

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

The State of LOUISIANA,
By and through its Attorney General,
Elizabeth B. Murrill; et al.,

PLAINTIFFS,

v.

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

DEFENDANTS.

Civil Action No. 3:24-cv-00563-TAD-KDM

Chief Judge Terry A. Doughty
Magistrate Judge Kayla D. McClusky

Motion for a Postponement or Stay Under 5 U.S.C. § 705 or Preliminary Injunction

Plaintiffs the State of Louisiana; the Louisiana Department of Education; Acadia Parish School Board; Allen Parish School Board; Bossier Parish School Board; Caddo Parish School Board; Caldwell Parish School Board; DeSoto Parish School Board; Franklin Parish School Board; Grant Parish School Board; Jefferson Davis Parish School Board; LaSalle Parish School Board; Natchitoches Parish School Board; Ouachita Parish School Board; Red River Parish School Board; Sabine Parish School Board; St. Tammany Parish School Board; Webster Parish School Board; West Carroll Parish School Board; the State of Mississippi; the State of Montana; and the State of Idaho (collectively, “Plaintiffs”) respectfully move for an order postponing the effective date of a final rule, titled *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 89 Fed. Reg. 33,474 (Apr. 29, 2024) (to be codified at 34 C.F.R. pt. 106) (the “Rule”), staying the Rule, or preliminarily enjoining enforcement of the Rule under 5 U.S.C. § 705 or Federal Rule of Civil Procedure 65.

This Motion is made on the grounds specified in this Motion, the Amended Complaint, the accompanying Memorandum of Law, the exhibits attached to this Motion, all matters of which this

Court may take judicial notice, and on such other and further oral or documentary evidence as may be presented to the Court at or before the hearing on this Motion. As alleged in the Amended Complaint and shown in the attached Memorandum, the Rule is unlawful because it is contrary to Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–88, and exceeds Defendants’ statutory authority. The Rule also violates the Spending Clause, is an unconstitutional exercise of legislative power, and is arbitrary and capricious. Plaintiffs are therefore substantially likely to prevail on the merits of their claims, and a stay or preliminary injunction is necessary to mitigate substantial and irreparable injuries to Plaintiffs. Indeed, Plaintiffs have already suffered and will continue to suffer irreparable harm, including coercion, invasions of state sovereignty, and unrecoverable compliance costs until preliminary relief is granted. Because the bulk of the unrecoverable compliance costs will be incurred in late June and July 2024, expedited consideration of this Motion is justified. Moreover, the requested relief will serve the public interest and not harm Defendants.

For these reasons and those explained in the attached Memorandum, Plaintiffs respectfully request that by June 21, 2024, the Court postpone the Rule’s August 1, 2024 effective date or stay the Rule pending resolution of this case on the merits under 5 U.S.C. § 705 or, alternatively, preliminarily enjoin Defendants from enforcing the Rule under Federal Rule of Civil Procedure 65.

Dated: May 13, 2024

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Respectfully submitted,

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**Admitted Pro Hac Vice or Pro Hac Vice
admission application forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that, on this date, I electronically filed the foregoing document (and all of its attachments) with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participating attorneys. I also caused the foregoing document (and all of its attachments) to be served by Certified Priority Mail, return receipt requested on Defendants at:

Miguel Cardona Secretary U.S. Department of Education 400 Maryland Ave., SW Washington, DC 20202	U.S. Department of Education Office for Civil Rights Lyndon Baines Johnson Dept of Ed. Bldg 400 Maryland Ave., SW Washington, DC 20202
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Catherine Lhamon, Assistant Secretary U.S. Department of Education Office for Civil Rights Lyndon Baines Johnson Dept of Ed. Bldg 400 Maryland Ave., SW Washington, DC 20202	Merrick Garland U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530
Civil Process Clerk U.S. Attorney Office Western District of Louisiana 800 Lafayette Street, Suite 2200 Lafayette, LA 70501	U.S. Attorney General Civil Processing Clerk 950 Pennsylvania Ave. NW Washington, DC 20530

I further certify that I caused the foregoing document (along with all of its attachments) to be emailed to Benjamin T. Takemoto (Benjamin.Takemoto@usdoj.gov).

This the 13th day of May, 2024.

/s/ Tracy Short
 Tracy Short (La # 23940)
Assistant Chief Deputy Attorney General