floor of opportunity' provided by the Act consists of access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child."[8] The Court held that the requirement of FAPE is met when a child is provided with personalized instruction with sufficient support services to benefit educationally from that instruction. This instruction must be provided at public expense, meet the state's educational standards, must approximate the grade levels used in the state's regular education, and must comport with the child's IEP. The Court found that when a child with a disability is mainstreamed, "the system itself monitors the educational progress of the child.... The grading and advancement system thus constitutes an

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[4] 20 U.S.C. §1401(9).

[5] 458 U.S. 176 (1982).

[6] For the purposes of this report, the law will generally be referred to as IDEA, the Individuals with Disabilities Education Act, although it was originally known as the Education for All Handicapped Children Act, EAHCA. The name was changed by P.L. 101-476.

[7] 458 U.S. 178 at 200.

[8] *Id.* at 201.

important factor in determining educational benefit."[9] Therefore, the IEP "should be formulated in accordance with the requirements of the Act and, if the child is being educated in the regular classrooms of the public education system, should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade."[10]

However, the states are not required to "maximize" each child's potential.[11] If the child is progressing from grade to grade and making measurable and adequate gains, the FAPE requirement is met.

The Supreme Court also stated that in ensuring that the requirements of the Act have been met, courts must be careful to avoid imposing their view of preferable educational methods upon the states. The primary responsibility for formulating the education provided was left by IDEA to state and local educational agencies. As the Court noted, determining when children with disabilities are "receiving sufficient educational benefits to satisfy the requirements of the Act presents a more difficult problem"[12] than complying with requirements for access to education. Due to the wide spectrum of disabilities, the Court did not attempt to establish any one test for determining the adequacy of educational benefits and confined its analysis to the facts of the case.

Rowley remains a seminal decision under IDEA and is often cited by courts attempting to determine the parameters of a free appropriate public education. However, the lower courts have varied in how expansively they have interpreted *Rowley*, with some courts interpreting *Rowley* to support schools' IEPs if the procedural requirements have been met, even if the educational progress is minimal. For example, in *Fort Zumwalt School District v. Clynes*,[13] the eighth circuit emphasized *Rowley's* "access to education" requirement and held that the IEP was adequate. The court noted that the child was making progress, earning passing marks and advancing to the next grade, despite reading proficiency scores in the second to ninth percentile. However, the dissenting opinion described the child's achievement as "trivial" and argued that "(t)his cannot be the sort of education Congress had in mind when it enacted IDEA."[14] Other courts have read *Rowley* more expansively. For example, in *Polk v. Cent. Susquehanna Intermediate Unit 16*,[15] the third circuit examined the "some educational benefit" language in *Rowley* and held that it

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[9] *Id* at 203.

[10] *Id.* at 203-204.

[11] *Id*. at 198.

[12] *Id.* at 202.

[13] 119 F.3d. 607 (8th Cir. 1997), *cert. denied*, 523 U.S. 1137 (1998).

[14] *Id.* at 617 (dissenting opinion by Judge Gibson). For a more detailed discussion of *Fort Zumwalt* see Charlene K. Quade, "A Crystal Clear Idea: The Court Confounds the Clarity of *Rowley* and Contorts Congressional Intent," 23 Hamline J. Pub. L. and Policy 37 (2001).

[15] 853 F.2d 171 (3d Cir. 1988), *cert. denied.*, 488 U.S. 1030 (1989).

required an IEP to provide more than de minimis educational benefit.[16] Similarly, the fifth circuit, in *Cypress-Fairbanks Indep. School District v. Michael F.*,[17] quoted from *Rowley* and concluded that "the educational benefit that an IEP is designed to achieve must be 'meaningful.'"[18] In order to determine whether an IEP meets this standard, the *Cypress-Fairbanks* court identified four factors: (1) the program is individualized, (2) the program is administered in the least restrictive environment, (3) the services are provided in a coordinated and collaborative manner, and (4) positive academic and nonacademic benefits are demonstrated.[19] Other courts have looked at academic achievement testing, as well as grades, to measure educational benefit. For example, in *Houston Independent School Dist. v. Bobby R.*,[20] the court looked at the child's scores on the Woodcock Johnson intelligence and achievement test to determine the child's educational progress.[21]

The application of the Supreme Court's analysis in *Rowley* to current controversies is somewhat confused by the change in the usage of the term "educational standards." Although the Supreme Court in *Rowley* required that the instruction given to a child with a disability meet the state's educational standards, the term "educational standards" has taken on a different meaning in recent years. Currently, the term "educational standards" is likely to refer to specific content-based standards that delineate what a child should know and be able to perform at various points in his or her educational career.

