

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-4261

Michael C. Liddell, a minor,* by
Minnie Liddell, his mother and next
friend; Kendra Liddell, a minor,
by Minnie Liddell, her mother and next
friend; Minnie Liddell; Roderick D.
LeGrand, a minor, by Lois LeGrand,
his mother and next friend; *Lois
LeGrand; Clodis Yarber, a minor, by
Samuel Yarber, his father and Appeals from the United
States

friend; Samuel Yarber; Earline Caldwell Court for the
Lillie Caldwell; Gwendolyn Danessern District of
Missouri.

National Association for the
Advancement of Colored People;
United States of America; *

Plaintiffs-Appellees; *

City of St. Louis; *

Plaintiff; *

v. *

*

The Board of Education of the City of
St. Louis; Hattie R. Jackson, President,
Board of Education of the City of St.
Louis; Rev. Earl E. Nance, Jr., a
member of the Board of Education of
the City of St. Louis; Renn B. Shuter,

a member of the Board of Education;
of the City of St. Louis; Paula V.
Smith, a member of the Board of Educa-
tion of the City of St. Louis; Dr. Albert
D. Bender, Sr., a member of the Board
of Education of the City of St. Louis;
Eddie G. Davis, a member of the Board
of Education of the City of St. Louis;
Dr. John P. Mahoney, a member of the
Board of Education of the City of St.
Louis; Marybeth McBryan, a member
of the Board of Education of the City
of St. Louis; Thomas M. Nolan, a
member of the Board of Education of
the City of St. Louis; William Purdy, a
member of the Board of Education of
the City of St. Louis; Robbyn G. Wahby,
a member of the Board of Education of
the City of St. Louis; Madye Henson
Whithead, a member of the Board of
Education of the City of St. Louis;
Dr. Cleveland Hammonds, Jr., Super-
intendent of Schools for the City of St.
Louis;

Defendants-Appellees;

Ronald Leggett, St. Louis Collector of
Revenue;

Defendant;

State of Missouri; Mel Carnahan,
Governor of the State of Missouri;
Jeremiah (Jay) W. Nixon, Attorney
General; Bob Holden, Treasurer;
Richard A. Hanson, Commissioner of
Administration; Robert E. Bartman,

Commissioner of Education; Missouri
State Board of Education, and its
members; Thomas R. Davis; *
Sharon M. Williams; Peter F.
Herschend; Jacqueline D. Wellington;
Betty E. Preston; Russell V. * Thompson;
Rice Pete Burns; William Kahn;

Defendants-Appellees *

Special School District of St. Louis
County; *

Defendant-Appellant;

Affton Board of Education; Bayless
Board of Education; Brentwood
Board of Education; Clayton * Board of
Education; Ferguson-Florissant Board
of Education; Hancock Place * Board of
Education; Hazelwood Board of
Education; Jennings Board of * Education;
Kirkwood Board of Education; * LaDue
Board of Education; Lindbergh Board of
Education; Maplewood-Richmond
Heights Board of Education; * Mehlville
Board of Education; Normandy * Board
of Education; Parkway Board * of
Education; Pattonville Board * of Educa-
tion; Ritenour Board of Educa-
tion; Riverview Gardens Board of Education;
Rockwood Board of Education; *
University City Board of Education;
Valley Park Board of Education; *
Webster Groves Board of Education;
Wellston Board of Education; *

Defendants-Appellees*

*

St. Louis County; Buzz Westfall, County Executive; James Baker, Director of Administration, St. Louis County, Missouri; Robert H. Peterson, Collector of St. Louis County "Contract Account," St. Louis County, Missouri; *

*

Defendants*

*

The St. Louis Career Education District;

*

*

Defendant-Appellee;

*

St. Louis Teachers' Union, Local 420, AFT, AFL-CIO;

*

*

Intervenor Below. *

No. 98-1065

Michael C. Liddell, a minor, by *
Minnie Liddell, his mother and next *
friend; Kendra Liddell, a minor, *
by Minnie Liddell, her mother and next *
friend; Minnie Liddell; Roderick D. *
LeGrand, a minor, by Lois LeGrand, *
his mother and next friend; Lois *
LeGrand; Clodis Yarber, a minor, by *
Samuel Yarber, his father and next *
friend; Samuel Yarber; Earline Caldwell; *
Lillie Caldwell; Gwendolyn Daniels; *

