

SARASOTA

Sarasota School Board majority defiant in DJ case

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The Sarasota County School Board remains divided on how to proceed in a special education case that has sparked a state investigation.

On Tuesday, board member Eric Robinson unexpectedly asked the board to drop an appeal in what has become known as “the DJ case” — a special education lawsuit that could be extremely costly for the district.

Robinson’s motion failed 3-2, with Bridget Ziegler voting to drop the appeal. Caroline Zucker, Jane Goodwin and Shirley Brown all voted to continue.

DJ lost more than six years of schooling when school officials wrongly placed him in a program for students with severe cognitive disabilities.

A judge ruled in October that the district had failed to provide an appropriate education to DJ and ordered the district to pay for DJ to attend private school, compensate his family for more than six years of missed education and provide intensive tutoring.

While the three-member majority of board members say they believe district administrators who say they are trying to follow a judge’s order to provide special education services to DJ, Robinson said the judge’s findings in the case include too many instances of cover-ups.

“It’s pretty embarrassing, what I did read,” Robinson said. “When they are talking about people falsifying documents and deleting emails and that we knew about it, it’s embarrassing.”

What happened to DJ

The School Board voted 4-1 to appeal the judge’s order in December, with the understanding that the district “continue” providing services the judge ordered in October, with Ziegler the lone vote against appeal.

Board members at the time said it was vital that DJ not be hurt by the appeal and that the fight was a legal dispute and not an attempt to deny DJ services.

While board members said they believed district staff had begun implementing the plan ordered by the judge in October, a subsequent ruling released in March proved otherwise.

Administrative law judge Diane Cleavinger said, as of the hearing date on Jan. 23 and 24, the district had made no effort to get current data on DJ's academic progress, kept public school as an option on his education plan and viewed the judge's order as "temporary."

"The Student remains significantly behind his peers due to the continued failure of the District to offer the Student an opportunity to close the educational gap, which developed because of the District's multiple years of failing to provide FAPE (a free and appropriate public education) to the Student," Cleavinger stated in March.

As part of her ruling in March, she ordered the district to pay for additional compensatory education for DJ.

Behind closed doors

The judge's original October ruling reported that staff falsified data to make it appear as if DJ needed to be on the curriculum for students with severe disabilities, and the March ruling indicates that board members were misled when they assumed DJ would "continue" receiving services as they appealed the case.

On Wednesday, Goodwin, Brown and Zucker said they had not read the judge's orders and continued to trust the updates given to them during executive sessions, which are held behind closed doors.

"We should be able to trust what our administrators tell us, and I've had more than one administrator tell us we are trying to do the right thing in providing services for this child," Goodwin said Wednesday. "There are impediments in the way."

Goodwin said she had no plans to read the orders.

"I could have read the judgment and I still wouldn't know," Goodwin said. "I am not a lawyer."

All three raised questions about the possible motives of Sue Memminger and Susan Magers, the two advocates who spearheaded the case against the district, with the help of

disabilities rights attorney Stephanie Langer.

The judge's order in October directed the district to pay for the services that Memminger and Magers had provided to the family to that point.

Memminger pointed out that they had not requested reimbursement, and the pair has been working on the case for almost two years.

"We didn't ask for that, the judge ordered it ... I don't know why they are super upset about it; they pay their attorneys, they pay themselves," Memminger said. "I don't know why that is causing them to go on a smear campaign against us ... They are very angry with us that we made this public because they can't control the narrative."

Bad blood

Memminger and Magers have advocated on behalf of special needs families with the school district for roughly 20 years, typically being on opposite sides of the table with the same cast of characters.

Memminger said the DJ situation has been the most trying case during that time, and prior to the case the two sides worked well together.

Robinson said he made his motion Tuesday because of recent statements Brown made on Facebook regarding the case, which included a comment saying that it was hard to find a private school that would accept DJ, saying "what school would want all the baggage these advocates bring?"

After the due process hearing in January, district officials contacted DJ's private school to set up some services but they did not include Memminger, Magers or Stephanie Langer, the attorney who represented DJ's case. Magers spoke at the Feb. 2 board meeting, saying they would be "thrilled" if the district followed the judge's order but were dismayed that the initial offer was made outside of formal channels.

"We would have expected that the parent would have been consulted or counsel would have been consulted, and I don't know what the impetus for this was," Magers said.

Memminger and Magers say they cannot trust the district to do the right thing by DJ, so they insist on being part of the conversation. Zucker, however, said they were being obstructionist, and she questioned how much the pair was personally profiting from the court rulings.

“We are being stonewalled by the advocates,” Zucker said.

Ziegler said she had read 12 volumes of testimony from the case. She said she was appalled by the evidence presented and wants the district to live up to the order.

Still she said, it may be worthwhile to to help the district staff and DJ’s advocates come together to implement the directives in the judge’s order.

“We need to take a step back. We are at risk, and we are spending so much in legal fees by the way,” Ziegler said. “Let’s put some structures in place to make both sides happy.”