The 1997 Amendments to IDEA[22] reflected the standards-based education movement. P.L. 105-17 significantly changed the IEP requirements and required that the IEP include, among others, a statement of the child's present levels of educational performance, including the effect of the child's disability on the child's involvement and progress in the general curriculum, and a statement of measurable annual goals designed to enable the child to progress in the general curriculum.[23] In addition, in the statement of findings for the 2004 reauthorization, P.L. 108-446 states that "[a]lmost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by — (A) having high expectations for such children and ensuring their access to the general curriculum in the regular classroom to the maximum extent possible...."[24]

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[16] *Id.* at 180-185.

[17] 118 F.3d 245 (5th Cir. 1997), *cert. denied*, 522 U.S. 1047 (1998).

[18] *Id.* at 248.

[19] *Id.* at 253.

[20] 200 F.3d 341 (5th Cir. 2000), *cert. denied*, 531 U.S. 817 (2000).

[21] *Id.* at 349.

[22] P.L. 105-17.

[23] P.L. 105-17 §614(d)(1)(A), 20 U.S.C. §1414(d)(1)(A). IDEA was most recently reauthorized by P.L. 108-446 in 2004. This revision continued the standards based requirements of P.L. 105-17.

[24] 20 U.S.C. §1400(c)(5)(A).

The Supreme Court in *Rowley* held that FAPE requires that "the 'basic floor of opportunity' provided by the Act consists of access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child" and that the instruction must meet the state's educational standards.[25] Given the fact that the standards-based education movement, as reflected in IDEA and The No Child Left Behind Act (NCLBA),[26] has raised the standards from what was required in the version of the law the Supreme Court interpreted, questions could be raised concerning the current application of *Rowley*. It could be argued that because the Supreme Court emphasized that courts must not impose their view of preferable educational methods on the states, the change in the standards does not affect the core of the Court's *Rowley* holding. However, the Court also stated that the child's access to education must be sufficient to confer "some educational benefit" and that states are not required to "maximize" each child's potential. The Supreme Court has not overruled *Rowley*, and it could be argued that the *Rowley* standard is flexible enough not to present a conflict with subsequent changes in educational law relating to standards-based instruction. On the other hand, one commentator has argued that the Supreme Court would not reach the same decision today as it did in *Rowley*. "The cryptic and intangible *Rowley* standard of benefit is rightfully dying, if not already dead. By focusing on standards for all students, and participation and progress in the general curriculum, IDEA '97 illuminates a more objective and quantifiable approach to the subjective *Rowley* benefit analysis developed through subsequent case law."[27]

Private School Placement

Background

Issues concerning what services are required for children with disabilities placed in private schools, and who is to pay for these services, have been a continuing source of controversy under IDEA.[28] Under current law, a child with a disability may

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[25] *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 201, 203 (1982).

[26] 20 U.S.C. §§6301-6777. For a discussion of the requirements of the NCLBA, see CRS Report RL31284, *K-12 Education: Highlights of the No Child Left Behind Act of 2001 (P.L. 107-110)*, by Wayne Riddle. For a discussion of the relationship between the NCLBA and the IDEA, see CRS Report RL32913, *The Individuals with Disabilities Education Act (IDEA): Interactions with Selected Provisions of the No Child Left Behind Act (NCLBA)*, by Richard N. Apling and Nancy Lee Jones.

[27] Joyce O. Eckrem and Eliza J. McArthur, "Is the *Rowley* Standard Dead? From Access to Results," 5 UC Davis J. Juv. L. & Policy 199 (Summer 2001). See also Tara L. Eyer, "Greater Expectations: How the 1997 IDEA Amendments Raise the Basic Floor of Opportunity for Children with Disabilities," 103 Dick. L. Rev. 613 (1999).

[28] For a discussion of these issues under current law, see CRS Report RS22044, *The Individuals with Disabilities Education Act (IDEA): Services in Private Schools Under P.L. 108-446*, by Nancy Lee Jones, and CRS Report RL33368, *The Individuals with Disabilities*

(continued...)

be placed in a private school by the local educational agency (LEA) or state educational agency (SEA) as a means of fulfilling the FAPE requirement for the child. In this situation, the full cost is paid for by the LEA or the SEA. A child with a disability may also be unilaterally placed in a private school by his or her parents. In this situation, the cost of the private school placement is not paid by the LEA unless a hearing officer or a court makes certain findings. However, IDEA does require some services for children in private schools, even if they are unilaterally placed there by their parents.[29]

Supreme Court Decisions

The current statutory provisions regarding private schools are the result of several major amendments, and the Supreme Court decisions on private schools are prior to the statutory changes. However, the statutory changes have not affected the holdings of the two Supreme Court cases regarding reimbursement for private school costs in certain circumstances.

