

**IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI**

BOARD OF EDUCATION OF THE
CITY OF ST. LOUIS, et al.,

Pctitioners,

vs.

KENT KING, MISSOURI
COMMISSIONER OF EDUCATION,

MISSOURI STATE BOARD OF
EDUCATION,

and

MISSOURI DEPARTMENT OF
ELEMENTARY AND SECONDARY
EDUCATION,

Respondents.

Case No. 07AC-CC00488

ORDER

On March 22, 2007, the State Board of Education (hereinafter referred to as "SBOE") declared the St. Louis Public School District (hereinafter referred to as "District") to be unaccredited as of June 15, 2007. This lawsuit seeks a declaratory judgment regarding the propriety of the SBOE's decision to "unaccredit" the District and a judgment on the constitutionality of the statutes detailing the consequences of the District being declared unaccredited. Petitioners also seek a Temporary Restraining Order under Supreme Court Rule 92 preventing the District's provisional accreditation from lapsing and the unaccredited status from taking effect on June 15, 2007, as ordered by SBOE.

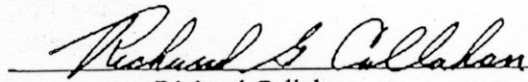
A temporary restraining order is an extraordinary remedy which should only be sparingly used. A party seeking this remedy must first demonstrate that it will suffer immediate and irreparable harm without the issuance of the restraining order; second, that the consequences of issuing the restraining order will not result in greater harm, or stated another way, that the overall public interest favors the issuance of the order; and third, that the evidence and law demonstrates a strong likelihood of success of the lawsuit on the ultimate merits.

While the Court shares the concerns voiced by petitioners that the statutory path created by the legislature in the event of a declaration of unaccredited status may be troublesome, the Court does not believe statutory mischief is the sort of irreparable harm sought to be avoided by the issuance of a temporary restraining order. With respect to the public interest considerations, while the District's argument that allowing the Transitional Board to take over would be disruptive in the event the District prevailed on the merits, the SBOE argues with equal fervor and merit that postponing the carefully selected target date of June 15th and waiting until the lawsuit is completed would obstruct an orderly transition phase in time for the 2007 fall school year and also harm the District. With absolutely no disrespect intended to the current superintendent and her staff, the Court does not find that the petitioners have carried their burden of proving their position on this issue to be superior. Lastly, on the basis of the evidence presented thus far, the Court finds that the SBOE's decision to declassify the District as unaccredited was not arbitrary or capricious, was supported by substantial and competent evidence, including a financial report on the District by Geraldine Ogle, the performance standards report by Becky Kemna, and the earlier report issued by the Special Advisory Committee. While the Court acknowledges that Petitioners' argument on the regulation issue

may have some merit, the Court is unable to say at this time that petitioners are likely to prevail on the merits of their lawsuit.

According, Petitioners' motion for a temporary restraining order is denied.

SO ORDERED THIS 14th DAY OF JUNE, 2007.

A handwritten signature in cursive script, reading "Richard S. Callahan", is written over a horizontal line.

Richard Callahan
Circuit Judge, Division II