

### Case 3

In 1975 Congress enacted the Individuals With Disabilities Education Act (IDEA) to assure a "free appropriate education" for all children with educational disabilities. A "free appropriate public education," as defined by the IDEA, includes special education and related services, provided at public expense and supervision, in conformity with state educational standards, and specifically designed to meet the unique needs of each individual child with educational disabilities.

In 1987 Garret F. was severely injured in a motorcycle accident when he was four years old. While his mental abilities were unaffected, Garret sustained a spinal cord injury that left him quadriplegic and dependent upon a ventilator. In the fall of 1988, Garret started kindergarten in the public schools of Cedar Rapids, Iowa, where he has been enrolled as a student continuously up to the present time. During the school day, Garret requires a personal attendant within hearing distance of him at all times to see to his health care needs. Garret requires urinary bladder catheterization about once a day to avoid injury to his kidneys. This procedure is simple. It can be performed in a few minutes by a layperson with less than an hour's training. Garret also requires suctioning of his tracheostomy, an inserted tube that enables Garret to breathe. This tube requires regular suctioning to expel mouth and nose secretions, which could prevent Garret from breathing. If Garret's breathing stops, he may require ventilation with an ambu bag, a device that artificially pumps air into his lungs. Neither the suctioning nor the ambu bag ventilation processes need be administered by a physician, although the individual who does so must be well trained, since neither process leaves much room for error. Garret must be monitored constantly for respiratory distress and autonomic hyperreflexia. The latter condition may require bowel disimpaction, which, again must be done by a well trained individual (however, not necessarily by a physician).

Up until 1993, Garret's parents provided the personal attendant for him at school. In 199e, however, when Garret entered fifth grade, his mother requested that instead the School District provide the attendant, but it refused to do so. Garret's parents challenged the School District's refusal at an administrative hearing to which they were entitled under federal and state special education laws. The administrative law judge ruled in favor of Garret's parents, and the School District appealed. The U.S. Supreme Court is expected to rule on this case in the spring of this year.

The IDEA's definition of "related services" to which children with educational disabilities are entitled specifically excludes medical services, other than for diagnostic and evaluative purposes. The IDEA, however, does not define the term "medical services." Courts in the United States are currently divided on this matter. Some adopt a "bright line" definition under which a service qualifies as "medical" only if it must be

administered by a physician, rather than a nurse, or other qualified person. Other courts, however, take the position that whether or not a given service qualifies as "medical," under the IDEA, depends not only upon whether a physician must perform it, but also upon the nature and extent of the service performed. Thus, for example, in one case a court held that the services at issue qualified as medical because during school hours the student required nearly full time attention of a nurse or other trained person for administering procedures and monitoring of his condition, without which the student would immediately die.