UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ALIEF INDEPENDENT SCHOOL DISTRICT,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. 4:08-CV-861
	§	
C. C.,	§	
	§	
Defendant.		

MEMORANDUM OPINION AND ORDER

I. Introduction

Pending before the Court is the plaintiff's, Alief Independent School District, supplemental motion for summary judgment (Docket Entry No. 111). The defendants, C.C. b/n/f Kenneth and Nneka C. (parents), filed a response and cross-motion for summary judgment (Docket Entry Nos. 112, 113). The plaintiff filed a response to the defendants' motion and a reply concerning its own motion. (Docket Entry Nos. 114, 115). After having carefully reviewed the motions, the responses, the record and the applicable law, the Court denies the plaintiff's motion and grants the defendants' motion.

II. Factual Background

This case is on remand from the Fifth Circuit to determine whether the plaintiff should be awarded attorney's fees for underlying actions concerning the defendants' administrative complaint against the plaintiff. The plaintiff is a public school district in Texas, and the defendant parents represent their disabled child, a minor student who attended one of the plaintiff's schools. The defendants had originally asserted a violation of the Individuals with

Disabilities Education Act ("IDEA"),[1] as an appeal of a Texas Education Agency ("TEA") hearing officer's decision concerning the defendant child's educational program. In essence, the parties disagreed about what, if any special educational needs and accommodations constituted a "free appropriate public education" for the defendant child.[2]

This disagreement sparked two underlying administrative proceedings: the defendants requested a due process hearing ("the defendants' complaint"),[3] and the plaintiff counterclaimed ("the plaintiff's complaint").[4] On October 8, 2007, the defendants filed a motion to dismiss, without prejudice, all claims in both proceedings. The plaintiff opposed dismissal of its own complaint, and the hearing officer granted dismissal of only the defendants' complaint without prejudice. As for the plaintiff's complaint, the hearing officer granted some of the plaintiff's requested relief, but did not determine that the defendants' complaint was filed for an improper purpose.

On March 17, 2008, the plaintiff filed suit against the defendants in the United States District Court for the Southern District of Texas, contesting the hearing officer's determination of whether the defendants filed their complaint for an improper purpose, and asserting that it is entitled to attorney's fees. This Court previously dismissed the plaintiff's claims, and the plaintiff appealed to the Fifth Circuit. On appeal, the Fifth Circuit determined that, "[u]nder the plain meaning of the IDEA and its implementing regulations, the administrative proceeding through which the [plaintiff] sought a declaratory ruling was a proceeding under § 1415.

[1] 20 U.S.C. § 1400, *et seq.*

[2] *See* 20 U.S.C. § 1415(a).

[3] TEA Docket No. 273-SE-0507, commenced on May 29, 2007.

[4] TEA Docket No. 321-SE-0807, commenced on August 17, 2007.

Moreover, the [plaintiff] was a prevailing party in that proceeding." Accordingly, the Fifth Circuit reversed and remanded[5] this Court's Memorandum Opinion and Order,[6] to consider:

> (1) whether C.C.'s parents' administrative complaint "was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation, 20 U.S.C. § 1415(i)(3)(B)(i)(III); and (2) if so, whether the district court, in its discretion, considers it appropriate to award attorneys' fees against the parents, *id.* § 1415(i)(3)(b)(i).

III. Contentions of the Parties

A. The Plaintiff's Contentions

The plaintiff contends that it was the prevailing party in the administrative hearing officer's ruling, which declared that the plaintiff was in compliance with IDEA. It argues that the defendants presented their complaint for an improper purpose, and that the hearing officer applied the wrong standard when determining whether their purpose was improper. It argues that, even if the hearing officer applied the correct standard, the plaintiff is still entitled to attorney's fees in the amount of $109,111.94.

B. The Defendants' Contentions

The defendants contend that the parental ability to challenge the appropriateness of a child's Individual Education Plan ("IEP")[7] is a fundamental requirement for the proper functioning of IDEA. Accordingly, they contend that IDEA's fee-shifting provisions cannot be used as a weapon to chill parental participation. They maintain that courts must strictly construe statutory provisions awarding fees to prevailing educational agencies in order to effectuate IDEA's purpose of safeguarding the civil rights of students and their parents. They assert that

[5] *See* Docket Entry Nos. 98, 99.

