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United States District Court, N.D. Illinois, Western
Division.

PEOPLE WHO CARE, et al., Plaintiffs,
v.
ROCKFORD BOARD OF EDUCATION, SCHOOL
DISTRICT # 205, et al., Defendants.

No. 89 C 20168. | Oct. 13, 1992.

Attorneys and Law Firms

Robert C. Howard, Chicago, Ill., for plaintiffs.

Anthony G. Scariano, Chicago, Ill., John Schmidt,
Rockford, Ill., for defendants.

Stephen G. Katz, Chicago, Ill., for intervenors.

Opinion

ORDER

ROSZKOWSKI, District Judge.

***1** Before the court are Defendant's objections to the Magistrate Judge's order granting, in part, Plaintiffs' motion for supplemental remedial relief. For the reasons set forth herein, Defendant's objections are granted in part and denied in part.

BACKGROUND

On September 17, 1992, the Magistrate Judge entered an order in this case granting in part and denying in part Plaintiffs' motion for a supplemental remedial order. Plaintiffs motion was directed at correcting "Defendant's substantial, pervasive and deliberate pattern of non-compliance with the Second Interim Order, with supplemental agreements of the parties, and with supplemental Orders of this Court." Plaintiffs noted several instances of behavior on the part of Defendant Board of Education in requesting a determination of "substantial non-compliance" with this court's Second Interim Order. Plaintiffs then sought various supplemental remedial measures in order to correct Defendant's alleged non-compliance.

In a thorough and well-reasoned opinion, the Magistrate Judge discussed the relevant standard in evaluating Defendant's conduct for the purpose of Plaintiffs' motion for supplemental remedial relief. Neither party objects to the standard used by the Magistrate. The Magistrate then methodically set forth numerous specific instances of misconduct on the part of Defendant Board of Education as well as the results of Defendant's misconduct in relation to the effective and expedient implementation of the provisions of the Second Interim Order. Finally, the Magistrate Judge ordered certain remedies for Defendant's misconduct. Certain of these remedies are the subject of Defendant's objections to the Magistrate's order.

The Magistrate noted that Plaintiffs withdrew their request for a Master at the conclusion of the hearing with regard to Plaintiffs' motion for supplemental remedial relief. As such, the Magistrate did not consider the question of the previously requested appointment of a Master. The Magistrate did, however, find that some supplemental remedial relief was necessary in this case and cited legal support for his decision.

First, the Magistrate Judge ordered the parties to continue to meet beyond the "sunset provisions" of the Second Interim Order in, what has now been referred to as, PIC meetings. These weekly conferences were provided for in the Second Interim Order between District staff and counsel, Plaintiffs' counsel and the court-appointed Monitor. The Magistrate, however, thought it appropriate to invite a member of Intervenor to attend and participate in PIC and to meet more frequently if the Monitor believed it necessary.

Second, the Magistrate found that Defendant's past implementation and compliance problems demonstrated a need for streamlined supervision in order to insure fulfillment of the provisions of the Second Interim Order. Accordingly, the Magistrate set forth an accelerated dispute resolution process, as authorized by Section G.7.d(2) and Section A.19 of the Second Interim Order.

***2** Both Plaintiffs and Defendant object to the Magistrate's determination that a member of the Intervenor class be invited to participate in PIC meetings. Defendant further objects to the Magistrate's streamlined approach to problem solving. The court, thus, turns its attention to these objections to the Magistrate Judge's order.

DISCUSSION

Federal Rule of Civil Procedure 72(a) provides that, for

nondispositive motions, a District Court Judge is to review objections to a Magistrate Judge's order under a "clearly erroneous or contrary to law" standard of review. "A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *Bobkoski v. Board of Ed. of Cary Consol. School Dist.* 26, 141 F.R.D. 89, 90-91 (N.D.Ill.1992), citing, *United States v. United States Gypsum*, 333 U.S. 364, 395 (1948).

The court heartedly approves of the Magistrate Judge's analysis in relation to Plaintiffs' motion for supplemental remedial relief. The court, however, believes that the Magistrate erred in suggesting that a member of the Intervening class be invited to engage in PIC meetings and discussions. Such relief was not requested by either party to this cause of action or by Intervenor themselves. The court finds it would be inappropriate and potentially disruptive for Intervenor to engage discussions on issues that have no relationship to issues with which Intervenor are concerned. As argued by Defendant, PIC deals with issues regarding the formulation of Defendant's budget and potential modifications to that budget as well as issues regarding the formulation, administration and evaluation of numerous educational programs. Intervenor have no legal interest in such topics.

The court does agree, however, with the Magistrate's premise that more open and inclusive discussion is needed between the parties to this cause of action and Intervenor. As such, the court modifies the Magistrate Judge's order to provide that Plaintiffs', Defendant and Monitor meet on a regular basis with Intervenor regarding implementation issues pertaining to and involving Intervenor. These meetings should occur monthly in order to facilitate a dialogue process with

Intervenor.

Furthermore, the court agrees with Defendant that PIC should continue to meet on an "as needed" basis, as determined by the court-appointed Monitor. Such a basis has been used in the past and the court is not aware of any problems that have arisen from this practice. The Magistrate Judge's order is, therefore, modified in this regard.

The court, however, does not agree with Defendant's objections to the expedited problem solving procedure set forth in the Magistrate's order. The court does not believe such a procedure usurps or improperly delegates any powers or authority of anyone, including the school board, the superintendent or the court. The Magistrate's procedure simply provides a vehicle for an accelerated dispute resolution process with prompt consideration of any implementation problem that may arise under the Second Interim Order. The Magistrate Judge's order clearly outlined the need for such a procedure based upon Defendant's past deeds of misconduct and the results thereof. Accordingly, Defendant's objections to the Magistrate's order in this regard are denied.

CONCLUSION

***3** For the reasons set forth herein, Defendant's objections to the Magistrate Judge's order regarding Plaintiffs' motion for supplemental remedial relief are granted in part and denied in part.