National Association for the *
Advancement of Colored People; *
United States of America; City of *
St. Louis; *

Plaintiffs; *

v. *

The Board of Education of the City of *
St. Louis; Hattie R. Jackson, President, *
Board of Education of the City of St. *
Louis; Rev. Earl E. Nance, Jr., a *
member of the Board of Education of *
the City of St. Louis; Renni B. Shuter, *
a member of the Board of Education; *
of the City of St. Louis; Paula V. *
Smith, a member of the Board of Educa- *
tion of the City of St. Louis; Dr. Albert *
D. Bender, Sr., a member of the Board *
of Education of the City of St. Louis; *
Eddie G. Davis, a member of the Board *
of Education of the City of St. Louis; *
Dr. John P. Mahoney, a member of the *
Board of Education of the City of St. *
Louis; Marybeth McBryan, a member *
of the Board of Education of the City *
of St. Louis; Thomas M. Nolan, a *
member of the Board of Education of *
the City of St. Louis; William Purdy, a *
member of the Board of Education of *
the City of St. Louis; Robbyn G. Wahby, *
a member of the Board of Education of *
the City of St. Louis; Madye Henson *
Whithead, a member of the Board of *
Education of the City of St. Louis; *
Dr. Cleveland Hammonds, Jr., Super- *

intendent of Schools for the City of St. *
Louis; Ronald Leggett, St. Louis *
Collector of Revenue; State of Missouri; *
Mel Carnahan, Governor of the State *
of Missouri; Jeremiah (Jay) W. Nixon, *
Attorney General; Bob Holden, *
Treasurer; Richard A. Hanson, *
Commissioner of Administration; *
Robert E. Bartman, Commissioner of *
Education; Missouri State Board of *
Education, and its members; Thomas R. *
Davis; Sharon M. Williams; Peter F. *
Herschend; Jacqueline D. Wellington; *
Betty E. Preston; Russell V. Thompson; *
Rice Pete Burns; William Kahn; *

Defendants; *

Special School District of St. Louis *
County; *

Defendant-Appellee; *

Affton Board of Education; Bayless *
Board of Education; Brentwood *
Board of Education; Clayton Board of *
Education; Ferguson-Florissant Board *
of Education; Hancock Place Board of *
Education; Hazelwood Board of *
Education; Jennings Board of Education; *
Kirkwood Board of Education; LaDue *
Board of Education; Lindbergh Board of *
Education; Maplewood-Richmond *
Heights Board of Education; Mehlville *
Board of Education; Normandy Board *
of Education; Parkway Board of *
Education; Pattonville Board of Educa- *

tion; Ritenour Board of Education;	*
Riverview Gardens Board of Education;	*
Rockwood Board of Education;	*
University City Board of Education;	*
Valley Park Board of Education;	*
Webster Groves Board of Education;	*
Wellston Board of Education; St. Louis	*
County; Buzz Westfall, County	*
Executive; James Baker, Director of	*
Administration, St. Louis County,	*
Missouri; Robert H. Peterson, Collector	*
of St. Louis County "Contract Account,"	*
St. Louis County, Missouri;	*
	*
Defendants;	*
	*
The St. Louis Career Education	*
District;	*
	*
Defendant-Appellant;	*
	*
St. Louis Teachers' Union, Local 420,	*
AFT, AFL-CIO;	*
	*
Intervenor Below.	*

Submitted: February 25, 1998

Filed: April 28, 1998

Before MCMILLIAN, HEANEY, and FAGG, Circuit Judges.

HEANEY, Circuit Judge.

The Special School District (SSD) appeals the district court's December 9, 1997 order requiring SSD to pay \$213,113.85, less any monies already paid, to the St. Louis Career Education District (CED) for obligations the CED incurred between July 1, 1997 and July 21, 1997, while it operated three vocational schools in St. Louis County. In its cross-appeal, the CED contends that the district court erred in its determination of the proper award. Because the district court did not abuse its discretion and the CED's supplemental submissions were untimely, we affirm.

I.