[6] *See* Docket Entry No. 78.

[7] *See* 20 U.S.C. §§ 1401(14), 1414(d).

the hearing officer applied the correct legal standard, and that the defendants' conduct was not the but-for cause of the plaintiff's fees.

IV. Standard of Review

Federal Rule of Civil Procedure 56 authorizes summary judgment against a party who fails to make a sufficient showing of the existence of an element essential to that party's case and on which that party bears the burden at trial. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994) (*en banc*). The movant bears the initial burden of "informing the Court of the basis of its motion" and identifying those portions of the record "which it believes demonstrate the absence of a genuine issue of material fact." *Celotex*, 477 U.S. at 323; *see also, Martinez v. Schlumber, Ltd.*, 338 F.3d 407, 411 (5th Cir. 2003). Summary judgment is appropriate if "the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c).

If the movant meets its burden, the burden then shifts to the nonmovant to "go beyond the pleadings and designate specific facts showing that there is a genuine issue for trial." *Stults v. Conoco, Inc.*, 76 F.3d 651, 656 (5th Cir. 1996) (citing *Tubacex, Inc. v. M/V Risan*, 45 F.3d 951, 954 (5th Cir. 1995); *Little*, 37 F.3d at 1075). "To meet this burden, the nonmovant must 'identify specific evidence in the record and articulate the 'precise manner' in which that evidence support[s] [its] claim[s].'" *Stults*, 76 F.3d at 656 (quoting *Forsyth v. Barr*, 19 F.3d 1527, 1537 (5th Cir. 1994), *cert. denied*, 513 U.S. 871 (1994)). The nonmovant may not satisfy its burden "with some metaphysical doubt as to the material facts, by conclusory allegations, by unsubstantiated assertions, or by only a scintilla of evidence." *Little*, 37 F.3d at 1075 (internal quotation marks and citations omitted). Instead, it "must set forth specific facts showing the

existence of a 'genuine' issue concerning every essential component of its case." *American Eagle Airlines, Inc. v. Air Line Pilots Ass'n, Int'l*, 343 F.3d 401, 405 (5th Cir. 2003) (quoting *Morris v. Covan World Wide Moving, Inc.*, 144 F.3d 377, 380 (5th Cir. 1998)).

"A fact is material only if its resolution would affect the outcome of the action . . . and an issue is genuine only 'if the evidence is sufficient for a reasonable jury to return a verdict for the [nonmovant].'" *Wiley v. State Farm Fire and Cas. Co.*, 585 F.3d 206, 210 (5th Cir. 2009) (internal citations omitted). When determining whether the nonmovant has established a genuine issue of material fact, a reviewing court must construe "all facts and inferences . . . in the light most favorable to the [nonmovant]." *Boudreaux v. Swift Transp. Co., Inc.*, 402 F.3d 536, 540 (5th Cir. 2005) (citing *Armstrong v. Am. Home Shield Corp.*, 333 F.3d 566, 568 (5th Cir. 2003)). Likewise, all "factual controversies [are to be resolved] in favor of the [nonmovant], but only where there is an actual controversy, that is, when both parties have submitted evidence of contradictory facts." *Boudreaux*, 402 F.3d at 540 (citing *Little*, 37 F.3d at 1075 (emphasis omitted)). Nonetheless, a reviewing court may not "weigh the evidence or evaluate the credibility of witnesses." *Boudreaux*, 402 F.3d at 540 (citing *Morris*, 144 F.3d at 380). Thus, "[t]he appropriate inquiry [on summary judgment] is 'whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law.'" *Septimus v. Univ. of Houston*, 399 F.3d 601, 609 (5th Cir. 2005) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 251-52 (1986)).

V. Analysis and Discussion

The Court denies the plaintiff's motion and grants the defendants' motion. Parents have a vested interest in the proper education of their children. Inevitably, school districts and the parents of a child with special needs will occasionally disagree concerning what constitutes the

appropriate education of that child. Although such disagreements may become prolonged and adversarial, that does not necessarily mean that the parents are defending their perception of their child's best educational interests for an improper purpose. Accordingly, the Court exercises its discretion to decline awarding attorney's fees to the plaintiff.

