

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
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 comes before the court on the parties’ respective motions (D.E. 88, 90) for leave to file amended motions for judgment as a matter of law to address new issues raised by defendant’s recently filed answer to the amended complaint (D.E. 87). Defendant’s motion also includes a request for leave to exceed the page limit in its memorandum in support of its amended motion for judgment as a matter of law. For the reasons discussed below, the motions for leave will be granted.

In support of their motion for leave, plaintiffs assert that the answer to the amended complaint “contains an entirely new and greatly expanded prayer for relief that contains ‘allegations’ that dramatically changes [sic] its position on the fundamental issues in this case.” (Pl.’s Mem. (D.E. 91) 2). Plaintiffs also contend that defendant has included “new stipulations and contentions [that are] material to the disposition of this case and should be addressed directly in Plaintiffs’ dispositive motion and supporting brief.” (*Id.* at 3). Defendant likewise asserts that “the Amended Complaint—and by extension the Answer to the Amended Complaint—includes some allegations that are new altogether to these proceedings,” including information that appears in neither the administrative record nor in the initial complaint. (Def.’s Mem. (D.E. 89)

3). The court concludes that the reasons stated by the parties constitute good cause for the filing of amended motions for judgment as a matter of law.

The court further concludes that the complexity of this case, the lengthy administrative proceedings below, and the voluminous administrative record justify permitting the parties to file memoranda supporting their amended motions for judgment as a matter of law that exceed the page limit specified in Local Civil Rule 7.2(e), E.D.N.C.

IT IS THEREFORE ORDERED that the parties' motions for leave to file amended motions for judgment as a matter of law and defendant's request to exceed the page limit are GRANTED.

IT IS FURTHER ORDERED as follows:

1. The parties shall each file their respective amended motions for judgment as a matter of law no later than 31 July 2014. The amended motions shall supersede the original motions in their entirety.

2. Responses to the amended motions for judgment as a matter of law shall be filed no later than 21 August 2014.

3. The Clerk is DIRECTED to terminate as moot the parties' original motions for judgment as a matter of law (D.E. 75, 79), the plaintiffs' motion (D.E. 80) to strike defendant's memorandum in support of its original motion, and defendant's motion (D.E. 83) for leave to exceed the page limit in its memorandum in support of its original motion for judgment as a matter of law.

4. The parties are granted leave to file memoranda in support of their amended motions for judgment as a matter of law up to 60 pages in length.

5. Based on the court's preliminary review of the plaintiffs' memorandum in support of their original motion for judgment as a matter of law, the court notes that plaintiffs have failed to adequately cite to the specific findings of fact and conclusions of law in the decisions of the Administrative Law Judge (D.E. 65 at 541-608) and the State Hearing Officer (D.E. 66 at 114-51) that they challenge, to adequately describe the basis for such challenges, and to cite the specific evidence in the administrative record that supports their arguments. Plaintiffs shall address this deficiency in their memorandum in support of their amended motion and otherwise comply with Fed. R. Civ. P. 56(c)(1) in supporting their factual positions.

SO ORDERED, this the 10th day of July 2014.



James E. Gates
United States Magistrate Judge