

**UNITED STATES COURT OF APPEALS**

**FOR THE SIXTH CIRCUIT**

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PARENTS DEFENDING EDUCATION,

*Plaintiff-Appellant,*

v.

OLENTANGY LOCAL SCHOOL DISTRICT BOARD OF EDUCATION; MARK T. RAIFF, in his official capacity as Superintendent of Olentangy Local School District; PETER STERN, in his official capacity as Olentangy's Assistant Director of Equity and Inclusion; RANDY WRIGHT, in his official capacity as Olentangy's Chief of Administrative Services; KEVIN DABERKOW, in his official capacity as a member of the Olentangy Board of Education; BRANDON LESTER, in his official capacity as a member of the Olentangy Board of Education; KEVIN O'BRIEN, in his official capacity as a member of the Olentangy Board of Education; LIBBY WALLICK, in her official capacity as a member of the Olentangy Board of Education; LAKESHA WYSE, in her official capacity as a member of the Olentangy Board of Education,

*Defendants-Appellees.*

No. 23-3630

On Petition for Rehearing En Banc.

United States District Court for the Southern District of Ohio at Columbus.

No. 2:23-cv-01595—Algenon L. Marbley, District Judge.

Decided and Filed: November 1, 2024

Before: SUTTON, Chief Judge; MOORE, CLAY, GRIFFIN, KETHLEDGE,  
STRANCH, THAPAR, BUSH, LARSEN, NALBANDIAN, READLER,  
MURPHY, DAVIS, MATHIS, BLOOMEKATZ, and RITZ, Circuit Judges.

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**COUNSEL**

**ON PETITION FOR REHEARING EN BANC and REPLY:** J. Michael Connolly, Cameron T. Norris, Thomas S. Vaseliou, CONSOVOY MCCARTHY PLLC, Arlington, Virginia, for Appellant. **ON RESPONSE:** Bartholomew T. Freeze, Genevieve M. Hoffman, FREUND, FREEZE & ARNOLD, Columbus, Ohio, Jessica K. Philemond, Sandra R. McIntosh, Mitchell L. Stith, SCOTT SCRIVEN LLP, Columbus, Ohio, for Appellees. **ON BRIEF:** Joseph D. Spate, OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South Carolina, John J. Bursch, ALLIANCE DEFENDING FREEDOM, Washington, D.C., Tyson C. Langhofer, Mathew W. Hoffmann, ALLIANCE DEFENDING FREEDOM, Lansdowne, Virginia, Ilya Shapiro, MANHATTAN INSTITUTE, New York, New York, Kayla A. Toney, FIRST LIBERTY INSTITUTE, Washington, D.C., Adam E. Schulman, HAMILTON LINCOLN LAW INSTITUTE, Washington, D.C., Brett R. Nolan, INSTITUTE FOR FREE SPEECH, Washington, D.C., Talmadge Butts, FOUNDATION FOR MORAL LAW, Gallant, Alabama, for Amici Curiae.

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**ORDER**

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A majority of the Judges of this Court in regular active service has voted for rehearing en banc of this case. Under Sixth Circuit Rule 35(b), “[a] decision to grant rehearing en banc vacates the previous opinion and judgment of the court, stays the mandate, and restores the case on the docket as a pending appeal.”

Accordingly, it is ORDERED that the previous decision and judgment of this court are vacated, the mandate is stayed, and this case is restored to the docket as a pending appeal.

The Clerk will direct the parties to file supplemental briefs and will schedule this case for oral argument as soon as possible.

ENTERED BY ORDER OF THE COURT



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Kelly L. Stephens, Clerk