

District racks up \$600,000 legal bill in service dog clash

Meaghan M. McDermott

Rochester Democrat and Chronicle USA TODAY NETWORK

The ongoing battle between the Gates Chili Central School District and the U.S. Department of Justice over a service dog for a special needs child has so far racked up more than \$600,000 in legal fees.

The feds got involved because they allege the district's actions run afoul of the Americans with Disabilities Act.

Invoices obtained via a Freedom of Information Law request show the district's lawyers billed at least \$609,000 in connection

with the matter between October 2013 and December 2018. About 85 percent of that was paid by the district's insurer, but out-of-pocket costs for Gates Chili taxpayers so far exceed \$90,000 in a legal war sparked by a request from the child's parent for a \$25,000 reimbursement.

Heather Pereira, mother to sixth-grader Devyn Periera, said she was unable to comment on any specifics of the case. Devyn has Angelman syndrome, a neuro-genetic disorder that causes developmental delay, lack of speech, seizures and problems with walking and balance.

Gates Chili Board of Education President Jeff Pettenski also declined to comment on pending litigation.

But Jeralyn Cicotta, a friend of Pereira's and the mother of a special needs child, said she's seen first-hand how the issue has affected the family, both "financially and emotionally."

"I think it's great that the taxpayers now know the cost they have been picking up too," Cicotta said.

The overall story begins back in 2012, when Pereira began fighting the district over her then-kindergartner daughter's use of a service dog to help her walk and sit still and to detect her life-threatening seizures.

The issue wasn't whether Devyn could bring Hannah, a white Bouvier des Flandres, to school, but rather whether the girl was capable of handling the dog on her own. While her mother said she was, the district said Devyn wasn't and insisted Pereira provide and pay for a dog handler throughout the school day.

For her part, Hannah was trained so she did not need to eat, drink or go outside for toileting during the school day. In court documents, the family says Devyn was able to issue commands to the dog via hand signals and was able to tether herself to the dog. The only assistance she required — according the documents — was simple help with untethering herself when

want our children to grow up surrounded by people who role model acceptance and embrace difference."

On a Facebook page dedicated to their family's battle, Pereira has chronicled some of Devyn's progress milestones — getting on the school bus unassisted for the first time, writing a Valentine's note that says she loves her family as much as the blackberries she snacks on every day, and earlier this year; using her communication device to let her teachers know she had a toothache and that she still missed Hannah.

"To see Heather living with this struggle for nearly seven years is long enough," said Cicotta, calling for Gates Chili to stand down. "I continue to pray that this burden is lifted soon for all parties and that her story spares other families from having to endure something like this."

MCDERMOT@Gannett.com

Devyn Pereira with her service dogs, Rubin and Hannah. PROVIDED

Devyn Pereira is pictured with her service dog Rubin. PROVIDED

appropriate, and an occasional reminder to issue necessary commands.

Devyn already had a 1:1 aide at district expense, and school officials said that aide should not be allowed to provide even minimal assistance with regard to the dog. The district's position has long been that the Americans with Disabilities Act says it is a parent's responsibility to take care of a service dog if a child cannot.

But in 2015, the Department of Justice disagreed, saying that the district's stance violated the ADA. It ordered school officials to reverse their policy and to reimburse Pereira more than \$25,000 she'd already spent on a dog handler. The state Department of Education also sided with Pereira.

Original service dog has died

But, school officials refused to comply, saying the order would set a bad precedent. Later that year, federal officials filed suit.

Announcing the legal action, which seeks an order finding the district in violation of the ADA, then-U. S. Attorney William Hochul said, "It is no longer acceptable — if ever it was — for a district to refuse reasonable modifications to a child who seeks to handle her own service dog. Certainly since passage of the Americans with Disabilities Act in 1990, such failure not only violates the dictates of conscience, it also violates the law."

In its response to the lawsuit, the district said Devyn was "incapable of handling, directing, controlling, supervising or caring for the dog ... due to her significant disabilities," therefore the separate handler was required.

Four years later, case is still winding its way through the courts. Hannah, the dog from the original suit, died in September and Devyn is now paired with a bluetick coonhound/Australian cattle dog mix named Rubin.

Pereira and Devyn have moved to the Hilton Central School District, where Pereira said officials have been accommodating, helping her daughter "reach goals we didn't know were possible before now."

Cicotta said it was terrible to watch her friend Pereira uproot her family in search of a more accommodating school system.

Heather Pereira, right, poses with her daughter, Devyn, left, and Devyn's nanny, Jenn Horozko, center, with Devyn's service dog, Hannah. Hannah died back in September. FILE PHOTO

“While the dollars spent are significant, the part that matters most is that we teach our children to do what is right,” Cicotta said. “We all