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Move to oust DeKalb board poses legal question

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An email that DeKalb County school board member Sarah Copelin-Wood sent to a principal in May crystallized for one of her judges what was wrong with the local culture.

Board policy says members can't ask anything of any school staffer except the superintendent. Copelin-Wood, writing as the longtime president of a community group and not as a school board member, wanted the principal to let her group present scholarship awards at the school. She said she was merely "doing something good for children: We gave away scholarships."

But Linda Zechmann, one of 11 members of the Georgia Board of Education participating in Thursday's grilling of the DeKalb school board, was "just shocked" that Copelin-Wood thought it was okay to send the email.

"Ms. Wood, you are certainly clarifying for me that you do not understand the separation of your duties," Zechmann said.

It may seem a wonky requirement, but the Southern Association of Colleges and Schools says a wall between board members and school staff is essential to a well-run system, and the organization maintains that DeKalb school board members hop over it all the time.

That judgment, among other governance issues, has ignited a constitutional argument.

SACS placed DeKalb on probation last year for governance failures, triggering the removal process that started with Thursday's hearing. The final decision whether to suspend six of the nine local school board members who were in office last year now falls on Gov. Nathan Deal. He plans an 11 a.m. news conference on the topic Monday.

DeKalb's accreditation is at risk, and loss of it in Georgia's third largest school district would have a "devastating impact" on students and local economic development, Deal said in a statement Friday. "Removing elected officials from office is a serious duty, not undertaken lightly," he said. "That responsibility, however, pales in comparison to the importance of assuring the credibility of students' education."

The local board members filed pre-emptive court actions, seeking to restrain the governor. One hearing is scheduled in federal court Tuesday and another in Fulton County Superior Court on Thursday. There was some last-minute legal tussling late Friday afternoon as the DeKalb plaintiffs asked a federal judge to act before Deal does, and state lawyers argued against that request.

Legal experts explained that if Deal pushes out the board members before the courts tie his hands, it'll be too late to stay his hand.

"It'll be difficult to get that toothpaste back in the tube," said Ronald Carlson, an emeritus law professor at the University of Georgia.

The DeKalb board members are challenging the constitutionality of a 2011 law that authorizes the state to remove school board members in districts on probation. Several lawyers said they have an uphill battle.

The courts presume laws are constitutional, the experts said, placing the burden on plaintiffs to prove otherwise. In this case, the judges must weigh the sanctity of the ballot box against the interests of DeKalb's 99,000 students, said Mei Goldstein, a lawyer with a focus on governmental issues.

"The interest of children being educated ... outweighs the interest of any individual board member," Goldstein said. "So, no, I don't think they have a good chance of prevailing."

The DeKalb board believes otherwise.

"The ballot box must be given huge, huge deference in this country," said its attorney, Bob Wilson, a former prosecutor. "If it is not, we are lost." Board members and interim superintendent Michael Thurmond predicted more "divisiveness" and "rancor" if the board members are suspended.

"You have to understand that the individuals who voted for me love me," said Melvin Johnson, one of three new board members, none of whom was recommended for suspension. He said that voter affection applied to his eight colleagues.

That wasn't so clear on the streets around Southwest DeKalb High School Friday.

"Get rid of them all," said Don Johnson, a father of two students and a 25-year resident. "The corruption starts at the top. There's been no transparency and a total waste of tax dollars."

Faye Granville, who has a granddaughter at the school, said concerns about accreditation have led her and her daughter to get more involved with the system and to demand more accountability.

"I'm not pleased at all with the school board," Granville said. "We elected these people to run the schools, and they can't do that. They're wasting money and there's absolutely no accountability."

Some local school members told the state board that they would step aside rather than fight suspension. Others, such as former board chairman Eugene Walker, reserved their right to fight.

If Deal suspends Walker and the other five with pay, they'll have to wait 30 days for an administrative appeal.

They can try their luck in court, but it's unclear whether a new school board hand-picked by Deal would continue paying the legal bills.

Thurmond worried that suspension, and the appointment of replacement members, would create political uncertainty.

"I'll have 15 board members — six appointed, three still serving and six others elected by the people," he said. "I can manage nine, 15 would be. ..."

He didn't finish that thought, but it was clear enough what he meant.