Absent specially defined circumstances, "[o]ur legal system generally requires each party to bear his own litigation expenses, including attorney's fees, regardless whether he wins or loses. Indeed, this principle is so firmly entrenched that it is known as the 'American Rule.'" *Fox v. Vice*, 131 S. Ct. 2205, 2213 (2011). However, Congress has authorized courts to deviate from this background rule in certain types of cases by shifting fees from one party to another. *Burlington v. Dague*, 505 U.S. 557, 561-62 (1992). Specifically under IDEA, the Court has discretion to award a school district reasonable attorney's fees from a parent if the school district is "a prevailing party," and the parent's complaint "was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation." 20 U.S.C. § 1415(i)(3)(B)(i)(III).

IDEA has a broad remedial purpose: "to ensure that all children with disabilities are provided with a free appropriate public education . . . [and] to assure that the rights of [such] children and their parents or guardians are protected." *Forest Grove Sch. Dist. v. T.A.*, 129 S. Ct. 2484, 2491 (2009) (internal quotation omitted). "Parental participation in the development of an IEP is the cornerstone of the IDEA." *Ector County Indep. Sch. Dist. v. VB*, 420 Fed. Appx. 338, 348 (5th Cir. 2011) (internal citations omitted). After all, parents play a "significant role" in the IEP process. *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 523 (2007) (internal quotation omitted).

"A central purpose of the parental protections is to facilitate the provision of a 'free appropriate public education,' § 1401(9), which must be made available to the child 'in conformity with the [IEP],' § 1401(9)(D)." *Winkelman*, 550 U.S. at 524. Procedural safeguards, including the right to seek administrative review of school district determinations, are at the "core of the statute." *Schaffer v. Weast*, 546 U.S. 49, 53 (2005) (internal citation omitted). "The IDEA also imposes extensive procedural requirements designed to 'guarantee parents both an opportunity for meaningful input into all decisions affecting their child's education and the right to seek review of any decision they think inappropriate.'" *Buser by Buser v. Corpus Christi Indep. School*, 51 F.3d 490, 493 (5th Cir. 1995) (quoting *Honig v. Doe*, 484 U.S. 305, 311-12 (1987)).

A TEA hearing officer's determination that a school district is a prevailing party does not automatically entitle the school district to recover the full amount spent on representation. *El Paso Indep. Sch. Dist. v. Richard R.*, 591 F.3d 417, 421 (5th Cir. 2009). The Court affords "due weight" to the TEA hearing officer's decision, but ultimately the Court must "reach an independent decision based on a preponderance of the evidence." *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 347 (5th Cir.) (internal quotations omitted), *cert. denied*, 531 U.S. 817 (2000).

The Court determines that the plaintiff is not entitled to attorney's fees. The Court need not address whether the hearing officer applied the correct standard when evaluating the plaintiff's improper purpose allegations, because the underlying facts remain unchanged. The simple fact of the matter is that the defendant parents disagreed with the plaintiff's decision concerning the defendant child's educational program, and so the defendants challenged that determination. The plaintiff was not able to persuade the hearing officer that the defendants

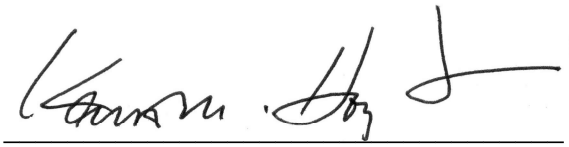
brought their complaint for any improper purpose, and neither has the plaintiff persuaded this Court of its contentions. The defendants exercised their statutorily permissible right under IDEA to review a decision that they deemed inappropriate. *See Buser*, 51 F.3d at 493 (quoting *Honig*, 484 U.S. at 311-12). Even if the process was acrimonious, that does not mean it was impermissible. Accordingly, the Court holds that the plaintiff is not entitled to attorney's fees.

VI. Conclusion

Based on the foregoing discussion, the Court DENIES the plaintiff's motion and GRANTS the defendants' motion.

It is so ORDERED.

SIGNED at Houston, Texas this 7th day of June, 2012.



Kenneth M. Hoyt
United States District Judge