

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

),	
and legal guardians)	
,)	
)	
Petitioners,)	
)	
v.)	
)	Filed March 6, 2008
WAYNESVILLE R-VI SCHOOL DISTRICT,)	
)	
Respondent.)	

COVER SHEET OF PERSONALLY IDENTIFIABLE INFORMATION

Student's Name:

Student's Date of Birth:

Student's Parents:

Parents' and Student's address:

Local Education Agency: Waynesville R-VI School District
(School District)

School District's address: 200 Fleetwood Drive
Waynesville, MO 65583-2266

Parent's Representative: None.

School District's Representative: James G. Thomeczek
1120 Olivette Executive Parkway, Suite 210
St. Louis, MO 63132

Hearing Officers: Marilyn McClure
Keith Schulte
Janet Davis Baker, Hearing Chair

Date of Due Process Request: March 6, 2008

Date of Resolution Session:

The first one was March 24, 2008; parties continued resolution attempts beyond 30 day period.

Explanation of Deviation from 45 Day Time Line:

The resolution period expired on April 5, 2008. A request for extension of time for the panel's decision was made by the School District's attorney and granted by the Chairperson, through September 15, 2008. This decision timely issues.

Date of Chairperson's Decision: September 15, 2008.

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

STUDENT, BY AND THROUGH HIS PARENTS)	
AND LEGAL GUARDIANS,)	
)	
Petitioner,)	Filed March 6, 2008
)	
v.)	
)	
WAYNESVILLE R-VI SCHOOL DISTRICT,)	
)	
Respondent.)	

ORDER

This matter comes before the Due Process Hearing Chairperson on the Waynesville R-VI School District’s Motion to Dismiss, as incorporated in the District’s Response to the Due Process Complaint (filed on or about March 17, 2008) and supplemented in the Respondent’s Supplement to its Motion To Dismiss (filed on or about May 8, 2008). The School District contends that the Complaint failed to state a cause of action and requested relief that was not within the hearing panel’s authority.

The Complaint primarily complained of conduct of school district personnel at IEP meetings and communication issues. There was no allegation that services were not being provided as required by the Student’s Individualized Education Plan (IEP) and there were no allegations that raised issues relating to the identification, evaluation or educational placement of the child under the Individuals with Disabilities Education Act (IDEA). The proposed resolution contained in the Complaint was, in summary, for the school district staff to listen to parents at meetings, act professional, cooperate with parents and provide professional paperwork with meeting results.

The School District set forth in length in its response to the due process complaint and the supplemental motion to dismiss all that had been done to provide FAPE for the Student since the Student transferred into the School District. The Parents also filed a child complaint with the Missouri Department of Elementary and Secondary Education, which found no violation of the IDEA as it is implemented in Missouri.

By correspondence dated June 9, 2008, this Chairperson advised the Parents that they had ten (10) days up until June 19, 2008, to respond to the District’s Motion to Dismiss or to request leave to amend the Due Process Complaint. The Chairperson’s letter advised of her understanding that a new IEP had been developed and the Student was receiving services consistent with the new IEP. The Parents have not responded to the School District’s Motion or requested leave to amend their complaint.

The Chairperson finds that the Complaint does not state a cause of action under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.507(a) and 300.503(a) and also that the relief requested to remedy the alleged violations is not of a type contemplated by the IDEA.

The Chairperson grants the School District's Motion to Dismiss and the Parent's due process complaint filed March 6, 2008, is dismissed without prejudice.

IT IS SO ORDERED.

JANET DAVIS BAKER
Chairperson

ACCORD:

Keith Schulte
Marilyn McClure

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent the 15th day of September, 2008, to:

Petitioners (by certified mail)
Respondent (by certified mail)
James G. Thomeczek (by regular mail and e-mail)
Marilyn McClure (by regular mail and e-mail)
Keith Schulte (by regular mail and e-mail)
Margaret Strecker, DESE (by regular mail and e-mail)
Wanda Allen, DESE (by e-mail)