In *School Committee of the Town of Burlington v. Department of Education of Massachusetts*,[30] the father of a child with specific learning disabilities rejected a proposed IEP and placed the child, at his own expense, in a state-approved private school for special education. In an unanimous decision written by Justice Rehnquist, the Supreme Court held that the statutory provision granting courts the right to grant such relief as the court deems appropriate includes the power to order school authorities to reimburse parents for private school expenditures. However, this reimbursement is permitted only if a court ultimately determines that the private school placement, rather than a proposed IEP, is proper under the act.

In the subsequent unanimous decision of *Florence County School District Four v. Carter*,[31] the Supreme Court was again presented with a situation in which parents had unilaterally placed a child with a disability in a private school, alleging that the public school's proposed IEP did not meet IDEA requirements. The district court and the fourth circuit court of appeals found that the proposed IEP violated IDEA. On appeal to the Supreme Court, the issue was whether the parents were barred from reimbursement because the private school did not meet the IDEA requirements for a free appropriate public education. The Court held that reimbursement cannot be barred because of noncompliance with the requirements because these requirements in part require that the education be provided at public expense and under public supervision and direction[32] and that "these requirements do not make sense in the

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[28] (...continued)
Education Act (IDEA): Parentally Placed Children in Private Schools, by Richard N. Apling and Nancy Lee Jones.

[29] 20 U.S.C. §1312(a)(10).

[30] 471 U.S. 359 (1985).

[31] 510 U.S. 7 (1993).

[32] This requirement is still in current law. 20 U.S.C. §1401(9).

context of a parental placement."[33] Similarly, the failure of the private school to meet state education standards did not bar reimbursement. "Parents' failure to select a program known to be approved by the State in favor of an unapproved option is not itself a bar to reimbursement."[34]

Related Services

Statutory Provisions

As noted above, IDEA's requirement of a free appropriate public education is the cornerstone of the act. FAPE is defined in part as requiring "special education and related services."[35] Related services are defined as meaning

> transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and *medical services*, except that such medical services shall be for diagnostic and evaluation purposed only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.[36]

Supreme Court Decisions

Two of the Supreme Court's decisions under IDEA have involved the concept of related services, and both have involved the issue of what is a medical service. In *Irving Independent School District v. Tatro*,[37] the Court examined the case of an eight-year-old girl with spina bifida who required clean intermittent catheterization (CIC), and held that the school must provide the service. The Court held that services affecting both the medical and educational needs of a child must be provided under IDEA if (1) the child has a disability so as to require special education, (2) the service is necessary to help a child with a disability benefit from special education, and (3) a nurse or other qualified person who is not a physician can provide the service. Services that could be provided outside the school day would not need to be provided. *Tatro* drew a bright line between services that had to be provided by a doctor and those that could be provided by a person who was not a physician. However, after *Tatro*, some courts of appeals did not apply this bright line but used other factors, such as the nature and extent of services. This set the stage for another

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[33] 510 U.S. 7, 13 (1993).

[34] *Id.* at 14.

[35] 20 U.S.C. §1401(9).

[36] 20 U.S.C. §1401(26) (emphasis added).

[37] 468 U.S. 883 (1984).

Supreme Court decision in 1999, *Cedar Rapids Community School District v. Garret F.*[38]

Garret F. involved a child who was paralyzed from the neck down as a result of a motorcycle accident when he was four years old. The child retained his mental capacities and was described by the Court as a "friendly, creative, and intelligent young man." For a number of years, his family arranged for his physical care during the school day, but eventually they requested the school to accept financial responsibility for his health-care services. Because the child was ventilator-dependent, these services were fairly substantial and included providing suction on his tracheotomy tube and manually pumping air through an air bag when suction is being provided. In addition, he needed assistance with catheterization and eating. The school denied the parents' request and proposed a test for related services in which the outcome would depend on a series of factors, such as whether the care was continuous and the cost of the services. The Court rejected this proposed test and used the same reasoning it had used in *Tatro*, finding that the medical services exclusion from the definition was limited to the services of physician or a hospital. This holding, the Court stated, was in keeping with the overarching purpose of IDEA "to open the door of public education to all qualified children."[39]

