

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SECULAR STUDENT ALLIANCE, *et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF EDUCATION, *et al.*,

Defendants.

CASE NO.: 1:21-cv-00169-ABJ

**DEFENDANTS' SUPPLEMENT TO
THE PARTIES' FEBRUARY 21, 2024 JOINT STATUS REPORT**

Defendants hereby submit the following supplement to the Parties' February 21, 2024 Joint Status Report in accordance with the Court's February 23, 2024 Minute Order:

1. On February 21, 2024, the Parties submitted a Joint Status Report updating the Court on Defendants' progress towards completing the rulemaking proposed by the February 23, 2023 Notice of Proposed Rulemaking ("NPRM"), entitled "Direct Grant Programs, State-Administered Formula Grant Programs." 88 Fed. Reg. 10,857.
2. On February 23, 2024, the Court ordered Defendants to "supplement the joint status report . . . by February 28, 2024 with more information concerning the anticipated timetable for the completion of [the rulemaking]." Minute Order (Feb. 23, 2024).
3. In the NPRM, Defendants proposed to rescind the regulatory provisions challenged in this case because, among other reasons, Defendants preliminarily determined that "they are not necessary to protect the First Amendment right to free speech and free exercise of religion; have created confusion among institutions; and prescribe an unduly burdensome role for the Department to investigate allegations regarding [educational institutions'] treatment of

religious student organizations.” *Id.* at 10,857.

4. When the comment period closed on March 24, 2023, Defendants had received 58,000 comments on the NPRM.
5. Since then, Defendants have continued to diligently work towards issuance of a final rule, but are facing capacity constraints and therefore have not been able to complete the rulemaking to date, despite their continued efforts and desire to issue a final rule.
6. While Defendants’ rulemaking process is ongoing, the Department of Education is unable to provide non-privileged information about a specific timeline for issuance of a final rule.
7. Given Defendants’ stated desire to rescind the provisions challenged in this case, Defendants ask the Court to continue the stay. Doing so would permit Defendants time to continue the rulemaking process and conserve judicial resources in avoiding briefing on a Rule that Defendants have proposed to rescind.

Dated: February 28, 2024

Respectfully submitted,

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