

**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 EXPEDITED BRIEFING AND EXPEDITED CONSIDERATION OF
PLAINTIFFS' 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 request that the Court expedite the briefing schedule for Plaintiffs' Motion for a Postponement or Stay under 5 U.S.C. § 705 or a Preliminary Injunction (the "§ 705 Motion") and its consideration of the § 705 Motion.

This Motion for Expedited Briefing and Expedited Consideration of the § 705 Motion is made on the grounds specified in this Motion and the accompanying Memorandum of Law. This motion is also supported by the facts and arguments in Plaintiffs' prior filings, including the Amended

Complaint, the § 705 Motion, the Memorandum in Support of the § 705 Motion, and the exhibits filed with those pleadings. The Court can grant this Motion pursuant to Local Rule 7.4 and its inherent authority to manage its docket to ensure cases proceed expeditiously when necessary.

As explained in earlier filings, the U.S. Department of Education published new Title IX regulations on April 29, 2024, that would transform the classrooms, lunchrooms, bathrooms, and locker rooms of American schools. *See 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”). The Rule’s effective date—absent judicial intervention—is August 1, 2024. The Rule, however, is already causing irreparable harm to Plaintiffs, including coercion, invasions of state sovereignty, and unrecoverable compliance costs. *See* ECF No. 18-1 at 25–28. Although some unrecoverable compliance costs have already been incurred, the majority of the initial compliance costs will be incurred in late June and July 2024. *See id.* at 26. Moreover, Plaintiff School Boards need to begin the time-intensive and expensive process of modifying their bathroom and locker room facilities to comply with the Rule. *See id.* at 18–19 & n.15. Finally, if the Rule goes into effect on August 1, 2024, Plaintiffs will experience additional irreparable harm, “increased recordkeeping obligations, complaints, administrative investigations, and private litigation, not to mention decreased enrollment of students and loss of teachers.” *See id.* at 27–28 & n.17.

Plaintiffs accordingly need expedited relief from this Court, which necessitates an expedited briefing schedule for the § 705 Motion. Specifically, Plaintiffs request that the Court order Defendants to respond to the § 705 Motion no later than May 28, 2024, and order Plaintiffs to file their reply no later than May 31, 2024. In the event the Court believes a hearing would facilitate an expeditious ruling, Plaintiffs request a hearing be scheduled. Plaintiffs further request that the Court issue its decision no later than June 21, 2024. That will give Plaintiffs time (if necessary) to seek relief from the

Fifth Circuit no later than June 28, 2024, and (if necessary) give Plaintiffs time to seek relief from the Supreme Court before the Rule goes into effect on August 1, 2024.

Defendants object to this timeline, because they would like more time to respond; however, 14 days is the standard time to respond to motions, including motions for preliminary relief, in this district court and many others. *See* LR 7.4; *see also, e.g.*, Local Uniform Civil Rules of the U.S. Dist. Courts for N.D. Miss. and S.D. Miss., Rule 7(b)(4); U.S. Dist. Court for E.D. Tex. Local Rules, Local Rule CV-7 (e); Local Court Rules of the U.S. Dist. Court for W.D. Tex., Local Rule 7(d)(2). And Plaintiffs have acted expeditiously, filing both an Amended Complaint and the § 705 Motion (along with the Unopposed Motion for Expansion of Pages and a 30-page Memorandum in Support of the § 705 Motion) within 14 days of the Rule's publication. *See* ECF Nos. 11, 17–18.

Defendants have also had ample time to prepare for the inevitable legal challenge to the blatantly unlawful Rule, and the need for expedited relief is a problem of Defendants' own making. After all, commenters, including Plaintiff States, informed Defendants that the proposed rule was unlawful for the same reasons articulated in the § 705 Motion. *See, e.g.*, ECF No. 11 at 22; ECF No. 18-28, 18-30. Yet Defendants finalized the Rule without making significant changes. Moreover, Defendants repeatedly delayed issuance of the Rule, which has given Defendants more than enough time to prepare for litigation. *See* ECF No. 18-27. And, despite issuing a 423-page Rule that upends Title IX, Defendants chose an August 1, 2024 effective date that requires Title IX funding recipients to immediately begin incurring unrecoverable compliance costs, among other irreparable harms.

For these reasons and those explained in the attached Memorandum, expediting the briefing schedule and the Court's consideration of the § 705 Motion is both necessary and appropriate. Plaintiffs respectfully request this Court grant this Motion.

Dated: May 14, 2024

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
U.S. Department of Education 400 Maryland Ave., SW Washington, DC 20202	United States Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530
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 Defendants' counsel, Benjamin T. Takemoto (Benjamin.Takemoto@usdoj.gov).

This the 14th day of May, 2024.

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

CERTIFICATE OF CONFERENCE

I hereby certify that counsel for Plaintiffs conferred with Defendants' counsel, Benjamin T. Takemoto, on May 14, 2024. During that conference, Defendants' counsel represented that Defendants oppose this motion and will be seeking an extension of time to respond to the § 705 Motion. Plaintiffs' counsel indicated that Plaintiffs oppose that motion to the extent it will delay this Court's decision on the § 705 Motion and increase Plaintiffs' irreparable harm.

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