

# NEWS TIMES

## Court ruling: Forest Grove off the hook for private schooling costs

*Federal appeals panel sides with school district in a case that went to U.S. Supreme Court*

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**The latest court ruling Wednesday in a case that grabbed the national spotlight has absolved the Forest Grove School District of financial responsibility for a former student's private education.**

In a 2-1 decision, a panel of judges from the U.S. Ninth Circuit Court of Appeals found that the district had been right when it claimed the parents of the former student had enrolled him in a private academy primarily because of drug issues and other problems, not because he needed special education services.

Brad Bafaro, special education director for Forest Grove, said Thursday the ruling was a clear victory for the district, and one he hopes will put an end to the eight-year-long saga.

"It's huge," Bafaro said of the ruling. "It means we won't be on the hook for eight years of legal bills."

More so, Bafaro added, it represents a victory for school districts mired in certain cases stemming from challenges to special education services laws.

"The precedent [this case] sets in the country for this out-of-district kind of case is big," Bafaro said. "That's the reason we went to bat for it in the first place eight years ago."

Unless the family again appeals, the decision means the school district will not be held responsible for \$65,000 in tuition payments made by the parents, or for their legal bills, which have neared the \$500,000 mark.

The couple had originally sued the district in 2003 for failing to provide their then-teenage son – identified only as "T.A." in court records – with an adequate education under the Individuals with Disabilities Education Act.

This week's ruling upholds a 2009 decision by a separate Ninth Circuit panel in favor of the school district, which T.A.'s family appealed. The case had ricocheted from Oregon's federal district court to the Ninth Circuit and all the way to the U.S. Supreme Court, gaining national attention when that body ruled in favor of the parents two years ago.

It all started in 2001, when T.A. was struggling academically at Forest Grove High School and his parents asked the district to evaluate him for a learning disability, which district experts determined he did not have. In March 2003, they enrolled T.A., who had been diagnosed with attention-deficit hyperactivity disorder, in Mount Bachelor Academy, a private boarding school near Prineville in Central Oregon.

Court documents indicate that T.A. had begun using marijuana while he was in high school, and that he admitted to using cocaine during a three-week stay in a program for troubled youth, called Freer Wilderness Therapy Expeditions, prior to his time at Mount Bachelor.

In his majority opinion Wednesday, Ninth Circuit Judge Carlos T. Bea wrote that "the district did not abuse its discretion when it determined T.A.'s parents enrolled him at Mount Bachelor for non-educational reasons."

To date, the Forest Grove district has spent more than \$244,000 defending itself in the case. It isn't clear whether the parents' attorney, Mary Broadhurst, will request another hearing in front of the full

panel of the U.S. Ninth Circuit, or whether the family will ask for a second hearing before the U.S. Supreme Court.

But Bafaro said attorneys from Hungerford Law Firm of Oregon City, which represents the district, told him April 27 there was “less than a 25 percent change” the Ninth Circuit would hear the case in the future. And, he said, Hungerford lawyers essentially nixed the idea of the case reaching the Supreme Court again.

“They informed me the odds of that are practically nil,” Bafaro said.

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