

SARASOTA

Sarasota Schools violating disabilities law, judge says

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The Sarasota County School District continues to violate federal disabilities rights laws as school officials resist a judge's orders in a drawn-out legal battle, according to a ruling issued by Administrative Law Judge Diane Cleavinger on Friday.

While the special education fight drags on in court, "DJ," an 11th-grade boy at the center of the legal fight, is still not receiving remedial education services ordered by the judge last year, Cleavinger wrote.

The case stems from school officials' decision to place DJ in a program designed for students with the most severe disabilities when he was in third grade, despite the fact he does not have a severe cognitive disability. From third grade to eighth grade, while his peers learned fundamental reading and math skills, DJ earned top marks in a program for students who are likely to never live or work independently.

In October, Cleavinger ruled that the district had violated DJ's right to a "free and appropriate public education," the federal standard public school districts must provide. She ordered the district to pay for private school, tutoring and mental health services to make up for the lost time, and in December state Education Commissioner Richard Corcoran launched an investigation into the Sarasota School District to see how many other students there were treated like DJ.

The ruling in October seemed to be a decisive victory, but on Friday a new order from Cleavinger revealed that not much has changed.

DJ has not received the services the district was ordered to provide, and Sarasota's Exceptional Student Education (ESE) department continues to break the law, Cleavinger concluded.

"The District's failure to provide tutoring, remediation, or extended school year services that offer an opportunity for this Student to close his educational gap has continued through the date of the hearing in this case," Cleavinger wrote. "The lack of services and

the lack of a District plan to implement such services for compensatory education purposes have resulted in ongoing violations of IDEA and denial of FAPE (a Free and Appropriate Public Education) to the Student.”

Tammy Cassels, the district’s Exceptional Student Education supervisor, did not respond to an email seeking more details about the district’s actions, and spokeswoman Kelsey Whealy could not provide immediate answers.

On Friday, School Board attorney Art Hardy said the district had tried to work with DJ’s new private school to provide services, but the school was not cooperative. He declined to speculate why.

Stephanie Langer, the attorney representing DJ, said the ruling Friday was a small step but sent a signal to the district that “They cannot just pretend he does not exist.”

Bigger than one student

DJ’s case could leave the district on the hook for hundreds of thousands of dollars in compensatory education costs, but it is bigger than just one student. Internal emails obtained by advocates working on his case revealed that more than 100 students without severe cognitive disabilities were placed in the alternative program and could be owed similar compensation.

DJ has attended a private school since 2019. He attempted suicide by hanging in 2018 after school officials abruptly removed him from the special education curriculum. Within months of the switch to mainstream curriculum he was failing all his classes and was bullied as a freshman, years behind his peers at Riverview High School.

School district officials have pushed back against the order to pay for private school for DJ. The Individualized Education Plan (IEP) school officials developed following the order included public school as an option for his education and did not include the array of services ordered by the judge.

School officials also did not include DJ’s current teachers while developing the IEP, an omission that not only violated federal law but also made it impossible for his IEP to include up-to-date information on his academic progress, Cleavinger wrote.

“The evidence was clear that the District did not contact, invite, or even attempt to have any teachers or personnel from the private school familiar with the Student attend the IEP

meeting,” she wrote.

Cleavinger’s order calls for a new IEP meeting that includes input from DJ’s current teachers. The order does not settle an ongoing appeal against the original ruling that the board authorized in December.

Distrust between staff, board

The School Board approved the appeal in a 4-1 vote, with board member Bridget Ziegler voting in opposition. The motion passed with the caveat that the district would “continue” to pay for services as the case progressed. Advocates at the time said the district had not been paying anything, and Cleavinger’s ruling seems to confirm that.

School Board member Eric Robinson said district staff had misled board members into thinking they were still providing the court-ordered services, and he wants board attorney Art Hardy to rescind the appeal since district staff did not meet the conditions laid out by the board.

“You didn’t provide services, so you don’t have the authority to do” the appeal, Robinson said.

Hardy said the school district had made good-faith efforts to work with the private school, to no avail.

“The board directed us to do the appeal with the proviso that we provide services, and we are attempting to do so,” Hardy said.

School Board Chairwoman Caroline Zucker similarly said district staff had told her they reached out to DJ’s school to set up a meeting, but the school never responded.

Sue Memminger, a disabilities rights advocate working on the case, said School Board members need to rely on district staff for accurate information and at this point the amount of misinformation they had been told regarding the case should raise red flags.

“When is the board going to hold someone accountable for all of that?” Memminger said. “They can’t keep saying we don’t know.”

At this point there is no clear end date for the case, and the district’s appeal is ongoing.