

NEWS

Were students transferred to protect school grades?

Complaint challenges Sarasota Schools' placement of 'cadre' of special-needs students

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Allegations that the Sarasota School District harmed some of its most vulnerable students in order to protect school grades are taking center stage this week, during an unusual three-day administrative hearing.

Special education advocates say the district wrongfully transferred DJ, a student with a learning disability, into Access Points. The program is reserved for the most mentally challenged students and is supposed to be used only for the 1 percent of students with severe cognitive disabilities who cannot learn on grade level.

Instead of learning from the general curriculum and receiving the support that federal law mandates, DJ was transferred into the program without his mother's knowledge in third grade and spent the remainder of elementary and middle school in a program that his attorney says has no academic rigor.

A lesson about a cat for his classmates in the general curriculum probably included content on the animal's internal organs, bone structure and muscle mass, said disabilities attorney Stephanie Langer, who is representing DJ. For Access Points students, such a lesson could be reduced to simplistic concepts, like "Cats can jump."

"It's glorified babysitting," she said.

The complaint alleges and internal emails confirm that he was abruptly pulled from the program once he hit high school and put into the mainstream curriculum when it immediately became evident he was operating on a third-grade level. A complaint filed on his behalf raises the possibility that district officials transferred him, along with an unknown other number of students, in order to protect school grades by making low-performing students exempt from state testing.

His mother is seeking compensatory education costs to help DJ, who is now a sophomore,

recover the lost years. The cost could be as much as \$210,000, Langer said.

The administrative hearing began Monday in a Manatee courtroom, but the proceedings were not open to the public. Keith Dubose, the attorney representing the school district, declined to comment, citing the ongoing hearing.

Small pocket

Internal district emails reveal that DJ was not the only student bounced in and out of Access Points. In a November 2018 email from school psychologist Candis Castorani to a group of school administrators, Castorani suggested brainstorming on how to provide support to the “small pocket” of students who had been placed in general education after years in the special program.

“This is an abrupt change for them, and from speaking to my colleagues, these kids are struggling greatly,” Castorani wrote.

Langer also said she has a voicemail she will be submitting as evidence where exceptional student education program specialist Victoria Stillo-Gross mentions a “whole cadre” of students who had been inappropriately placed in Access Points and were trying to get caught up in high school.

Kimberley Spire-Oh, a special education attorney not affiliated with the case, said she was shocked to hear that multiple students could have had similar experiences. Students with learning disabilities require extra support, and for a student to spend their most formative years with minimal academic instruction may be impossible to bounce back from.

“That’s just appalling,” she said.

Notice

DJ's mother says she had no idea her son was in the program. He continued to bring home high grades on his report card, but she did not know the grades were for his success in a program designed for the most severely mentally disabled.

School districts are legally required to notify parents when a student is transferred into Access Points. When DJ was first transitioned into Access Points, she received a notice, saying that DJ would be taking an “alternative assessment,” but the notice contains no indication that the district was changing his curriculum. While the “alternative assessment” wording was included on DJ's annual special education plan, Langer said

district officials never explained the true nature of the program.

Since 2014, the Department of Education has required districts to get parental signatures on a standardized permission slip before their child can participate. The slip makes clear that Access Points will limit future opportunities.

“The instruction received may not prepare my child for some post-secondary opportunities such as enrollment in a degree-seeking college program or enlistment in the military,” the form asks parents to acknowledge.

Langer said DJ's mom signed the form once in 2016 — a fact that could complicate their case — but that was after years of DJ participating in the program.

Timing

DJ was transferred into Access Points weeks before the FCATs began in 2012, meaning he was exempt from the state tests, which have high stakes for Florida's schools.

Langer said she can't prove it was done to boost school grades, but the timing is impossible to ignore.

“I suspect but I don't know ... it was a week before the FCAT,” Langer said. “We figured it out. One week before.”

She said that the possibility that it was done to safeguard against low test scores would seem even more likely if an entire cadre was shifted into the program immediately before state testing.

On Monday Langer deposed executive director of student services Sonia Figaredo-Alberts, exceptional student education supervisor Tammy Cassels and program specialist Victoria Stillo-Gross. Stephen Marland, DJ's mentor through Big Brothers Big Sisters, and Susan Magers, a special education advocate, both testified as witnesses.

Langer said the district officials who testified today said the decision to transfer students into Access Points was made on a school level. On Tuesday Langer will be questioning several witnesses who work in the schools.

She believes the district's defense will be that they followed the letter of the law, using DJ's mother's signature on the "alternative assessment" form in 2012, even though very few parents would grasp the implications of signing such a form.

She said that she believes the district will try to limit the time frame for compensatory damages, citing a Florida law that only allows plaintiffs two years to collect damages in special education cases, from the time the plaintiff knows or should have known there was a problem. Langer said she is going to push back against that. DJ got high grades throughout elementary and middle school and was even inducted into the National Junior Honor Society. It sent the message that he was progressing, without mentioning that he was in a program for the slowest students in the district.

DJ's mother is also seeking reimbursement for the tuition for DJ to attend a private school where he can get intensive remediation.

It hasn't been an easy transition for the kid who thought he was a straight-A student in elementary and middle school, only to discover how far behind he was when he entered high school.

Marland said he has had conversations with DJ, trying to help him understand that even though he got good grades before high school, those grades didn't mean anything because he wasn't actually being educated.

"So what if you get a grade, and you don't learn anything," Marland said. "That's educational robbery."