

BEFORE THE THREE MEMBER DUE PROCESS HEARING PANEL
EMPOWERED BY THE MISSOURI STATE BOARD OF EDUCATION
PURSUANT TO SECTION 162.961 R.S.Mo.

)
Petitioner,)
vs.)
SPECIAL SCHOOL DISTRICT)
OF ST. LOUIS COUNTY)
Respondent.)

FINAL JUDGMENT

1. On or about September 7, 2001, the attorney for the Special School District of St. Louis County mailed a Motion to Dismiss alleging that the student is no longer a resident of St. Louis County, Missouri.

2. In support of its Motion to Dismiss, the Special School District of St. Louis County provided:

- (a) A copy of the August 29, 2001, letter from Ramon J. Morganstern (former attorney for Petitioner) which indicates that a copy was going to the parent at an address in St. Charles County, Missouri;
- (b) A copy of a letter from the Wentzville R-IV School District in St. Charles County stating that the student “. . . has enrolled in our school.”

3. By letter dated September 12, 2001, to the Petitioner addressed to Petitioner's at the St. Charles County, address, this Chairperson gave the Petitioner until Friday, September 21, 2001, to file a response.

4. Petitioner has not filed any response to Respondent's Motion to Dismiss.

WHEREFORE, being duly apprised of the premises:

1. After examining all the documents in the file and reviewing them in the light most favorable to Petitioner, there is no genuine issue that the Petitioner has moved out of the School District;

2. Subsequent challenges to the student's previous education become moot because the new School District is responsible for providing a Due Process hearing.

Thompson v. Bd. of Special School Dist. No. 1 (MPLS), 144 F.3d 574, 578 [4-5] (8th Cir. 1998).

3. Petitioner's Due Process hearing is dismissed.

STEPHEN A. MARTIN, CHAIRPERSON

APPEAL PROCEDURE

PLEASE TAKE NOTICE that these Findings of Fact, Decision and Rationale constitute the final decision of the Department of Elementary and Secondary Education in this matter.

PLEASE TAKE NOTICE that you have a right to request review of this decision pursuant to the Missouri Administrative Procedures Act, Section 536.010 *et seq.* RSMo. Specifically, Section 536.110 RSMo. provides in pertinent part as follows:

- “1. Proceedings for review may be instituted by filing a petition in the circuit court of the county of proper venue within thirty days after the mailing or delivery of the notice of the agency's final decision...
3. The venue of such cases shall, at the option of the plaintiff, be in the circuit court of Cole County or in the county of the plaintiff or of one of the plaintiff's residence...”

PLEASE TAKE FURTHER NOTICE that you may be able to appeal to the United States District Court for the Eastern District of Missouri in lieu of an appeal to the state courts. See 20 U.S.C. Section 1415.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served upon DESE and the parties to this action, to-wit, this 2nd day of October, 2001:

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