Procedural Safeguards

Background and Statutory Provisions

In enacting P.L. 94-142, the original version of IDEA, Congress provided grants to the states to help pay for education for children with disabilities and also delineated specific requirements the states must follow to receive these federal funds. This public law contained a requirement that if there is a dispute between the school and the parents of a child with a disability, the child "stays put" in his or her current educational placement until the dispute is resolved using the due process procedures set forth in the statute. The concept of "stay put" was placed in the statute to help eliminate the then common discriminatory practice of expelling children with disabilities from school. A revised "stay put" provision remains as law in the current version of IDEA.[40]

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[38] 526 U.S. 66 (1999).

[39] *Id.* at 78.

[40] 20 U.S.C. §1415(j). For a detailed discussion of "stay put" see Nancy Lee Jones, "Individuals with Disabilities Education Act (IDEA): Discipline Provisions in P.L. 108-446," CRS Report RL32753.

Honig v. Doe

In 1988, the question of whether there was an implied exception to the "stay put" rule was presented to the Supreme Court in *Honig v. Doe*.[41] Honig involved emotionally disturbed children, one of whom had choked another student with sufficient force to leave abrasions on the child's neck and who had kicked out a window while he was being escorted to the principal's office. The other child in the *Honig* case had been involved in stealing, extorting money, and making lewd comments. The school had sought expulsion, but the Supreme Court disagreed finding that "Congress very much meant to strip schools of the *unilateral* authority they had traditionally employed to exclude disabled students, particularly emotionally disturbed students, from school."[42] However, the Court observed that this holding did "not leave educators hamstrung.... Where a student poses an immediate threat to the safety of others, officials may temporarily suspend him or her for up to 10 school days.... And in those cases in which the parents of a truly dangerous child adamantly refuse to permit any change in placement, the 10-day respite gives school officials an opportunity to invoke the aid of the courts under section 1415(e)(2), which empowers courts to grant any appropriate relief."[43] This statement about the school's right to seek judicial relief has come to be know as a *Honig* injunction.

The Supreme Court's interpretation of IDEA in *Honig* did not quell all concerns about discipline and children with disabilities. In 1994, Congress amended IDEA's "stay put" provision to give schools the unilateral authority to remove a child with a disability to an interim alternative educational setting if the child was determined to have brought a firearm to school. This provision was expanded in the IDEA Amendments of 1997 to include weapons (not just firearms) and drugs, and is further expanded in the 2004 reauthorization to include situations where a student has inflicted serious bodily injury upon another person while at school.

Attorneys' Fees

Although the original version of IDEA, P.L. 94-142, contained no specific provision for attorneys' fees, prevailing parties used section 505 of the Rehabilitation Act of 1973,[44] or section 1988 of the Civil Rights Attorneys' Fees Award Act,[45] to seek fees. However, the Supreme Court in *Smith v. Robinson*[46] held that the only remedies for prevailing parties under IDEA were those contained in that statute. The statute was described as "a comprehensive scheme set up by Congress to aid the States in complying with their constitutional obligations to provide public education

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[41] 484 U.S. 305 (1988).

[42] 484 U.S. 305, 323 (1988) (emphasis in the original).

[43] *Id.* at 325-326.

[44] 29 U.S.C. §794a.

[45] 42 U.S.C. §1988.

[46] 468 U.S. 992 (1984).

for handicapped children."[47] The Court further noted that allowing the use of other statutes to provide for attorneys' fees would "be inconsistent with Congress' carefully tailored scheme."[48]

The Court's decision in *Smith v. Robinson* was controversial. In response, Congress in 1986 enacted the Handicapped Children's Protection Act, which provided for attorneys' fees under IDEA.[49] These provisions were amended in 1997. The P.L. 105-17 amendments allowed the reduction of attorneys' fees if the attorney representing the parents did not provide the LEA with timely and specific information about the child and the basis of the dispute, and specifically excluded the payment of attorneys' fees for most individualized education plan (IEP) meetings. The 2004 IDEA reauthorization, P.L. 108-446, kept many of the previous provisions on attorneys' fees but also made several additions. These include allowing attorneys' fees for the state educational agency (SEA) or the local educational agency (LEA) against the parent or the parent's attorney in certain situations.[50]

