

Civil suits siphoning money away from public education

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Janelle Mercer never thought that she would retain a personal injury attorney, but when her daughter Elizabeth broke her arm playing dodge ball in a P.E. class, she changed her mind. "I work as an aide for Davis County School District and my husband is self-employed so we don't have very good health insurance," said Mercer. "I know that dodge ball is banned from public schools in Davis County because so many kids have gotten hurt, so after my daughter was injured I contact the Weber School District about a similar ban here and they just blew me off."

According to Mercer, she then decided to try the legal route to get the school district's attention by seeking compensation for her daughter's \$21,000 in medical bills through a civil lawsuit against Weber County School District. Mercer is not alone. In 2004, 17 lawsuits were filed against Weber County School District, five were dismissed, seven are still pending, one is scheduled for trial and the other four, like Mercer's case, were settled out of court for undisclosed amounts.

The state has created a risk management fund to handle losses or claims against Utah school districts. Weber County School District Safety Coordinator Nate Taggart has noticed a steady increase in the number of cases filed against Weber County School District in the five years that he has held this position. "Over the years, schools have actually become safer," said Taggart. "Sadly that doesn't mean that the number of lawsuits has decreased, because people are so sue-crazy these days, the

number of lawsuits against Weber School District keeps going up every year."

Weber County Superintendent Michael Jacobson said this rise presents a disturbing trend in civil suits that siphon money away from public education coffers. "We try to create a safe school environment for all of the 22 thousand students that attend public school here in Weber County," said Jacobson.

"Unfortunately, accidents are inevitable and there are some individuals out there that see public schools as an easy target to be exploited in civil lawsuits."

Jacobson is upset that additional funds are being diverted away from public education. "Already there is not enough money going to students," said Jacobson. "I think that it is really sad to see resources being used to settle lawsuits when students in classrooms share math books because there aren't enough for a classroom set."

In 2001, six-year-old Jose Hernandez was participating in an after school program at Dee Elementary in Ogden City when he wandered into a restricted area undergoing construction and fell down an elevator shaft, causing severe trauma to his spine and permanent paralysis from the waste down. His parents sued and received a settlement for an undisclosed amount from Ogden City School District. Attorney Peter Summerill tried the case on the Hernandez family's behalf. "No amount of money will ever give the parent's back what they lost that day, a healthy, normal child," said Summerill. "Our firm pursues these cases to force public schools to provide a safe environment for the children whose lives they are entrusted with."

Ogden School District Superintendent Catherine Ortega said that after the incident, the city decided that the after school

programs were too much of a liability and closed several of the programs down, including the one at Dee Elementary. "We don't have the resources to staff after school programs at every school in the district, which is sad because these intercity kids need the programs the most," said Ortega.

Although Mercer and the Hernandez's attorney claim that their intentions were not to have P.E. and after school programs cut out of the state public education school system completely, the reality is that abolishing the liability is the only full proof solution to guarantee no one else will be hurt in the future.

For the time being, the Utah Board of Education's legal department plans to expand by hiring several new attorneys, paralegals and legal assistants to help handle the increasing number of civil suits filed against Utah schools annually. "This won't solve the problem, it is just a Band-Aid temporarily covering a larger problem," said Taggart. "If the lawsuits keep coming, eventually students will pay the price as they lose more programs, fieldtrips and curriculum."

Still, Mercer stands by her decision to file suit against the school district. "We trust schools to protect our kids," Mercer said. "When they are injured, I think someone should pay."

