

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

**BRITAIN MOORE, Individually, and  
as parent and legal guardian  
of Jashanti Davis, a minor**

**PLAINTIFF**

v.

**No. 4:14-cv-147-DPM**

**SAUL LUSKS, Superintendent of the Lee  
County School District; WILLIE MURDOCK,  
Assistant Superintendent of the Lee County  
School District; MILTON HALL, Member of the Lee  
County School Board; ELIZABETH JOHNSON, Member  
of the Lee County School Board; LAFAYETTE SMITH,  
Member of the Lee County School Board; VICTORIA  
PERRY, Member of the Lee County School Board;  
DAVID WALDRIP, Member of the Lee County School  
Board; KENDALL GRAY, Member of the Lee County  
School Board, All in Their Official and Individual  
Capacities; FRANCILE COOPER, Individually and as  
an agent of the Lee County School District; and  
REGINA STONE, Individually and as an agent  
of the Lee County School District**

**DEFENDANTS**

**ORDER**

The Court appreciates Moore's amended complaint. Defendants' motion to dismiss, though, is granted. *Ne* 52. This Court lacks subject matter jurisdiction. The amended complaint doesn't allege facts supporting an action under the Constitution or federal law. 28 U.S.C. § 1331. Moore doesn't allege discrimination, so 42 U.S.C. § 1985 doesn't apply. *Bray v. Alexandria Women's*

*Health Clinic*, 506 U.S. 263, 268 (1993). And she doesn't allege facts showing a due process or equal protection violation, so 42 U.S.C. § 1983 doesn't apply. The Court accepts as true, at this point, Moore's allegations about the bullying and the district's failure to follow its policies for addressing it. The policy violation is bad; the bullying is very bad. But these acts and omissions don't violate substantive due process. They're not among the conscience-shocking acts targeted by the "heavy artillery" of constitutional litigation. *Steuart v. Suskie*, 867 F.2d 1148, 1150 (8th Cir. 1989) (Richard S. Arnold, J.); *Smith v. Half Hollow Hills Central School District*, 298 F.3d 168, 173 (2d Cir. 2002) (*per curiam*). Nor do they violate procedural due process. The district's failure to follow its rules does not, by itself, implicate a protected liberty or property interest. *Batra v. Board of Regents of the University of Nebraska*, 79 F.3d 717, 720 (8th Cir. 1996).

Defendants' other pending motions, *No 46, 54 & 55*, are denied without prejudice as moot. The amended complaint will be dismissed, for want of federal question jurisdiction, without prejudice to refile in state court. *Carton v. Missouri Pacific Railroad Co.*, 295 Ark. 126, 128, 747 S.W.2d 93, 94 (1988).

So Ordered.

D.P. Marshall Jr.  
D.P. Marshall Jr.  
United States District Judge

5 February 2016