Expert Witness Fees

Although there is no specific provision allowing a court to award prevailing parents expert witness fees, the language regarding attorneys' fees has been interpreted by some lower courts to allow such an award. IDEA's statutory language states in relevant part: "in any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs — (I) to a prevailing party who is the parent of a child with a disability...."[51]

The parents in *Arlington Central School District v. Murphy*[52] argued that the language on costs encompassed the payment of expert witness fees. To support this argument, they pointed to the legislative history of the Handicapped Children's Protection Act,[53] which stated that "[t]he conferees intend that the term 'attorneys' fees as part of the costs' include reasonable expenses and fees of expert witnesses."[54]

The Supreme Court, in a decision written by Justice Alito, held that IDEA does not authorize prevailing parents to recover fees they have paid to experts. The majority opinion first observed that the holding was "guided by the fact that Congress

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[47] *Id*. at 1009.

[48] *Id.* at 1012.

[49] P.L. 99-372.

[50] 20 U.S.C. §1415(i)(3). For a discussion of P.L. 108-446 and attorneys' fees, see CRS Report RS22055, *The Individuals with Disabilities Education Act (IDEA): Attorneys' Fees Provisions in P.L. 108-446*, by Nancy Lee Jones.

[51] 20 U.S.C. §1415(i)(3)(B).

[52] 548 U.S. __ (2006), 2006 U.S. LEXIS 5162 (June 26, 2006).

[53] P.L. 99-372.

[54] H.R. Conf. Rep. No. 99-687, at 5.

enacted the IDEA pursuant to the Spending Clause."[55] This was seen as significant because if Congress attaches conditions to a state's acceptance of funds, the conditions must be unambiguous and provide clear notice. The majority concluded that IDEA's statutory language did not provide this clear notice and that the legislative history was unconvincing and "simply not enough" under these circumstances.[56]

Burden of Proof

Statutory Provisions

IDEA contains detailed due process requirements to ensure the provision of FAPE. These include the opportunity for an impartial due process hearing.[57] However, the statute contains no specific provision relating to which party has the burden of proof in a due process hearing, and the courts of appeals were split in their interpretations of who bore the burden of proof.

Schaffer v. Weast

The Supreme Court in *Schaffer v. Weast*,[58] held that the burden of proof regarding an allegedly inadequate IEP in an IDEA due process hearing rests with the party seeking the relief. The Supreme Court, in an opinion by Justice O'Connor, first observed that "absent some reason to believe that Congress intended otherwise,...we will conclude that the burden of persuasion lies where it usually falls, upon the party seeking relief."[59] Justice O'Connor then examined, and rejected, various reasons advanced to support the argument that the burden of proof should be on the school system. The Supreme Court noted that the most plausible argument advanced by the parents was that in the interest of fairness, the burden of proof should not be placed on a party when the facts are "peculiarly within the knowledge of his adversary."[60] School districts were seen as having a "natural advantage" regarding the information, but Justice O'Connor did not find this to be determinative because "Congress addressed this when it obliged schools to safeguard the procedural rights of parents

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[55] *Id.* Slip op. at 3.

[56] 548 U.S. __ (2006), 2006 U.S. LEXIS 5162 (June 26, 2006). Slip op. at 12. For a more detailed discussion see CRS Report RS22465, "The Individuals with Disabilities Education Act (IDEA): The Supreme Court Denies Expert Fees in *Arlington Central School District v. Murphy*," by Nancy Lee Jones.

[57] 20 U.S.C. §1415(f).

[58] 546 U.S. __ (2005), 126 S.Ct. 528, 163 L.Ed.2d 287 (2005). Chief Justice Roberts took no part in the decision. For a more detailed discussion of *Weast*, see CRS Report RS22353, *The Individuals with Disabilities Education Act: Schaffer v. Weast Determines Party Seeking Relief Bears the Burden of Proof*, by Nancy Lee Jones.

[59] Slip op. at 8.

[60] Slip op. at 10, citing *United States v. New York, N.H. & H.R. Co.*, 355 U.S. 253, 256, n.5 (1957).

and to share information with them."[61] The Court noted that IDEA provides parents with the right to review records, to have an independent educational evaluation, to have details about options considered by the school district as well as disclosure of evaluations and recommendations, and to receive attorneys' fees in the discretion of a court if they prevail. Justice O'Connor concluded that "[t]hese protections ensure that the school bears no unique informational advantage."[62] crsphpgw

[61] Slip op. at 10.

[62] Slip op. at 11.