

142 F.3d 1096 (1998)

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, 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; 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 Education of the City of St. Louis; Dr. Albert D. Bender, Sr., a member of the Board of Education of the City of *1097 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., Superintendent 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 Education; 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, 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,
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 Education 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 ¹⁰⁹⁸ 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., Superintendent 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 Education; 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.

Nos. 97-4261, 98-1065.

United States Court of Appeals, Eighth Circuit.

Submitted February 25, 1998.

Decided April 28, 1998.

*1099 Donna A. Smith, St. Louis, MO, argued (Darold E. Crotzer, Jr., on the brief), for Appellants.

Nark T. Keaney, St. Louis, MO, argued (Ronald A. Norwood and Benjamin A. Lipman, on the brief for St. Louis Career Education District, Kenneth C. Broston and Dirk DeYoung, on the brief for Board of Education), for Appellees.

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 *1100 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 has passed. Consequently, we deny relief to the CED on its cross-appeal.

III.

For the aforementioned reasons, we affirm the district court.

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