

Jury awards Royal Palm Beach High assistant principal \$75k for ex-superintendent Johnson's retaliation

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By [Jane Musgrave](#)

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WEST PALM BEACH — An assistant principal at Royal Palm Beach High School convinced a jury Tuesday that former Palm Beach County School Superintendent Art Johnson punished her and even went after her husband because she spoke out against some of the longtime school chief's policies.

After more than six hours of deliberation over two days, a federal jury agreed the school board should pay Deborah Nash-Utterback \$75,000 for stomping on her constitutional right to free speech.

An overjoyed Nash-Utterback said her legal battle was never about money. "I did this mainly because I don't ever want anyone to have to go through this," she said. School employees should be able to use their talents to help develop charter schools without fear of retribution, she said.

That's how it used to be before the School Board in February 2008 revised a policy that allowed teachers and administrators to take unpaid leaves of absence to work at charter schools. Under the new policy, which Nash-Utterback's attorney says runs counter to state law, teachers are still allowed to take leaves but administrators can't. When the policy that Johnson recommended was implemented, she was the only one of the district's roughly 21,000 employees affected.

Unless she wanted to lose the pension benefits she had accumulated while taking a roughly four-year leave to establish and nurture Boca Raton Charter School, she had to accept a lower-paying job with the district. But, instead of being assigned to a Boca Raton area school, where she lived and spent most of her 20-plus year teaching career, she was sent to Royal Palm Beach to help oversee the adult education program.

Further, shortly after she was given her new assignment, which is a 76-mile commute to-and-from her home, her husband, Jim Utterback, was threatened with the possibility that he would lose his job as an assistant principal at Santaluces High School. While that effort failed, Nash-Utterback was stymied in her attempts to get an assistant principal position at a school closer to her home.

The jury agreed that Nash-Utterback and her husband were targeted because of her outspoken criticism of Johnson. She blasted his plans to raze J.C. Mitchell Elementary School in Boca Raton as a waste of tax money. Some of the buildings were only 11 years old at the time and she proposed to use them as a home for her charter school. Johnson refused and the buildings tumbled down. Likewise, she successfully argued that she incurred his wrath by urging state officials not to give him the power to approve charter schools in the county.

Johnson, who was forced out last year, testified that he never retaliated against anyone and was a fan of charter schools. But in a deposition that was read to the jury, School Board member Frank Barbieri said it was "no secret Dr. Johnson didn't like charter schools." School Board member Marcia Andrews, who was demoted by Johnson, also testified on Nash-Utterback's behalf.

In an emailed statement, school district attorneys said they may appeal.

Attorney Sid Garcia, who represents Nash-Utterback, said the fight isn't over yet. He plans to return to court to persuade U.S. Magistrate James Hopkins to order the school board to reassign his client to a school closer to her home. He will also ask Hopkins to strike down the 2008 policy because Garcia claims it violates state law. He also plans to seek attorneys fees from the district. They could run into the tens of thousands of dollars, he said.

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