

Before the
Administrative Hearing Commission
State of Missouri



, IN THE)	
INTEREST OF,)	
)	
Petitioner,)	
)	
vs.)	No. 15-1707 ED
)	
SPECIAL SCHOOL DISTRICT OF)	
ST. LOUIS COUNTY,)	
)	
Respondent.)	

DECISION

On November 16, 2015, (“Mother”) filed a due process complaint on behalf of her son (“Student,” together with Mother, “Petitioners”). We dismiss the complaint because it is moot.

Procedure

On November 16, 2015, Petitioners filed this due process complaint under the Individuals with Disabilities in Education Act (“IDEA”) against the Special School District of St. Louis County (“the District”). We scheduled the hearing for December 29-30, 2015. On December 8, 2015, we held a pre-hearing conference with the parties. Mother represented the Petitioners, and Robert J. Thomeczek represented the District. Mother asked for a continuance, which we granted. The hearing was reset for January 21-22, 2016.

On December 8, 2015, after the pre-hearing conference, the District filed a motion to dismiss. We notified Petitioners that they could respond to the motion by December 31, 2015, but they filed no response.

We may grant a motion for involuntary dismissal of a complaint based on a preponderance of admissible evidence, which includes an allegation in the complaint, stipulation, discovery response, affidavit, or other admissible evidence. Regulation 1 CSR 15-3.436(3).¹ In this case, we make our findings of fact from the pleadings and Mother's statements during the conference call we held on December 8, 2015.

Findings of Fact

1. Student is enrolled in the Ferguson-Florissant School District ("FFSD"). He receives special education services through the District.

2. At the beginning of the 2015-16 school year, FFSD placed Student at Bermuda Elementary. Student previously attended his home school, Central Elementary. Both Bermuda and Central are FFSD elementary schools. SSD provides special education services at both schools.

3. When Student moved to Bermuda, SSD agreed to temporarily provide him with transportation to school until his next IEP meeting.

4. Student's next IEP meeting was held on October 15, 2015. The IEP team determined that because the decision for Student to attend Bermuda was not an IEP team decision, SSD would no longer provide transportation for Student to Bermuda. SSD issued a notice of action regarding its refusal to provide transportation to Bermuda as a related service.

5. FFSD is now providing transportation to and from Bermuda for Student.

¹ 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.

Conclusions of Law

This Commission has jurisdiction over matters relating to identification, evaluation, placement or the provision of a free appropriate public education (“FAPE”) to students with disabilities. Section 162.961, RSMo Cum. Supp. 2013. Under the IDEA, all children with disabilities are entitled to FAPE designed to meet their unique needs. 20 U.S.C. § 1412. If a child's special education program or placement is disputed by the child's parents, the IDEA provides for a review procedure. 20 U.S.C. § 1415(a), (b), (d); 34 C.F.R. §§ 300.500–.580. Transportation to and from school is a “related service” to which a child with a disability may be entitled under the IDEA, depending on the circumstances. 34 C.F.R. § 300.34(a) and (c)(16).

Leaving aside the issue of whether transportation is a related service provided under Student’s IEP, both parties agree that Student is currently receiving transportation to and from school. During the prehearing conference, Mother repeatedly raised the issue of a day that she alleges Student was left without transportation, and asked what was to be done about that incident. However, there is no allegation that such a one-time incident had any impact on the identification or evaluation of Student, or his placement or the provision of FAPE to Student. Thus, even if Student were entitled to transportation as a related service, we would lack jurisdiction to address that particular issue.

A case is moot when it is impossible to grant any effective relief. *Rosenfeld v. Thoele*, 28 S.W.3d 446, 451 (Mo. App., E.D. 2000). Petitioners’ transportation issues have been addressed. “When an event occurs that makes a [tribunal’s] decision unnecessary or makes granting effectual relief by the [tribunal] impossible, the case is moot and generally should be dismissed.” *Hihn v. Hihn*, 235 S.W.3d 64, 68 (Mo. App., E.D. 2007).

This Commission is an administrative agency. “[A]dministrative agencies—legislative creations—possess only those powers expressly conferred or necessarily implied by statute.”

United Pharmacal Co. of Mo., Inc. v. Mo. Bd. of Pharmacy, 208 S.W.3d 907, 913 (Mo. banc 2006) (internal quotation omitted). Under the circumstances of this case, there is no relief we can grant to Petitioners. If we lack authority to grant relief, we can take no action other than to exercise our inherent power to dismiss the complaint. *State Bd. of Registration for Healing Arts v. Draper*, 280 S.W.3d 134, 136 (Mo. App., E.D. 2009).

Summary

We dismiss the case and cancel the hearing.

SO ORDERED on January 5, 2016.

KAREN A. WINN
Commissioner