

FILED
Court Administrator

STATE OF MINNESOTA
COUNTY OF RAMSEY

JUL 5 2011

DISTRICT COURT

By By Deputy SECOND JUDICIAL DISTRICT

In Re Temporary Funding of Core
Of the Executive Branch of the
State of Minnesota

Case Type: Civil

Court File No. 62-CV-11-5203

**SUMMARY OF POSITION
OF INTERMEDIATE SCHOOL DISTRICTS**

Minn. Stat. § 136D.01 establishes intermediate school districts designed primarily for the purpose of providing integrated education services to multi-aged students, including special education services. Currently, three intermediate school districts (Intermediate Districts 916, 917 and 287) serve Minnesota students based on the proximity of the local independent school districts to the intermediate school district. Each of these intermediate school districts is organized to provide education services to students residing within the boundaries of their respective member districts, which are independent school districts.

Unlike their member independent school districts, these intermediate school districts receive negligible general education revenue directly from the State of Minnesota and none receives federal funding. Instead, the state funding stream for these three intermediate school districts derives almost entirely from state special education aids. Most of the students served by the intermediate school districts are students with disabilities in need of special education and related services.

The Minnesota Department of Education ("MDE") has interpreted the Hon. Kathleen R. Gearin's Findings of Fact, Conclusions of Law, and Order Granting the Motion for Temporary Funding, issued on June 29, 2011, to prohibit the payment of state or federal special education aids to Minnesota school districts, including the intermediate school districts. The impact of this interpretation by the MDE of Judge Gearin's Order is to stop the flow of special education aids to the intermediate school districts, by far their primary source of government revenue, uniquely and unfairly negatively impacting intermediate school districts and cooperatives.

This Summary of Position is filed on behalf of the three intermediate school districts to seek clarification and full implementation of Judge Gearin's Order to ensure the continued functioning of all K-12 special education services for students. Article XIII, §1 of the Minnesota

Constitution requires that the state provide a “general and uniform system of public schools.” Judge Gearin ruled that this constitutional provision makes funding education a “critical core function of government,” requiring that the state “finance an ‘adequate’ level of education that is *uniformly available to all students.*” (emphasis added). The MDE interpretation of this Order is inconsistent with the logic contained in Judge Gearin’s Order. By refusing to include special education aids in the appropriations that will be made to school districts and cooperatives pursuant to the Temporary Funding Order, the MDE is treating students receiving special education services differently than all other students, contrary to Judge Gearin’s Order, the Minnesota Constitution, the Equal Protection Clause of the United States Constitution, and state and federal laws that prohibit discrimination on the basis of disability (Rehabilitation Act of 1973, 34 C.F.R. §104.4; Minnesota Human Rights Act, §Minn. Stat. §§363A.02 and 363A.13).

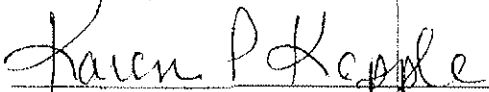
Further, the failure to provide special education aids would be inconsistent with the rulings of this Court in 2001 and 2005, referenced in Judge Gearin’s Findings of Fact, in which this Court found the funding of education to be a core function of government and ordered its continued funding in the face of a government shutdown. Nothing has changed in the Minnesota Constitution since those rulings of this Court to warrant denial of special education aids now.

Judge Gearin also cited the Supremacy Clause of the United States Constitution as another basis for requiring the State of Minnesota to perform certain core functions of the government pursuant to an intergovernmental compact agreement or congressional mandate. As it impacts school districts, the Individuals with Disabilities Education Act, 20 U.S.C. §§1400 et seq. (“IDEA”), and its regulations mandate the provision of special education services to eligible students, similar to the state mandates found in Minnesota Statutes, Chapter 125A. Although Judge Gearin did not specifically articulate IDEA in her non-exhaustive list of examples of such federal programs for which funding must be continued, it is implicit in her ruling that special education aids must be continued to ensure the continued provision of federally mandated special education programs, as required by the Supremacy Clause.

In conclusion, the MDE interpretation of Judge Gearin’s Order is contrary to previous orders of this Court under the same circumstances, it is contrary to the Minnesota Constitution, Article XIII, §1, and it is contrary to the Supremacy Clause of the United States Constitution. Finally, denying special education aids creates an unintended disparate outcome to students eligible for special education services in the State of Minnesota by cutting off the primary

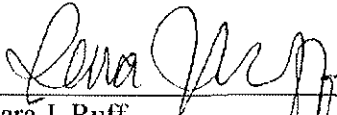
funding source which keeps intermediate school districts and cooperatives functioning. Surely, this Court did not intend that only regular education, not special education, is a core function of government. An adequate level of funding of education must be available uniformly to *all* students. The intermediate school districts respectfully request the Special Master to fully implement Judge Gearin's Order by clarifying that the MDE must process special education aids as a part of the temporary funding of core functions of the executive branch.

Respectfully submitted,



Date: July 1, 2011

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Date: July 1, 2011

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