

FOREST GROVE SCHOOL DISTRICT v. T. A.

certiorari to the united states court of appeals for the ninth circuit

No. 08-305. Argued April 28, 2009--Decided June 22, 2009

After a private specialist diagnosed respondent with learning disabilities, his parents unilaterally removed him from petitioner public school district (School District), enrolled him in a private academy, and requested an administrative hearing on his eligibility for special-education services under the Individuals with Disabilities Education Act (IDEA), 20 U. S. C. §1400 *et seq.* The School District found respondent ineligible for such services and declined to offer him an individualized education program (IEP). Concluding that the School District had failed to provide respondent a "free appropriate public education" as required by IDEA, §1412(a)(1)(A), and that respondent's private-school placement was appropriate, the hearing officer ordered the School District to reimburse his parents for his private-school tuition. The District Court set aside the award, holding that the IDEA Amendments of 1997 (Amendments) categorically bar reimbursement unless a child has "previously received special education or related services under the [school's] authority." §1412(a)(10)(C)(ii). Reversing, the Ninth Circuit concluded that the Amendments did not diminish the authority of courts to grant reimbursement as "appropriate" relief pursuant to §1415(i)(2)(C)(iii). See *School Comm. of Burlington v. Department of Ed. of Mass.*, [471 U. S. 359, 370](#).

Held: IDEA authorizes reimbursement for private special-education services when a public school fails to provide a FAPE and the private-school placement is appropriate, regardless of whether the child previously received special-education services through the public school. Pp. 6-17.

(a) This Court held in *Burlington and Florence County School Dist. Four v. Carter*, [510 U. S. 7](#), that §1415(i)(2)(C)(iii) authorizes courts to reimburse parents for the cost of private-school tuition when a school district fails to provide a child a FAPE and the private-school placement is appropriate. That *Burlington* and *Carter* involved the deficiency of a proposed IEP does not distinguish this case, nor does the fact that the children in *Burlington* and *Carter* had previously received special-education services; the Court's decision in those cases depended on the Act's language and purpose rather than the particular facts involved. Thus, the reasoning of *Burlington* and *Carter* applies unless the 1997 Amendments require a different result. Pp. 6-8.

(b) The 1997 Amendments do not impose a categorical bar to reimbursement. The Amendments made no change to the central purpose of IDEA or the text of §1415(i)(2)(C)(iii). Because Congress is presumed to be aware of, and to adopt, a judicial interpretation of a statute when it reenacts that law without change, *Lorillard v. Pons*, [434 U. S. 575, 580](#), this Court will continue to read §1415(i)(2)(C)(iii) to authorize reimbursement absent a clear indication that Congress intended to repeal the provision or abrogate *Burlington* and *Carter*. The School District's argument that §1412(a)(10)(C)(ii) limits reimbursement to children who have

previously received public special-education services is unpersuasive for several reasons: It is not supported by IDEA's text, as the 1997 Amendments do not expressly prohibit reimbursement in this case and the School District offers no evidence that Congress intended to supersede *Burlington* and *Carter*; it is at odds with IDEA's remedial purpose of "ensur[ing] that all children with disabilities have available to them a [FAPE] that emphasizes special education ... designed to meet their unique needs," §1400(d)(1)(A); and it would produce a rule bordering on the irrational by providing a remedy when a school offers a child inadequate special-education services but leaving parents remediless when the school unreasonably denies access to such services altogether. Pp. 8-15.

(c) The School District's argument that any conditions on accepting IDEA funds must be stated unambiguously is clearly satisfied here, as States have been on notice at least since *Burlington* that IDEA authorizes courts to order reimbursement. The School District's claims that respondent's reading will impose a heavy financial burden on public schools and encourage parents to enroll their children in private school without first trying to cooperate with public-school authorities are also unpersuasive in light of the restrictions on reimbursement awards identified in *Burlington* and the fact that parents unilaterally change their child's placement at their own financial risk. See, e.g., *Carter*, [510 U. S., at 15](#). Pp. 15-16.

523 F. 3d 1078, affirmed.

Stevens, J., delivered the opinion of the Court, in which *Roberts, C. J.*, and *Kennedy, Ginsburg, Breyer, and Alito, JJ.*, joined. *Souter, J.*, filed a dissenting opinion, in which *Scalia* and *Thomas, JJ.*, joined.