



Seventh Circuit Rules in Favor of District in Case Filed by Special Education Support Teacher

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In ***Jackson v. Indian Prairie School District*** the Seventh Circuit Court of Appeals held that the School District did not violate a special education support teacher's substantive due process rights when the School District refused to transfer an autistic student, who was known to have violent outbursts, from the teacher's classroom even though the teacher was ultimately injured when she attempted to stop the student from throwing a chair.

Jackson began her employment with the School District in 2002 as a special education support teacher. As a special education support teacher, Jackson was responsible for aiding the general education teachers by providing enhanced support for students who qualified for special programming due to a mental or physical disability. In 2005, Jackson was assigned to White Eagle Elementary School, a general education building, and was responsible for working with student W.K., who was eligible for special education services under the "autism" disability category, based on his diagnosis of Asperger's Syndrome.

At the start of the 2005-2006 school year, W.K. was in second grade. It was documented in W.K.'s IEP that parents and staff observed ongoing behavioral concerns, that W.K. had difficulty with impulse control, and difficulty handling his frustration. W.K. was prone to erratic and violent behaviors. Throughout the school year, W.K. engaged in multiple incidents of aggression towards staff and other students. Among these acts, W.K. pushed a student, stabbed a student with a pencil, threw items at teachers, called teachers names, and on one occasion, kicked, punched and bit Jackson when she was attempting to stop him from running into the street.

Throughout the 2006-2007 school year, Jackson expressed frustration at W.K.'s disruptive and violent episodes, which included hitting and scratching himself and others and kicking and throwing objects at other students and teachers. In March of 2007, Jackson requested that a different support teacher be assigned to W.K., her request was ultimately denied.

The School District held several IEP conferences throughout the 2006-2007 school year to discuss W.K.'s behavior and educational placement. At a meeting on March 4, 2007, the IEP team (with the exception of parents) recommended a therapeutic day placement for W.K. Despite this recommendation, the Assistant Superintendent of Student Services and a Student Services Supervisor for the School District instructed the school's principal to place W.K. in a supported



general education based on data that showed a line of improvement with respect to verbal and physical aggression.

In the 2007-2008 school year, Jackson was again named W.K.'s special education support teacher. On March 13, 2008, W.K. became agitated and picked up a chair and swung it at Jackson. Jackson raised her hands to protect herself, a struggle ensued, and Jackson fell backward. She hit her head on a white board and her neck on the chalk ledge of the board and required medical attention. Jackson filed a complaint with the U.S. District Court of the Northern District of Illinois asserting that her constitutional rights were violated because she was ordered to work with W.K. despite the fact that he was known to be violent, and because W.K. should have been previously transferred to an alternative school.

The Seventh Circuit affirmed the district court's decision to grant the School District's motion for summary judgment. The Seventh Circuit held that although the School District's actions were "flawed," "negligent," and "short-sighted," they did not "shock the conscious" as is required to impose liability for a substance due process violation. In so finding, the court relied on the facts that W.K.'s acts of violence were often aimed towards himself, that the majority of staff members did not fear W.K. would harm them, that W.K.'s behavior had generally improved overall at school with a fewer number of incidents, and that the IEP team repeatedly placed W.K. in a general education setting.

This decision highlights the importance for school districts to adequately document the reasons behind the IEP team's placement recommendation. Such documentation may mitigate a school district's liability related to damage caused by a student that is the subject of the IEP.

More Information

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