

ACUSD defeated in court, more legal actions pending

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- By Scott Thomas Anderson and Matthew Hedger

In the last days of 2010, a 5-year-old student with autism prevailed in court over the Amador County Unified School District, with a judge ruling that the district's leadership had engaged in disruptive and serious violations of that child's rights to an education.

This week, the attorney who won the case made it clear that he's moving forward with numerous new legal actions against the district on behalf of other students with autism - and he alleges that it's the administrators, not the teachers, who are to blame.

The road to the district's latest bout of legal troubles was paved in April 2010, when six young, autistic students were forced - without parental input or consent - out of the structured class at Jackson Elementary School and into the "severely handicapped" special day class at Plymouth Elementary School. The move came as a shock to the students' parents, especially because executive director of special education for the district, Theresa Hawk, had just met with them a month before, without mentioning changes to the Jackson program. These meetings were part of Individualized Education Programs autistic children are entitled to under the Individuals with Disabilities Education Act.

Two months after Hawk held those consultations, she emailed the program's instructor, Marie Elliott, and told her to inform parents the autistic students were being moved to a different program in Plymouth. Administrative Law Judge Rebecca Freie would later issue an official finding that Hawk made this decision "without input from Ms. Elliot, or any of the students' parents."

Consulting Elliot might have warned Hawk and school administrators that problems were on the way. Elliot has special training, credentials and experience for teaching autistic children. When Elliot arrived at her new classroom in Plymouth, she found it was far smaller than the old one and lacked most of the basic instructional and safety devices used for teaching autistic children - equipment Elliot and her three teachers' aides had relied on in Jackson.

Within weeks of the new program opening in August 2010, several children were reportedly exhibiting emotional trauma, rampant outbursts and serious digression in their learning. "There was no transition at all for them," said Ramona Longero, the mother of a 6-year-old boy in the program. "They were completely isolated from the student population, without any of special relaxing devices they used to stay calm and focused, and you could see right away it was devastating for them."

According to court documents, the school district's main defense for moving the class to Plymouth revolves around the contention that the move was "necessary because the Jackson SDC had too wide an age range of children in the 2009-10 school year, and did not have a preschool program on site, which resulted in (the student in question) not being able to mainstream with typically developing preschool-age children."

Longero and the other parents say the move had the exact opposite affect, making it impossible for their students to be "mainstreamed" into the student body. Longero and the other parents began to refer to their kids as "The Segregated Six."

One of the parents filed a due process complaint against ACUSD on behalf of their student with the State of California's Office of Administrative Hearings. The complaint alleged that the school district had, on nine separate levels, violated the student's right to a free and public education. A court hearing was held on the matter in Jackson in December 2010. Judge Freie reviewed evidence and testimony from numerous witnesses before deciding that the district had indeed violated the students' rights in seven of the nine allegations.

In making her decision, Freie issued a number of factual findings by the court, including that the Plymouth classroom Hawk moved the children into was inadequate. "In contrast to the Jackson classroom, the Plymouth classroom is dark, cramped and cluttered," the judge wrote. "The preponderance of the evidence supports a finding that the portable classroom is too small and awkwardly configured to be used for this purpose ... the lack of space for active children to move around exacerbated the problems of a classroom that was already too small." The judge added that the lack of sensory integration equipment in the new room put Elliot and her teachers aides "at a disadvantage," and contributed to the student's deteriorating behavior at Plymouth Elementary School.

Freie went on to emphasize in her ruling that the decision to put the children in this situation was made "unilaterally by the district," over the objections of parents, and without the input of Elliot or relevant teachers at Plymouth Elementary School.

Some of Freie's official findings also raised questions about the treatment that Elliot - as well as three teachers' aides who were highly experienced with autistic students - received from Hawk and Superintendent of Schools Dick Glock, after the controversy started. "Due to a deteriorating relationship with Ms. Hawk, her supervisor, Ms. Elliot, did not feel comfortable bringing up (the district's lack of planning) at the June 4, 2010 IEP meeting," the judge decided, mentioning later in her ruling that "on Monday, Oct. 18, 2010, the three classroom aides ... were summoned to a meeting with the superintendent and Ms. Hawk ... the aides were told that they were being transferred ... none of the aides had asked to be transferred, and no reasons were given for the transfers. The evidence established that the transfer of the aides from Ms. Elliot's class was involuntary."

Within three days of Elliot's classroom aides' unexplained transfers - replaced by aides with little-to-no experience with autistic children - she took a leave of absence. Judge Freie ruled that Elliot was temporarily replaced by a teacher "who was not properly credentialed" to be teaching autistic children.

In ruling that the student's rights had been violated, Freie ordered the district to hire an independent expert to determine the educational damage that had been done to the student and what level of compensation should be put forth by the district.

Contacted by phone on Tuesday, Glock had no comment about the court ruling. "On the advice of counsel, we've been advised not to comment further on this matter," Glock told the Ledger Dispatch.

Attorney Richard Ruderman represented the student who won the legal action against the district. He is now representing the entire classroom of autistic children. Ruderman said there are more legal actions anticipated against ACUSD. "I'm very mindful that the cost of litigation can hurt the students in the district," Ruderman said on Monday. "But it's very concerning that the district thinks they can treat disabled children like second-class citizens. The law is intended to be a

collaborative process, and from what I've seen, the lack of response from this district's administration is very disturbing. I do think the administration is the problem."