

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

THE ARC OF IOWA, et. al,

Plaintiffs,

vs.

KIM REYNOLDS, et. al,

Defendants.

NO. 4:21-cv-264

**DEFENDANT COUNCIL BLUFFS
COMMUNITY SCHOOL
DISTRICT'S
MOTION TO DISMISS
COMPLAINT AND JOINDER IN
MOTION TO DISMISS FILED BY
"DISTRICTS" (Doc.# 96 & 96-1)**

COMES NOW, Defendant Council Bluffs Community School District, and moves to dismiss this action filed against it, and further joins the Motion to Dismiss filed by the other "District" Defendants (Doc#96) and adopts the "Districts'" brief (Doc.# 96-1) as if set forth herein in its entirety. In support of this Motion, Defendant further states:

1. On September 3, 2021, Plaintiffs filed a Complaint naming the Council Bluffs Community School District as a defendant, asserting that it, along with the other named School Districts are "indispensable but not adverse parties" regarding application of Iowa Code Section 280.31.
2. On May 16, 2022, on appeal by Defendants Kim Reynolds, Governor of Iowa, and Ann Lebo, Director of the Iowa Department of Education, the United States Court of Appeals for the Eighth Circuit vacated this Court's opinion and entry of a preliminary injunction against enforcement of Iowa Code Section 280.31.
3. The Eighth Circuit vacated this Court's preliminary injunction because "[t]he passage of time and acts of third parties have mooted [it]."
4. The issues surrounding the preliminary injunction, which the Eighth Circuit

determined are moot because “the current conditions differ vastly from those prevailing when [this Court] addressed it” including the availability of COVID-19 vaccines to children, are the same issues surrounding the Complaint.

5. Furthermore, just as the Eighth Circuit determined “[n]o court could grant effective relief as sought for the preliminary injunction because enjoining Defendants’ enforcement of Section 280.31 has no effect on Plaintiffs’ children, whose risk of contracting COVID-19 at school is now low even without mask requirements, as is their risk of serious injury or death,” there is no relief that could be granted by this Court as sought by the Complaint. *See Ali v. Cangemi*, 419 F.3d 722, 723-24 (8th Cir. 2005) (en banc) (holding that a case is considered moot when changed circumstances mean the court cannot grant effective relief, and that a court may also find a case to be moot for prudential reasons).

6. Therefore, the Complaint is moot and should be dismissed.

7. In addition, Plaintiffs do not articulate how the Council Bluffs Community School District or any of the District Defendants are “indispensable,” or in any other way necessary parties, to the relief sought by the Complaint.

8. The Complaint instead targets the actions of State officials and contains vague and conclusory allegations which do not provide “enough facts to state a claim to relief (from this Defendant or any of the District Defendants) that is plausible on its face” as regards the Districts. *See Bell Atl. Corp. v. Twombly*, 500 U.S. 544, 570 (2007).

9. Therefore, the Complaint fails to state a claim upon which relief can be granted and this Defendant should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6).

10. Defendant Council Bluffs hereby adopts the arguments as set out in the “Districts’ Brief” filed at Docket #96-1 and hereby incorporate the same herein by reference.

WHEREFORE, Defendant Council Bluffs Community School District respectfully prays the Court dismiss this action against it, in its entirety.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing
instrument was served upon all parties to the
above cause to each of the attorneys of record
herein at their respective addresses disclosed
on the pleading on August 1, 2022

By: U.S. Mail facsimile
 Hand delivered Overnight courier
 Email X ECF

Signature /s/ Timothy A. Clausen