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Deptford case shows special-ed woes. The district has to repay the family of an autistic child. Other schools face similar problems

By Jake Wagman
Inquirer Suburban Staff

A federal judge this month ordered the Deptford Township School District to pay almost \$140,000 for the education of an autistic child. The case is among an increasing number in New Jersey in which a judge is asked to decide whether a school has met the requirements of federal special-education legislation.

Few public schools are equipped to teach children with autism and other severe conditions. In order to meet Congress' mandate of a "free and appropriate education," students are often sent to out-of-district public or private schools, with their home district picking up the cost.

Collingswood, Medford, Pemberton Township and Voorhees are among the hundreds of New Jersey school districts that have sought relief in state courts from making these expensive accommodations since Congress amended the Individuals With Disabilities Education Act in 1997.

An administrative law judge in Trenton ruled against Deptford in a case heard in December and ordered the district to create a full-day learning program for the student, identified in court documents as H.B. The judge also ordered Deptford to reimburse the student's parents for therapy, evaluation and transportation costs.

Autism is a mental disorder characterized by self-absorption, inability to interact socially, repetitive behavior, and language dysfunction.

Deptford took the rare step of appealing the case to U.S. District Court in Camden. On Nov. 2, Judge Jerome B. Simandle issued his ruling in favor of H.B.'s parents, saying Deptford's appeal rested mostly on a "paperwork" technicality. Between September 1999 and February 2000, the Mount Holly therapy center where H.B. was enrolled was unapproved by the state while criminal background checks of the staff--a requirement enforced for the first time last year-- were pending. Deptford argued that the center's temporary lack of state recognition excluded the school district from having to pay for the enrollment.

The district has been ordered to pay \$139,165 to reimburse the student's parents, who have moved out of the district, for two years' worth of services: \$2,231 for transportation, \$4,625 for doctor's evaluations, \$41,900 for speech therapy, \$73,456 for behavioral therapy, \$7,575 for occupational therapy and \$9,378 for other educational costs.

The average per-student cost in the Deptford district is \$7,500. Deptford Superintendent David H. Moyer said the district would have to cut funding for academic or extracurricular programs to satisfy the court order. "We empathize with the parents, but we just can't afford it, so we have to

litigate," he said. Moyer said the problem with special education is not in the schools but in the funding system. The 1997 version of the Individuals With Disabilities in Education Act stated that the government would pay 40 percent of a state's special-education costs. To date, the most Congress has authorized in a year is 11 percent, Moyer said. "The administrative law judges are removed from local districts. They are judging stuff strictly from the ivory-tower perspective. They render a decision, and you have to live with it," Moyer said. "Try telling the average senior citizen on the corner you spent \$200,000 on a kid. They won't understand."

Because of the expense of instructing students with autism – which emphasizes long hours of one-on-one instruction-- parents have no choice but to go to court, said Jamie Epstein, a Camden County lawyer who specializes in special-education cases and represented H.B.'s parents. "There is no way that, except for the wealthiest ones, parents can provide an appropriate education for a child with autism," Epstein said.