

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**BOARD OF EDUCATION OF  
HARMONY SCHOOL DISTRICT NO. 175,**

**Plaintiff,**

**v.**

**No. 3:12-cv-00313-DRH-DGW**

**COUNTY OF ST. CLAIR, ILLINOIS,  
et. al.,**

**Defendants.**

**MEMORANDUM AND ORDER**

**HERNDON, Chief Judge**

**I. Introduction and Background**

Now before the Court is defendants' motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(1) (Doc.19) and their memorandum in support of that motion (Doc. 20), arguing that plaintiff does not have standing to bring its complaint. Plaintiff opposes the motion by contending that it does have Article III standing under the Constitution and that prudential standing limitations do not bar its complaint. For the following reasons, the Court grants defendants' motion to dismiss.

Plaintiff school district operates a public school system for kindergarten through eighth grades and is located in St. Clair County, Illinois. It no longer had sufficient enrollment to use its Harmony School building and planned to lease it to an entity that is not a party to this litigation (Abraxas) which intended to provide

special education services to disabled students. The St. Clair County Zoning Department and its Board of Zoning Appeals denied plaintiff's requests to use Harmony School to provide special education services. Plaintiff alleges that due to this denial, students with disabilities are harmed and plaintiff itself has been denied reasonable use of its Harmony School property.

In its complaint, plaintiff alleges that defendants have discriminated against students with disabilities through defendants' denial of plaintiff's requests for a Certificate of Zoning Compliance from the Zoning Department of St. Clair County, Illinois for the intended use to lease space in Harmony School to a provider of special education services for students in grades 6-12 (Doc. 2). Further, plaintiff alleges that because of this denial, it was denied the opportunity to enter the proposed lease agreement with Abraxas for Harmony School, which would have provided one million three hundred thousands in funds to the School District. Count I alleges intentional discrimination under Title II of the Americans with Disabilities Act ("ADA") by the Board of Zoning Appeals. Count II alleges disparate impact discrimination under Title II of the ADA on the face of the St. Clair County Zoning Code. Count III alleges disparate impact discrimination under Title II of the ADA in applying the St. Clair County Zoning Code. Count IV alleges failure to make reasonable accommodations under Title II of the ADA in applying the St. Clair County Zoning Code. Count V alleges intentional discrimination violating Section 504 of the Rehabilitation Act. Count VI alleges disparate impact discrimination violating Section 504 of the Rehabilitation Act in provisions of the St. Clair County Zoning Code. Count VII















litigant cannot sue in federal court to enforce the rights of third parties. *Rawoof v. Texor Petroleum Co., Inc.*, 521 F.3d 750, 757 (7th Cir. 2008). However, the Supreme Court has held that a person may litigate another's rights in his own cause so long as three criteria are satisfied: (1) the litigant must have suffered an injury in fact, (2) the litigant must have a close relationship between himself and the injured party, and (3) there must exist some hindrance to the third party's ability to protect his or her own interest. *Marin-Garcia v. Holder*, 647 F.3d 666, 670 (7th Cir. 2011) (citing *Powers v. Ohio*, 499 U.S. 400, 410-11, 415, 111 S.Ct. 1364, 113 L.Ed.2d 411 (1991)).

As discussed above, the Court finds that plaintiff has not suffered an injury in fact. Moreover, even if plaintiff had suffered an injury in fact, there has been no indication that plaintiff has a "close relationship" between itself and the disabled students who were allegedly harmed. Again, these disabled students were merely potential students who could have been educated on plaintiff's property had plaintiff's negotiations with Abraxas succeeded and had the defendants approved plaintiff's zoning requests. Since neither of those events happened, however, there never existed a relationship, let alone a close one, between plaintiff and disabled students.

Therefore, the Court finds plaintiff does not meet the Supreme Court's requirements for superseding the rule that it cannot assert the rights of others to provide the basis for its claims.

#### **D. EQUAL PROTECTION CLAIM**

Plaintiff lacks standing to bring its equal protection claim pursuant to both the prudential standing limitations imposed by the Seventh Circuit and the precedent set by the United States Supreme Court. As mentioned above, the Seventh Circuit recognizes a prudential standing limitation that bars adjudication of generalized grievances. *Family & Children’s Center, Inc.*, 13 F.3d at 1059. Further, the Supreme Court has noted that “[t]he rule against generalized grievances applies with as much force in the equal protection context as in any other. *United States v. Hays*, 515 U.S. 737, 743, 115 S. Ct. 2431, 132 L. Ed. 2d 635 (1995). Even if a governmental actor is discriminating, “the resulting injury ‘accords a basis for standing only to those persons who are personally denied equal treatment by the challenged discriminatory conduct.’” *Id.* at 743-44 (quoting *Allen v. Wright*, 468 U.S. 737, 755, 104 S. Ct. 3315, 82 L. Ed. 2d 556 (1984)).

Plaintiff has not been personally denied equal treatment by the defendants’ decisions. Thus, plaintiff’s claim is merely a generalized grievance and is therefore insufficient to provide plaintiff standing to bring its equal protection claim.

**E. REQUEST FOR JUDICIAL REVIEW**

Defendants ask the Court to decline to exercise supplemental jurisdiction over plaintiff’s state law claim for request for judicial review pursuant to 28 U.S.C. § 1367(c)(3). Section 1367(c)(3) provides that a district court “may decline to exercise supplemental jurisdiction over a claim... if the district court has dismissed all claims over which it has original jurisdiction.” 28 U.S.C. § 1367(c)(3). When determining whether to retain jurisdiction over state law claims, the district court has broad

discretion and considers comity, judicial economy, convenience and fairness to the parties. *United Mine Workers v. Gibbs*, 383 U.S. 715, 726, 86 S. Ct. 1130, 16 L. Ed. 2d 218 (1966). The general rule is that where the federal claims are dismissed, the factors indicated in *Gibbs* require the dismissal of state claims. *Wright v. Associated Ins. Co.*, 29 F.3d 1244 (7th Cir. 1994). The federal district court's retention of state law claims is warranted only in unusual circumstances when (1) the statute of limitations has expired on the state law claim, (2) substantial judicial resources have been expended, or (3) it is entirely clear how the state claims will be decided. *Id.* at 1251.

As none of these rare circumstances exist in the present case, the Court, within its broad discretion, declines to exercise supplemental jurisdiction over plaintiff's claim for request for judicial review. Thus, this claim is also dismissed.

### **III. Conclusion**

For the foregoing reasons, the Court pursuant to Rule 12(b)(1), Court **GRANTS** defendants' motion to dismiss (Doc. 19) and **DISMISSES** plaintiff's cause of action for lack of standing. Further, the Court **DIRECTS** the Clerk of the Court to enter judgment reflecting the same.

**IT IS SO ORDERED.**

**Signed this 25th day of October, 2012.**

Digitally signed by  
David R. Herndon  
Date: 2012.10.25  
13:20:00 -05'00'



**Chief Judge  
United States District Court**