

06-637 BD. OF ED. OF CITY OF NEW YORK V. TOM F.

DECISION BELOW: 193 Fed. Appx. 26

LOWER COURT CASE NUMBER: 05-0566

QUESTION PRESENTED:

Does the holding of the United States Court of Appeals for the Second Circuit, stating that the Individuals with Disabilities Education Act permits tuition reimbursement where a child has not previously received special education from a public agency, stand in direct contradiction to the plain language of 20 U.S.C. § 1412(a)(10)(C)(ii) which authorizes tuition reimbursement to the parents of a disabled child "who previously received special education and related services under the authority of a public agency"?

THE JUDGMENT IS AFFIRMED BY AN EQUALLY DIVIDED COURT. JUSTICE KENNEDY TOOK NO PART IN THE DECISION OF THIS CASE.

CERT. GRANTED 2/26/2007