

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

JANINE MASSEY, et al.,) ED102793
)
Respondents,) Appeal from the Circuit Court
) of St. Louis County
vs.)
) Honorable Michael D. Burton
NORMANDY SCHOOLS COLLABORATIVE,)
et al.,)
)
Appellants.) FILED: June 7, 2016

Defendants Normandy School Collaborative ("the Collaborative")¹, some of the "receiving districts" to which Normandy students transferred or wished to transfer ("Receiving Districts"), the Missouri State Board of Education ("State Board"), and the Missouri Department of Elementary and Secondary Education ("DESE") (collectively referred to as "Appellants"), appeal from the trial court's February 11, 2015 judgment ("Judgment"), granting permanent injunctive and declaratory relief to the parents, guardians and student plaintiffs ("Plaintiffs") who had filed suit against the defendants, Pattonville School District, Ritenour School District, Ferguson-Florissant School District, and Francis Howell School District,² because the students wished to attend a transfer school pursuant to Section 167.131, RSMo 2000,³ for the 2014-15 school year but were denied that opportunity when the State Board voted to grant a waiver, giving the Collaborative new accreditation as a state oversight district such that it was not subject to the requirements of Section 167.131. The trial court's Judgment was based on the grounds that the State Board had not legally accredited the Collaborative and students residing within the boundaries were eligible to transfer to accredited schools in the same or adjoining counties pursuant to Section 167.131, and the Collaborative was required to pay the costs of tuition and transportation.

AFFIRMED.

Division One Holds: Because Section 162.081.3 was not followed after the lapsing of the unaccredited Normandy School District, the Collaborative simply cannot move from "unaccredited" to "accredited" without following the required procedures. Accordingly, the unaccredited district, lapsed and proceeding under an alternative governing structure, is subject to the transfer statute, Section 167.131, until those required procedures in Section 162.081 are followed. The requirements of Section 162.081 cannot be waived or modified pursuant to

¹ The Collaborative is the former Normandy School District located in St. Louis County.

² The Ferguson-Florissant School District was added as a defendant on or around August 19, 2014, after the trial court entered its decision in favor of the plaintiffs.

³ All statutory references are to RSMo 2000, unless otherwise indicated.

Section 161.210. Additionally, the State Board's classification of the Collaborative as a "state oversight district" constitutes a rule under Chapter 536 of Missouri's Administrative Procedure Act, the State Board failed to follow correct rulemaking procedures and its unauthorized actions must be void. Section 536.010(6); NME Hosps., Inc. v. Dept. of Soc. Servs., Div. of Med. Servs., 850 S.W.2d 71, 75 (Mo. banc 1993).

Opinion by: Roy L. Richter, J.

Robert G. Dowd, Jr., P.J., and Mary K. Hoff, J., concur.

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THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.