

Before the  
Administrative Hearing Commission  
State of Missouri



, IN THE INTEREST	)	
OF , )	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 19-0811
	)	
PORTAGEVILLE SCHOOL DISTRICT,	)	
	)	
Respondent.	)	

**ORDER**

We grant the Portageville School District’s (District) motion to dismiss due process complaint for mootness, which we treat as a motion for summary decision.

**Procedure**

On June 10, 2018, Parent filed a due process complaint in the interest of (Student). On June 17, 2019, the Portageville School District (District) filed a motion to dismiss the complaint for mootness with an affidavit and related documents. On June 18, 2019, the District filed a response to the complaint and a notice of insufficiency of complaint. On June 19, 2019, the District filed an amended response to the complaint. On June 19, 2019, we denied the District’s notice of insufficiency. On June 24, 2019, Parent filed a response to the District’s motion to dismiss.

Because the District relies on records outside the pleadings, we treat its motion as one for summary decision. 1 CSR 15-3.436(4)(A). Regulation 1 CSR 15-3.446(6) provides that we may decide this case without a hearing if the District establishes facts that the Petitioner does not dispute and entitles the District to a favorable decision.<sup>1</sup>

### **Findings of Fact for Purposes of this Order**

1. Student was previously enrolled in the District, but was suspended for 180 days in May 2018.
2. On April 17, 2019, Parent and Student moved outside of the District's boundaries to live at, Missouri.
3. On May 21, 2019, the District's Individualized Education Program (IEP) team met to determine what services Student would be provided through an IEP as a result of his educational disability of Other Health Impairment under the IDEA.
4. On May 21, 2019, the IEP team developed an IEP for Student.
5. On June 10, 2019, Parent filed his complaint in which he listed his new address.
6. Parent and Student permanently moved outside of the District's boundaries prior to filing the due process complaint in this case.

### **Analysis**

The District argues that we lack jurisdiction to hear Parent's complaint because Parent and Student lived outside the District's boundaries at the time the complaint was filed.<sup>2</sup> The District cited as authority *Thompson v. Board of Special School District No. 1*, 144 F.3d 574 (8<sup>th</sup> Cir. 1998), which held:

---

<sup>1</sup> Per the *Missouri State Plan for Special Education, Regulations Implementing Part B of the Individuals with Disabilities Education Act*, Revised February 2016, Section V, Subsection 6, Paragraph Titled State Level Due Process Hearing, the provisions of chapters 536 and 621 and the procedural rules adopted by this Commission shall be followed unless they conflict with the federal regulations or state statutes implementing the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et seq.

<sup>2</sup> This Commission generally has jurisdiction over matters relating to the identification, evaluation, placement, or the provision of FAPE to students with disabilities. Section 162.961.1, RSMo 2016.

if a student changes school districts and does not request a due process hearing, his or her right to challenge prior educational services is not preserved. Subsequent challenges to the student's previous education become moot.

*Id.* at 579. Subsequent cases have affirmed the *Thompson* holding.<sup>3</sup> See *M.P. v. Indep. Sch. Dist. No. 721*, 326 F.3d 975 (8<sup>th</sup> Cir. 2003) and *C.N. v. Willmar Pub. Sch. Indep. Sch. Dist. No. 347*, 591 F.3d 624 (8<sup>th</sup> Cir. 2009).

The District established, and Parent acknowledged, that Parent and Student did not live within the District's boundaries at the time the complaint was filed. Parent argues that he moved outside the District prior to the District implementing the May 2019 IEP for Student and therefore, the District should not be allowed to raise a jurisdictional issue after he filed his due process complaint. However, the *Thompson* case does not permit this Commission to make exceptions to its holding based on equitable or fairness considerations.

Under the circumstances of this case, there is no relief we can grant to Parent on behalf of Student because the due process complaint was filed after Parent moved outside of the District. 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 grant the District's motion and dismiss the case. We cancel the hearing scheduled in this matter.

SO ORDERED on June 25, 2019.

---

RENEE T. SLUSHER  
Commissioner

---

<sup>3</sup> The court in *Thompson* relied upon a Minnesota law that required due process hearings to be "initiated and conducted by and in the school district responsible for assuring that an appropriate program is provided. *Thompson*, 144 F.3d at 579, citing Minn.Stat. § 120.064, subd. 12. See also *C.N. v. Willmar Pub. Sch. Indep. Sch. Dist. No. 347*, 591 F.3d 624, 631 (8<sup>th</sup> Cir. 2009).