

EDUCATION

Judge: Sarasota Schools wrongly put student in special needs program to avoid state testing

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An administrative law judge ruled Monday that the School District of Sarasota denied a student of a “free and appropriate public education” by forcing him into a specialized program for students with the lowest IQs for the majority of his time in elementary and middle school.

The judge also ruled that the School District must cover the cost of intensive tutoring and private school to help “DJ,” the student in question, make up for more than six years of lost time.

“The district failed to provide an appropriate education to the student for over six years,” administrative law judge Diane Cleavinger wrote in her findings.

The ruling is a victory for special education advocates, who believed the district transferred DJ into the program to avoid the consequences of a low-scoring student taking state tests, which are used to determine school grades, teacher bonuses and district grades.

“It should have a chilling effect on school districts to not behave with impunity,” said Stephanie Langer, the attorney representing DJ and his family. “They cannot put their own individual adult needs over the needs of the students.”

What happened

DJ has learning disabilities but had been making consistent academic progress until third grade as a participant in mainstream classes. However, shortly before state testing began in 2012, district officials transferred him into Access Points, a curriculum reserved for just 1 percent of students who have the most severe cognitive impairments.

The judge said evidence indicates the change had little to do with DJ’s cognitive ability and the move, just weeks before DJ was scheduled to take state tests for the first time, “was more related to quickly removing the student from (state) testing.”

DJ spent the remainder of elementary school and most of middle school in the program where students learn the same general subject matter as their peers but in a drastically watered-down manner, earning near-perfect scores on the alternative assessments.

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, Langer said. For Access Points students, such a lesson could be reduced to simplistic concepts, like "Cats can jump."

In 2017, responding to pressure from the federal government to reduce the number of students in such specialized programs, district officials transferred DJ back into the general curriculum at the very end of his eighth grade year, "at least five years behind in reading and math."

It became immediately evident that his learning had completely stopped while in Access Points, and as a high school freshman he was reading at a third grade level.

The judge found that after the district moved DJ back into the appropriate curriculum, school officials provided no tutoring or mental health counseling to ease his transition back into the mainstream. DJ's mental health deteriorated, as he went from a student earning academic awards for his performance in Access Points to one of the slowest kids in a mainstream classroom, and he became deeply depressed and suicidal shortly after the transition.

"...The prolonged duration and repetition of these failures support a finding of deliberate indifference," Cleavinger wrote, referring to a legal standard higher than gross negligence, indicating for several years the district knew their decisions would harm DJ's federally-protected right to an education, but still failed to act.

The coverup

Once DJ had been pulled from Access Points and his lack of educational progress became evident, school district officials began fabricating his records in an attempt to force him back into the program, rather than developing strategies to help him catch up for lost time, according to the judge's finding. Langer said students in Access Points regularly perform far below grade level, and DJ's lack of education wouldn't be as glaring if he were surrounded by cognitively impaired students.

"More disturbing, the evidence demonstrated that the data collected by the aide was

altered by school ESE (exceptional student education) and district ESE staff ... to show behavior that the District desired to justify a return to Access Points standards and curriculum,” Cleavinger wrote.

District emails indicate there may be more students like DJ. Langer said she knows of 122 other students in Sarasota who were inappropriately placed in Access Points and then pulled from the program without remedial services once their ineligibility was discovered.

In a Nov. 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 said there may be thousands of students statewide in a similar situation, and she has plans for a class action lawsuit.