

Before the
Administrative Hearing Commission
State of Missouri



AND)
ON BEHALF OF)
,)
Petitioners,)
vs.) No. 13-0005 ED
ST. LOUIS CITY SCHOOL DISTRICT,)
Respondent.)

ORDER OF DISMISSAL

Procedure

On January 4, 2013, Petitioners filed their due process complaint. The St. Louis City School District (“the District”) filed a response to the complaint on January 15, 2013. On January 29, 2013, the District filed a request for a continuance of the pre-hearing conference set for February 5, 2013, and the hearing set for March 4-5, 2013. The District stated that the Petitioners consented to the continuance, and we granted the request by order dated January 30, 2013. On March 22, 2013, Petitioners’ attorney withdrew from representation by notice filed with this Commission.

On April 29, 2013, Petitioners and the District participated in a pre-hearing conference. Attorney for the District stated that before Petitioners’ attorney withdrew, the parties had

executed a written, signed settlement agreement.¹ One of the Petitioners stated she did not agree with the settlement. By order dated April 29, 2013, we ordered the District to brief the enforceability of the settlement and whether the District would agree to proceed to hearing. We gave Petitioners until May 10, 2013, to file a response.

On May 1, 2013, the District filed a motion for involuntary dismissal, with an attached settlement agreement and release. On May 2, 2013, the District filed a response to our order stating it does not agree to proceed to hearing because all matters raised in the due process complaint are resolved by the settlement agreement. Petitioners failed to file anything by May 10, 2013.

Analysis

We have jurisdiction to hear this case.² The District asks us to dismiss this case because the settlement agreement resolves all of the issues in the complaint. Our Regulation 1 CSR 15-3.431³ states:

(2) Settlement. Settlement means the parties' agreed resolution of any issue in the complaint including a contested case under section 621.045, RSMo. The parties may settle all or any part of the complaint without any action by the commission, where such settlement is permitted by law. If the parties' settlement disposes of the entire complaint –

(C) Respondent may file a motion for involuntary dismissal under rule 1 CSR 15-3.436.

¹ The settlement agreement was signed by one parent on March 7, 2013, and by the District on March 21, 2013.

² Section 162.961, RSMo Supp. 2012.

³ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

Regulation 1 CSR 15-3.436 provides:

(2) Respondent may file a motion for involuntary dismissal on all or any part of the complaint except that, unless the commission grants leave otherwise, respondent shall not file a motion for involuntary dismissal –

(A) In any case in which any legal authority, other than the commission, sets any maximum time for conducting a hearing on the merits of the complaint[.]

We grant leave for the District to file the motion.

The parties may resolve this case by voluntarily entering into a settlement agreement executed by both parties.⁴ In *State ex rel. St. Joseph School District v. Missouri Dept. of Elementary and Secondary Education*, 307 S.W.3d 209, 214-18 (Mo. App., W.D. 2010), the Court found that the administrative hearing panel⁵ was the proper entity to decide whether there was a valid settlement agreement between the parents and school district.⁶ Therefore, the District’s motion requires that we determine whether the parties have a valid settlement agreement as to all issues raised in the due process complaint; if so, we may dismiss the case as settled.

The District attached a copy to its motion a copy of a “SETTLEMENT AGREEMENT AND RELEASE,” which includes the following language:

WHEREAS, Parent, Student, and the District desire to resolve the dispute without an adversarial hearing or engaging in other conflict resolution procedures.

NOW THEREFORE, in exchange for the promises and covenants contained herein, Parent, Student, and the District agree as follows:

⁴ *J.K. v. Council Rock School District*, 833 F. Supp.2d 436, 446-47 (E.D. Pa. 2011); *James T. ex rel. A.T. v. Troy School District*, 407 F. Supp.2d 827, 832 (E.D. Mich. 2005).

⁵ Prior to August 28, 2012, Missouri cases arising under the Individuals with Disabilities in Education Act were heard by a three-person panel.

⁶ See also *Neosho R-V School Dist. v. McGee*, 979 S.W.2d 537 (Mo. App., S.D. 1998).

5. The parties agree that the payments in Paragraphs 1-4 fully resolve all claims the parties may have, including claims for attorney's fees and expenses;

9. Parent and Student agree to dismiss with prejudice their due process complaint within two business days of the date of this agreement. The date of this Agreement shall be the date on which the final signature of the parties is ascribed to this document;

10. The parties acknowledge that throughout proceedings in this matter and during settlement negotiations they have been represented by counsel and that their interests were adequately protected throughout the proceedings and negotiations[.]

The document is signed by one parent and dated March 7, 2013. The document is also signed by a representative of the District and dated March 21, 2013. Petitioners provided no evidence to attack the settlement agreement or the authenticity of the signatures. Therefore, we find there is a valid settlement agreement between the Petitioners and the District that disposes of the entire due process complaint.

Upon our determination that a settlement agreement exists that fully resolves the issues in the due process complaint, we grant the District's motion and dismiss this case.

SO ORDERED on May 21, 2013.

MARY E. NELSON
Commissioner