

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOEL DOE, a minor, by and through his  
guardians, JOHN DOE and JANE DOE;  
MARY SMITH; JACK JONES, a Minor,  
by and through his parents, JOHN JONES  
and JANE JONES; and MACY ROE,

Plaintiffs,

v.

BOYERTOWN AREA SCHOOL  
DISTRICT; DAVID KREM, in his official  
capacity as superintendent of the Boyertown  
Area School District; DR. BRETT  
COOPER, in his official capacity as  
principal; and DR. E. WAYNE FOLEY, in  
his official capacity as assistant principal,

Defendants,

and

PENNSYLVANIA YOUTH CONGRESS  
FOUNDATION,

Intervenor-Defendant.

CIVIL ACTION NO. 17-1249

**ORDER**

**AND NOW**, this 7th day of November, 2017, the court having previously held a telephone conference with counsel for the parties on October 13, 2017; and the parties having submitted a joint motion for the dismissal of the plaintiffs' claims against the individual defendants, David Krem, Dr. Brett Cooper, and Dr. E. Wayne Foley (Doc. No. 76); and the court having considered the motion to dismiss and supporting memorandum of law filed by the defendants (Doc. Nos. 38, 39), the response to the motion filed by the plaintiffs (Doc. No. 41),

the defendants' reply brief (Doc. No. 43), and the amended complaint (Doc. No. 8); accordingly, it is hereby **ORDERED** as follows:

1. The motion to dismiss (Doc. No. 38) is **DENIED** as follows:

a. The motion to dismiss, insofar as the defendants argue for the dismissal of claims against the individual defendants, David Krem, Dr. Brett Cooper, and Dr. E. Wayne Foley, is **DENIED AS MOOT** due to the joint motion for dismissal of all claims against these defendants; and

b. The motion to dismiss, insofar as the defendants argue for the dismissal of claims against the defendant, Boyertown Area School District, is **DENIED WITHOUT PREJUDICE** to be raised in a motion for summary judgment upon the development of a more complete record through discovery;

2. All deadlines in this matter are **STAYED** until the Third Circuit Court of Appeals resolves the plaintiffs' appeal from the court's August 25, 2017 memorandum opinion and order; and

3. The clerk of court shall place this matter into **CIVIL SUSPENSE** until further order of court.

BY THE COURT:

/s/ Edward G. Smith  
EDWARD G. SMITH, J.