

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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PLANS, INC.,

NO. CIV. S 98-266 FCD EFB

Plaintiff,

v.

MEMORANDUM AND ORDER

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT, TWIN RIDGES SCHOOL
DISTRICT,

Defendants.

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This matter is before the court on a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1) brought by defendant Twin Ridges Elementary School District ("TRESA").¹ By its motion, TRESA seeks to dismiss the instant action against it on the ground there is no longer a "case or controversy" for purposes of Article III of the United States Constitution because as of June 30, 2007, it ceased chartering any Waldorf methods public schools. For the reasons set forth below, TRESA's motion

¹ Because oral argument will not be of material assistance, the court orders this matter submitted on the briefs. E.D. Cal. L.R. 78-230(h).

1 is GRANTED.

2 **BACKGROUND**

3 In February 1998, plaintiff PLANS, Inc. ("plaintiff" or
4 "PLANS") filed a complaint for declaratory and injunctive relief
5 against Sacramento City Unified School District and TRESA. PLANS
6 sought to enjoin TRESA from operating schools implementing
7 Waldorf methods. (Pl.'s Compl., filed Feb. 11, 1998, ¶ 11.)
8 From the time the complaint was filed until recently, TRESA
9 chartered several schools, including the Yuba River Charter
10 School, that utilized Waldorf methods. (Decl. of Joan Little
11 ["Little Decl."], filed Jan. 22, 2008, ¶ 2.) On or about June
12 30, 2007, TRESA ceased to be the chartering authority for all
13 such schools. (Little Decl. ¶ 3.) Currently, the Nevada County
14 Office of Education is the chartering authority for the Yuba
15 River Charter School. (Little Decl. ¶ 4.)

16 **STANDARD**

17 "The jurisdiction of federal courts depends on the existence
18 of a 'case or controversy' under Article III of the
19 Constitution." GTE California, Inc. v. Federal Communications
20 Comm'n, 39 F.3d 940, 945 (9th Cir. 1994). Generally, a case is
21 moot "when the issues presented are no longer 'live' or the
22 parties lack a legally cognizable interest in the outcome."
23 Murphy v. Hunt, 455 U.S. 478, 481 (1982) (quoting U.S. Parole
24 Comm'n v. Geraghty, 445 U.S. 388, 396 (1980)). The court must be
25 able to grant effective relief, otherwise it lacks jurisdiction.
26 GTE California, Inc., 39 F.3d at 945.

27 However, an otherwise moot case may be heard if it falls
28 within one or more of the recognized exceptions to the mootness

1 doctrine. One such exception, relevant here, is "voluntary
2 cessation." A defendant's voluntary cessation of allegedly
3 illegal conduct will not deprive the court of jurisdiction
4 unless:

5 (1) it can be said with assurance that 'there is no
6 reasonable expectation' that the alleged violation will
7 recur, and (2) interim relief or events have completely
and irrevocably eradicated the effects of the alleged
violation.

8 County of Los Angeles v. Davis, 440 U.S. 625, 631 (1979)

9 (internal quotations and citations omitted). The "heavy" burden
10 of making these showings is on the party asserting mootness. Id.

11 ANALYSIS

12 TRESA contends plaintiff's case against it is now moot
13 because TRESA has ceased chartering Waldorf methods public
14 schools. The court agrees. The central inquiry is whether
15 effective relief can be granted to PLANS. Cantrell v. City of
16 Long Beach, 241 F.3d 674, 678 (9th Cir. 2001). The court cannot
17 enjoin TRESA from operating schools it no longer operates.
18 Accordingly, the issues are no longer "live," rendering the case
19 moot.

20 The only question remaining is whether TRESA's actions fall
21 within the exception to the mootness doctrine for voluntary
22 cessation. The court finds both conditions for applying the
23 mootness doctrine have been met, and therefore the exception for
24 voluntary cessation does not apply.

25 TRESA has met the first condition because there can be no
26 reasonable expectation it will revive chartering Waldorf methods
27 public schools. TRESA's superintendent does not indicate any
28 intention to restart operating such schools, which would require

1 completion of an extensive chartering process under the
2 California Education Code. See Cal. Educ. Code § 47605 et seq.;
3 (Little Decl. ¶s 4-6.) Moreover, due to recent amendments to the
4 law, TRESA is unable to charter any of the subject schools in the
5 future. See Cal. Educ. Code § 47605(a) (requiring chartered
6 schools to be located within the geographic boundaries of the
7 school district). Operation of these school has been taken over
8 by other entities. PLANS does not dispute these critical facts.
9 Rather, PLANS argues TRESA has not provided enough evidence to
10 ensure there is no reasonable likelihood it will revive
11 operations. The court finds TRESA has proffered sufficient
12 evidence to show the allegedly wrongful behavior cannot
13 reasonably be expected to recur.

14 TRESA has also met the second condition because TRESA's
15 cessation of chartering Waldorf methods public schools has cured
16 the allegedly injurious effects (i.e. teaching of Waldorf
17 methods) of which PLANS complains. To the extent PLANS is
18 concerned about prospective injuries, this case will proceed
19 against defendant Sacramento City Unified School District. Any
20 decision the court may make about the illegality of public
21 entities operating Waldorf methods schools would set a precedent
22 for preventing such entities from operating Waldorf methods
23 public schools in the future.

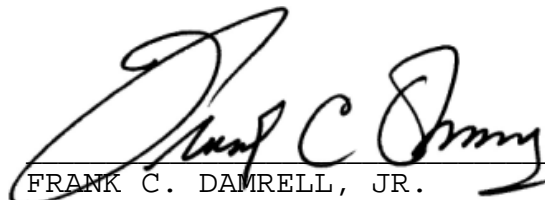
24 CONCLUSION

25 For the foregoing reasons, TRESA's motion to dismiss
26 plaintiff's complaint against it as moot is GRANTED. TRESA is
27 hereby dismissed as a party to this action.

1 On February 12, 2008, the court issued an order to show
2 cause ("OSC") to PLANS' counsel regarding plaintiff's failure to
3 timely file an opposition or non-opposition to TRESA's motion in
4 accordance with Local Rule 78-230(c). (Docket #287.) The court
5 HEREBY DISCHARGES said OSC based on plaintiff's counsel's
6 response (Docket #290), as counsel explains that he is presently
7 suffering from severe mental illness. In his response to the
8 OSC, plaintiff's counsel requests a sixty day stay of the action
9 in order to permit him time to find substitute counsel for PLANS.
10 TRESA and remaining defendant Sacramento City Unified School
11 District oppose the stay (see Docket #s 291, 292.) Because
12 counsel's request is opposed, the court will not stay the action
13 at this juncture and directs counsel to formally notice a motion
14 to stay the proceedings.

15 IT IS SO ORDERED

16 DATED: March 4, 2008.

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20 FRANK C. DAMRELL, JR.
21 UNITED STATES DISTRICT JUDGE
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