Before the
Administrative Hearing Commission
State of Missouri

ON BEHALF OF , Petitioners, vs. SANTA FE R-X SCHOOL DISTRICT, Respondent.	))))))))))))	No. 13-0201 ED

ORDER OF DISMISSAL

On February 6, 2013, Petitioners filed their Complaint. This is the second complaint filed by Petitioners. The first complaint is a due process claim, the second, however, is premised on Respondent's alleged failure to provide the student's entire educational file. In response to the second complaint, Respondent filed its Motion to Dismiss Petitioner's Complaint and Suggestions in Support Thereof. On February 21, 2013, Petitioners filed their Motion to Strike Respondent's Motion for Summary Judgment Improperly Designated as a Motion to Dismiss and Petitioners' Suggestions in Opposition to Respondent's Motion to Dismiss.

This Commission's jurisdiction in matters of IDEA is invoked when "the proposed action of the agency to initiate or to refuse to initiate or change the identification, evaluation or educational placement of the student or the provision of a free, appropriate public education to the student." *See*, 34 C.F.R. § 300.507 and the Missouri State Plan for Special Education, Regulation V, Section 6, page 64. Petitioners set forth the convoluted and strained argument that allegedly not providing all of the student records is a failure to provide "free, appropriate public education to the student," which would then invoke the jurisdiction of this Commission. We cannot agree with this argument. The purpose of the second complaint is not clear, but it does not rise to the level of a due process claim or a claim under IDEA.

Respondent's Motion to Dismiss is hereby sustained. However, the Commission denies the Respondent's request for attorneys' fees for the defense of this matter.

SO ORDERED on March 12, 2013.

_____
NIMROD T. CHAPEL, JR.
Commissioner