On June 25, 1996, the district court ordered the creation of the CED in an effort to improve the quality of St. Louis's vocational education. On May 8, 1997, the district court ordered the CED to run both the city and county vocational education programs beginning July 1, 1997; and on June 13, 1997, the district court set the CED's budget at \$22,077,001 for the 1997-98 school year. During the 1996-97 school year, the CED operated only the Career Academy (Academy), which was the city vocational education program. On June 24, 1997, the SSD moved this court for a stay of the June 13 order. We granted the stay on July 8, which was to remain in effect until July 17, 1997. On July 9, 1997, the CED filed an emergency motion asking us to lift the stay so that it could continue to operate the county vocational education program. We did not rule on the motion but said that we would address the issue at oral argument on July 17, 1997. In a July 18, 1997 memorandum, we indicated that we would soon issue an opinion that would hold that (1) the CED would run the Academy, (2) the SSD would run the three county vocational schools, and (3) the 1997-98 approved budget would be split between the CED and SSD. On August 14, 1997, the district court entered an order giving the CED a budget of roughly \$3.8 million and the SSD a budget of roughly \$18.2 million.

The CED sought \$238,711.83 plus additional amounts for expenses from the SSD for fiscal obligations it incurred during the three-week period between the date

that the district court ordered the CED to take over the SSD's vocational schools and three days after our July 18, 1997 order. The demand included (1) \$52,119.49 for supplemental contracts for agriculture/horticulture, counselor, job placement, VRE, and teacher recruitment; (2) \$19,821.82 for adult education costs; (3) \$43,442.77 for reimbursement of former twelve-month employee costs from July 1 to July 21; (4) \$59,158.45 for maintenance bills; (5) \$64,169.30 for health benefits for all employees, except Academy and central office staff; and (6) reimbursement for unspecified utility costs. Later the CED determined the three-week cost of operating the county schools totaled \$264,793.24.

After receiving various filings regarding documentation of the CED's claims, the district court entered an order on December 9, 1997, requiring the SSD to pay \$213,113.85 to the CED for expenses the CED incurred from July 1, 1997 to July 21, 1997. The SSD appeals this order.

In its brief, the SSD argues that (1) the CED's documentation is incomplete and does not support the district court's order because the CED improperly expended the funds after we granted our stay on July 8, 1997 and the district court failed to consider this "last minute effect" on the SSD's budget; (2) the SSD has never been adjudged a constitutional violator and therefore cannot be forced to fund this interdistrict remedy; and (3) the district court acted prematurely because it was to address the validity of the CED in January 1998 and, in the event the CED should not exist, any funds should revert back to the SSD. The CED cross-appeals, contending that the district court erred when it failed to award the CED the full \$264,793.24 that it ultimately requested in operating costs.

II.

From July 1 to July 21, the period of the CED's operation of the three county vocational educational schools, the CED was performing its court-ordered obligations.

Even though we issued a stay in this case, at most it put the CED on notice to spend only reasonable funds. Certainly, the vocational education system cannot shut down every time an appeal is filed. Moreover, the district court approved the 1997-98 budget for the entire vocational program to be run by the CED. We accepted that figure but divided it between the city and county portions such that the CED was to run the Academy and the SSD was to operate the three county schools. If the CED was ordered to run, and in fact ran, what ultimately became the SSD's responsibility and the total budget figure remained the same, the CED should be reimbursed for the reasonable costs it incurred. Consequently, we conclude that the district court did not abuse its discretion and the CED is entitled to reimbursement for all reasonable costs incurred. After a careful review of the SSD's remaining arguments, we conclude they lack merit.

We now turn to the cross-appeal and whether the district court abused its discretion in calculating the amount of money due the CED. The district court timely analyzed the evidence before it and determined that \$213,113.85 was the amount due the CED for the time it operated the three county vocational schools. While this figure may not be perfect, there is nothing to suggest that the court abused its discretion. In addition, without leave of court, the CED amended its request for reimbursement, asking for more money. Irrespective of whether the CED can now substantiate a greater figure, the time for such substantiation had passed. Consequently, we deny relief to the CED on its cross-appeal.

III.

For the aforementioned reasons, we affirm the district court.

A true copy.

Attest.

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.