

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
COVINGTON DIVISION**

STATE OF TENNESSEE, )  
COMMONWEALTH OF KENTUCKY, )  
STATE OF OHIO, STATE OF INDIANA, )  
COMMONWEALTH OF VIRGINIA, and )  
STATE OF WEST VIRGINIA, )

*Plaintiffs,* )

v. )

MIGUEL CARDONA, in his official )  
capacity as Secretary of Education, and )  
UNITED STATES DEPARTMENT OF )  
EDUCATION, )

*Defendants.* )

) Case No. 2:24-cv-00072-DLB-CJS

) District Judge David L. Bunning

) Magistrate Judge Candace J. Smith

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**THE STATES' EMERGENCY MOTION  
FOR BRIEFING SCHEDULE AND HEARING**

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The Plaintiff States respectfully move this Court to enter the schedule proposed below and set this matter for a hearing no later than the week of May 28, 2024, or at the Court's earliest convenience, if the Court wishes to hold one. In support, the States state as follows:

1. This suit challenges the U.S. Department of Education's recently published regulations redefining the scope of Title IX of the Educational Amendments Act. *See* Doc. # 1-2, U.S. Dep't of Educ., Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 Fed. Reg. 33,474 (Apr. 29, 2024) ("Final Rule"); *see also* Doc. # 1. Among other things, the Final Rule will prohibit all institutions receiving federal funds from maintaining sex-separate, private spaces like bathrooms, locker rooms, and shower facilities, as well as most other educational activities and programs, when doing so conflicts with students' subjective sense of their gender.

2. The Final Rule was published in the Federal Register on April 29, 2024, and it becomes effective on August 1, 2024.

3. The States filed their complaint challenging the Final Rule as unlawful on April 30, 2024. *See* Doc. # 1.

4. Three days later, on May 3, 2024, the States filed a motion for preliminary injunction, a supporting memorandum, and supporting declarations.

5. As detailed in these filings, the States and their citizens face imminent irreparable harm if the Final Rule is allowed to take effect and will begin incurring nonrecoverable compliance costs before the effective date.

6. To ensure that the Court can consider the merits of this matter fully before the Final Rule becomes effective—and to minimize irreparable harms to the States and their citizens—the States propose the following schedule:

- a. The Defendants shall respond to the motion for preliminary injunction on or before May 17, 2024.
- b. The States shall file their reply on or before May 24, 2024.
- c. If the Court believes a hearing would help its consideration of the motion, all parties shall appear before the Court for a hearing on the motion during the week of May 28, 2024, or at the Court's earliest convenience.

7. The States are contemporaneously serving this filing on contacts for the Department, as well as providing them via-email to attorneys at the Department of Justice who recently participated as counsel for the Department in a prior Title IX matter.

Dated: May 3, 2024

Respectfully submitted,

**RUSSELL COLEMAN**  
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*/s/ Lindsey R. Keiser*

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**CERTIFICATE OF SERVICE**

I certify that on May 3, 2024, the above document was filed with the CM/ECF filing system and sent via regular U.S. mail, postage prepaid, to:

**Miguel Cardona**

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