

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:12-CV-405-FL

B.H., by his parents T.H. and J.H.;)
T.H.; and, J.H.,)
)
Plaintiffs,)
)
v.)
)
JOHNSTON COUNTY BOARD OF)
EDUCATION,)
)
Defendant.)

ORDER

This case wherein plaintiff complains of violations of the Individuals with Disabilities Education Improvement Act (“IDEA”), 20 U.S.C. §§ 1400, et seq., in complaint filed July 2, 2012, 20 U.S.C., comes now before the court upon motion to strike attempted amendment of same (DE# 12), and for purposes of establishing a case schedule.

Defendant’s complaint is well taken, that plaintiffs were required to seek leave of the court or consent, as they were out of time to affect on their own initiative, without more, amendment under Rule 15 of the Federal Rules of Civil Procedure. Defendant also expresses concern about the inclusion of an e-mail transmittal.

While the court does not excuse the error of plaintiffs, the reach of Rule 1 in this circumstance and case law showing leave freely given in rulings under Rule 15, suggest efficiencies in permitting plaintiffs at this early stage to amend complaint. The motion to strike is denied. The court need not address now, however, the weight if any to be given to the e-mail transmittal in this litigation.

Turning to the case schedule, the parties recently conferred and have come together to propose a case schedule (DE # 15), which appears appropriate. Without more, good cause having been found, the court adopts as its own the schedule of case events outlined in the parties' joint report. Defendants timely shall file and serve their response to amended complaint herein allowed, and thereafter the court will take up such issues as presented on the cross-motions anticipated to be made.

SO ORDERED, this the 9th day of November, 2012.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive style with a large initial "L".

LOUISE W. FLANAGAN
United States District Court Judge