

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

TONI R. DONAHUE,)
)
 Plaintiff,)
)
 v.)
)
 KANSAS BOARD OF EDUCATION, et al.,)
)
 Defendants.)
)

Case No. 18-2012

MEMORANDUM AND ORDER

Plaintiff Toni R. Donahue filed this action pro se, for judicial review of a due process hearing and subsequent administrative review involving her child’s school district, both of which were conducted pursuant to the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1415(f), and Kansas law. In a Memorandum and Order dated June 20, 2018, this court dismissed nearly all of the parties from this case and denied plaintiff’s request for a preliminary injunction (Doc. 79). Plaintiff filed a Notice of Appeal of the denial of her request for injunctive relief (Doc. 80), and also requested permission to file an interlocutory appeal of the court’s other rulings (Doc. 88) and moved to stay this case pending appeal (Doc. 85). The court denied plaintiff’s request for an interlocutory appeal and for a stay. The court further advised plaintiff that she must show cause why the court should not dismiss defendant Lloyd Swartz as an improper party within fourteen days, and stated that if plaintiff was unable to demonstrate a legal basis for keeping defendant Swartz in this case for judicial review, the court would dismiss defendant Swartz from the case.

Plaintiff did not respond to the court’s order or show cause why defendant Swartz should not be dismissed as an improper party. The court previously held in Doc. 79 that the only proper parties to an IDEA due process hearing are the parents and the local education agency. 20 U.S.C. § 1415(f)(1)(A);

Kan. Stat. Ann. § 72-3415(a)(1). Here, those parties are plaintiff and Olathe Unified School District USD No. 233. Defendant Swartz, like many of the other defendants named in this case, is not a proper party. The court now dismisses him from the case for the same reasons the court has dismissed the other parties to this action, as set forth in Doc. 79.

IT IS THEREFORE ORDERED that plaintiff's claims against defendant Lloyd Swartz are dismissed, and he is terminated as a party to this action.

Dated this 27th day of August, 2018, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge