

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ANDREW BRIDGE, *et al.*,

Plaintiffs,

v.

OKLAHOMA STATE DEPARTMENT
OF EDUCATION, *et al.*,

Defendants.

No. CIV-22-787-JD

**SCHOOL DEFENDANTS' RESPONSE TO PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION AND BRIEF IN SUPPORT**

Respectfully submitted,

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TABLE OF CONTENTS

Table of Authorities ii

The Coercive Effect of S.B. 615 and its Associated Penalties 3

Argument and Authority 5

School Defendants are Compelled to Comply with S.B. 615. 6

Plaintiffs cannot demonstrate likelihood of success against the School Defendants
because they were not “final policymakers” for purposes of establishing *Monell* liability. 7

School Defendants are not liable under Title IX. 14

Conclusion 16

TABLE OF AUTHORITIES

Cases

BNSF Ry. Co. v. City of Edmond, Okla., No. CIV-19-769-G, 2019 WL 5596430 (W.D. Okla. Oct. 30, 2019)..... 5

Bockes v. Fields, 999 F.2d 788 (4th Cir. 1993)..... 10

City of Cleburne, Tex., et al. v. Cleburne Living Ctr., 473 U.S. 432 (1985) 8

Cooper v. Dillon, 403 F.3d 1208 (11th Cir. 2005)..... 10

Curtis v. Okla. City Pub. Sch. Bd. of Educ., 147 F.3d 1200 (10th Cir. 1998)..... 9

Davis v. Monroe Cty. Bd. of Educ., 526 U.S. 629 (1999) 15

Dodds v. U.S. Dep’t of Educ., 845 F.3d 217 (6th Cir. 2016) 6

Evancho, et al. v. Pine-Richland Sch. Dist., 237 F. Supp. 3d 267 (W.D. Pa. 2017)..... 6

Evers v. Cty. of Custer, 745 F.2d 1196 (9th Cir. 1984)..... 10

Garner v. Memphis Police Dep’t, 8 F.3d 358 (6th Cir. 1993) 10

Gates v. Unified Sch. Dist. No. 449 of Leavenworth Cty., Kan., 996 F.2d 1035 (10th Cir. 1993) 11

Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274 (1998)..... 15

Grimes v. City of Okla. City, 49 P.3d 719 (Okla. 2002)..... 13

Grimm v. Gloucester Cty. Sch. Bd., 972 F.3d 586 (4th Cir. 2020) 6

Juzumas v. Nassau Cty., 33 F.4th 681 (2d Cir. 2022) 10, 11

Monell v. Dep’t of Soc. Servs., 436 U.S. 658 (1978) 8

Morrison v. Garraghty, 239 F.3d 648 (4th Cir. 2001) 8

Murrell v. Sch. Dist. No. 1, Denver, Colo., 186 F.3d 1238 (10th Cir. 1999)..... 15

Oklahoma City v. Tuttle, 471 U.S. 808 (1985)..... 8, 9

Pembaur v. City of Cincinnati 475 U.S. 469 (1986) 9

Ritter v. State, No. 199,840, 2022 WL 4359959, ___ P.3d ____ (Okla. Sept. 20, 2022). 7

San Antonio Indep. Sch. Dist., et al. v. Rodriguez, 411 U.S. 1 (1973)..... 13

Shaw v. Hunt, 517 U.S. 899 (1996)..... 13

Surplus Store & Exch., Inc. v. City of Delphi, 928 F.2d 788 (7th Cir. 1991) 10

Vives v. City of N.Y., 524 F.3d 346 (2d Cir. 2008)..... 10, 11

Whitaker ex rel. Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ., 858 F.3d
1034 (7th Cir. 2017)..... 6

Whitesel v. Sengenberger, 222 F.3d 861 (10th Cir. 2000) 11

Williams v. Hansen, 326 F.3d 648 (4th Cir. 2001)..... 8

Statutes

20 U.S.C. § 1681(a)..... 17

42 U.S.C. § 1983 9, 10, 11

OKLA. STAT. tit. 70, §1-125..... passim

OKLA. STAT. tit. 70, §5-116..... 2

OKLA. STAT. tit. 70, §5-117..... 11

OKLA. STAT. tit. 74, §18b 5

Regulations

OKLA. ADMIN. CODE tit. 210, §35-3-186(h) 1, 2, 3, 19

Constitutional Provisions

U.S. CONST. amend. XIV, § 1 8

*To be sued, or to be penalized: that is the question:
Whether 'tis nobler to suffer
The slings and arrows of federal litigation
Or to suffer the penalties wrought upon by legislative wrath*

Begging Shakespeare's indulgence, that is the stark and untenable choice Noble Public Schools, Moore Public Schools, and Harding Independence Charter District, Inc. ("School Defendants") face: costly federal litigation by complying with the Act (and its incumbent administrative regulations) or not complying and facing an administrative reduction of five percent (5%) of their state funding and possible loss of accreditation. Simply, School Defendants are pawns to be sacrificed in this battle because of a law forced upon them by the Oklahoma legislature and Oklahoma Governor.

Plaintiffs seek to enjoin Harding Independence Charter District, Inc. ("HICD"), Noble Public Schools ("NPS"), Moore Public Schools ("MPS"), and the other defendants from enforcing S.B. 615, now codified as OKLA. STAT. tit. 70, §1-125 ("S.B. 615" or "Act"), and the OKLA. ADMIN. CODE tit. 210, §35-3-186(h) ("OSDE Rules"). S.B. 615 mandates that School Defendants adopt a policy regarding usage of public school¹ multiple occupancy restrooms according to a student's sex assigned on the individual's original birth certificate, thereby prohibiting transgender students from access to and use of the multi-occupancy restroom that corresponds with their gender identity. The Act further mandates that public schools provide a single occupancy restroom to students who

¹ For purposes of this Response, School Defendants use the term "public school" to refer to public school districts and public charter school districts and the school sites operated by those entities.

do not want to comply with the Act and discipline students who refuse to comply with the Act. OKLA. STAT. tit. 70, §1-125(C) and (E). As the proverbial cherry on top, the Act allows a parent/guardian of an enrolled student to file a lawsuit against a school district for non-compliance. OKLA. STAT. tit. 70, §1-125(G).

The Act and the OSDE Rules mandate that School Defendants adopt a multi-occupancy restroom usage policy based on a student's original birth certificate or be penalized with a five percent (5%) decrease in state funding for non-compliance with the Act, OKLA. STAT. tit. 70, §1-125(E) and (F), and face possible loss of accreditation.² OKLA. ADMIN. CODE tit. 210, §35-3-186(h).

School Defendants take no position as to the issuance of a temporary injunction, or later in this action, granting injunctive relief, as School Defendants are present in this case merely for having complied with State law—which they are required to do. *See* OKLA. STAT. tit. 70, §5-116 (oath of office for board members which requires each to “obey the Constitution and laws of the United States and Oklahoma”). School Defendants are merely carrying out their obligations under Oklahoma law. School Defendants do not take a position regarding the legality of OKLA. STAT. tit. 70, §1-125, and OKLA. ADMIN. CODE tit. 210, §35-3-186(h), provisions they are compelled to comply with, or the appropriateness of the relief sought by Plaintiffs. Rather, they will honor and comply

² OSDE's Rules specifically provide that schools will be evaluated during the accreditation process to ensure compliance with the law and the Rules and that failure to comply may result in adverse accreditation action. OKLA. ADMIN. CODE tit. 210, 35-3-186(h)(5)(A). Adverse accreditation action includes non-accreditation, which means the school is no longer recognized by the State Board of Education. OKLA. ADMIN. CODE tit. 210, §35-3-201(b)(4)(C).

with the Court's Orders in this case, whatever the outcome.

The Coercive Effect of S.B. 615 and its Associated Penalties

HICD had no role in enacting S.B. 615, and none is alleged in Plaintiffs' Motion for Preliminary Injunction. Plaintiffs' Mtn. Preliminary Injunction [Dkt. 24]; Sch. Defs. Ex. 1, Stefanick's Affidavit, ¶15. HICD had no role in OSBE's adoption of emergency administrative rules, and none is alleged in Plaintiffs' Motion for Preliminary Injunction. Plaintiffs' Mtn. Preliminary Injunction [Dkt. 24]; Sch. Defs. Ex. 1 at ¶ 16. Prior to the enactment of S.B. 615, HICD had transgender students who utilized the multiple occupancy restrooms in its high school consistent with their gender identity without incident. Each year, HICD receives state educational funding. For the 2021–2022 school year, HICD received \$4,486,155.23 in state educational funds. For the 2022–2023 school year, HICD anticipates receiving \$4,425,421.56 in state educational funds based on its enrollment of 950 students. Sch. Defs. Ex. 1 at ¶¶ 5, 9, 10, 12. For the 2022–2023 school year, a five percent reduction in state funding would equal \$221,271.07. *Id.* at ¶ 13. Such a reduction in state funding would result in having to reduce staff and the educational opportunities offered to students at HICD. *Id.* at ¶14.

Similarly, neither MPS nor NPS had any role in enacting S.B. 615 or in adopting administrative rules pursuant to S.B. 615. Sch. Defs. Ex. 2, Solomon Declaration at ¶¶ 8–9 and Sch. Defs. Ex. 3, Romines Declaration at ¶¶ 11–12. NPS receives more than 60% of its funding from the State of Oklahoma. Sch. Defs. Ex. 2 at ¶ 4. The State Aid Calculation for NPS for the 2022–2023 school year is \$12,674,405.13. A five percent (5%) reduction in state aid would constitute a reduction in the amount of \$633,720.55. *Id.*

at ¶¶ 5–6. A reduction of that magnitude would render NPS unable to provide educational services and programs that are currently offered and would necessitate the elimination of programs and positions. Options that would be considered to absorb such a significant reduction include: eliminating course offerings, increasing class sizes, eliminating extracurricular opportunities, and implementing busing reductions. *Id.* at ¶ 7.

MPS receives approximately 56% of its district revenue from state aid. Sch. Defs. Ex. 3 at ¶ 4. The State Aid Calculation for MPS for the 2022–2023 school year is \$81,111,718.46. A five percent (5%) reduction in state aid would constitute a reduction in the amount of \$4,100,000.00. *Id.* at ¶¶ 5–6. Such a reduction would affect the ability of MPS to carry over funds consistent with its Board Policy, which ensures funds are available to begin the school year prior to receipt of additional funding. *Id.* at ¶ 7. A 5% reduction in state aid would result in a two point two percent (2.2%) reduction of carryover funds. Because each one percent (1%) of carryover funds is the equivalent of approximately forty (40) teaching positions or fifty-seven (57) support positions, the two point two percent (2.2%) reduction would be equivalent to reducing eighty-five (85) teaching positions or one hundred twenty-five (125) support positions. *Id.* at ¶¶ 8–9. Additional effects of a state aid reduction, based on the District’s prior experience, can include: reduction in services, reduction in support positions, reduction in elective class subjects offered, reduction or elimination of class trips and extracurricular activities, renegotiation of employee benefit packages, increases in class sizes, cessation of progress on capital projects not covered by bond funds, and decreases in funding available to insure District property and equipment. *Id.* at ¶ 10.

The potential loss of five percent (5%) of state funding would significantly impact School Defendants' operations and could result in decreasing the number of teachers and other staff employed by School Defendants and thus, the number of classes and educational opportunities offered to School Defendants' students. Sch. Defs' Exs. 1–3.

Argument and Authority

Plaintiffs seek a preliminary injunction prohibiting State Defendants from enforcing the Act and OSDE's rules and prohibiting School Defendants from enforcing contrary policies regarding the use of multi-occupancy bathrooms which align with a transgender student's sexual identity rather than biological sex. The majority of Plaintiffs' motion challenges the legality of the Act itself.

The responsibility for defending the constitutionality of state laws is properly left to the Oklahoma Attorney General; therefore, School Defendants leave the defense of the Act to State Defendants. OKLA. STAT. tit. 74, §18b; *see also BNSF Ry. Co. v. City of Edmond, Okla.*, No. CIV-19-769-G, 2019 WL 5596430, *2 (W.D. Okla. Oct. 30, 2019) (holding that “[a]ny ruling on the validity of the [state law at issue] would impact the entire State’s ability to enforce the law” and thereby finding that the Oklahoma Attorney General could intervene as an interested party in the litigation). As to School Defendants, Plaintiffs’ request for preliminary injunction appears to be based solely upon School Defendants’ denial, in compliance with the Act and OSDE Rules, of Plaintiff Students’ request to use multi-occupancy restrooms that align with their gender identity and School Defendants’ adoption of policies in compliance with the Act and OSDE Rules.

I.

School Defendants are Compelled to Comply with S.B. 615.

Plaintiffs claim that the discrimination codified in S.B. 615 is not an issue of first impression for the federal courts. Plaintiffs' Mtn. Preliminary Injunction [Dkt. 24], p. 12. However, this is a case of first impression for the Tenth Circuit. Additionally, there are significant factual differences between this case and the cases cited by Plaintiffs. In contrast to authority before the Court in connection with Plaintiffs' Motion, the legislation at issue in this matter significantly penalizes School Defendants for noncompliance. *See generally Grimm v. Gloucester Cty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020) (H.B. 145 directed the Virginia Department of Education to develop model policies concerning the treatment of transgender students and mandated school boards to adopt consistent policies); *Whitaker ex rel. Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034 (7th Cir. 2017) (Assembly Bill 469 regulated restroom use and provided for a complaint procedure and declaratory or injunctive relief); *see also generally Dodds v. U.S. Dep't of Educ.*, 845 F.3d 217 (6th Cir. 2016); *Evancho, et al. v. Pine-Richland Sch. Dist.*, 237 F. Supp. 3d 267 (W.D. Pa. 2017) (both adopting restroom usage policies without a state statute mandate).

In contrast, Oklahoma law mandates each public school must adopt the restrictive multi-occupancy restroom usage policy or face a penalty of a five percent (5%) reduction in state funding **and** expressly provides parents/legal guardians of students enrolled in the school district a cause of action to file a lawsuit against the school district for non-compliance with the Act. *See* OKLA. STAT. tit. 70, §1-125. Oklahoma's statute is the only

one to financially penalize a school district for non-compliance with the Act and allow lawsuits to be filed against it by parents of students for non-compliance.³ In other words, Oklahoma’s statute threatens school districts with significant financial costs as well as potential litigation for not complying with the Act.

On the other hand, if School Defendants comply with the Act and the OSDE Rules, they are subject to litigation, like this case, for alleged violations of a student’s rights under the Equal Protection Clause and Title IX. Oklahoma public schools are forced into a no-win situation. The Act and OSDE Rules also strip a public school board of its local control over the health, safety, and welfare of its students. *See generally Ritter v. State*, No. 199,840, 2022 WL 4359959, ___ P.3d ____ (Okla. Sept. 20, 2022).

II.

Plaintiffs cannot demonstrate likelihood of success against the School Defendants because they were not “final policymakers” for purposes of establishing *Monell* liability.

As to Plaintiffs’ equal protection claim, they assert that “discrimination against transgender individuals triggers heightened scrutiny because it necessarily classifies them based on sex.” Plaintiffs’ Mtn. Preliminary Injunction [Dkt. 24], pp. 13–14. Plaintiffs claim that School Defendants’ restroom usage policies discriminated against Plaintiffs as transgender students and violated their right to equal protection under the Fourteenth Amendment. Plaintiffs’ Mtn. Preliminary Injunction [Dkt. 24], pp. 12-19.

The Equal Protection Clause of the Fourteenth Amendment provides that “[n]o

³ The Act allows a parent to file suit even if the parent’s child does not attend the same school where an alleged violation of the Act occurred. Thus, making the potential number of

State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. CONST. amend. XIV, § 1. Equal protection “is essentially a direction that all persons similarly situated should be treated alike.” *City of Cleburne, Tex., et al. v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985). Stated differently, a plaintiff must plead sufficient facts to “demonstrate that he has been treated differently from others with whom he is similarly situated and that the unequal treatment was *the result of intentional or purposeful discrimination.*” *Williams v. Hansen*, 326 F.3d 648, 654 (4th Cir. 2001) (emphasis added) (quoting *Morrison v. Garraghty*, 239 F.3d 648, 654 (4th Cir. 2001)). Plaintiffs have sued School Defendants under § 1983 alleging that their policies, adopted pursuant to S.B. 615, intentionally discriminate against Plaintiffs in violation of the Equal Protection Clause.

The State of Oklahoma is not a “person” for purposes of § 1983. But, as political subdivisions of the State, local school boards of education are persons and therefore subject to § 1983. *See Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 690 (1978). As a result, while Plaintiffs cannot sue the State of Oklahoma under § 1983—which would be logical given that their Complaint admits they take issue with the State law—Plaintiffs may sue local school boards if they can show a constitutional deprivation resulting from the policymaking of the School Defendants. *See id.* Such liability is commonly referred to as *Monell* liability.

The contours of *Monell* liability have been brought into focus by subsequent Supreme Court precedent. For example, in *Oklahoma City v. Tuttle*, the Court clarified

litigants essentially each public schools’ total enrollment for a given fiscal year.

that “the word ‘policy’ generally implies a course of action consciously chosen from among various alternatives.” 471 U.S. 808, 823 (1985). The Court further went on to explain that:

Proof of a single incident of unconstitutional activity is not sufficient to impose liability under *Monell*, unless proof of the incident includes proof that it was caused by an existing, unconstitutional municipal policy, **which policy can be attributed to a municipal policymaker**. Otherwise, the existence of the unconstitutional policy, and its origin, must be separately proved.

Id. at 823–24 (emphasis added). Thus, to assess *Monell* liability, *Tuttle* teaches that the first step is identifying who has policymaking authority regarding the allegedly unconstitutional action. One year after *Tuttle*, the Court further explained in *Pembaur v. City of Cincinnati* that “[a]uthority to make municipal policy may be granted directly by a legislative enactment or may be delegated by an official who possesses such authority, and of course, *whether an official ha[s] final policymaking authority is a question of state law.*” 475 U.S. 469, 483 (1986) (emphasis added).

Ordinarily, a school’s board of education has the statutory, and sole, authority to make rules “governing the board and the school system of the district” and is the final policy maker. OKLA. STAT. tit. 70, §5-117; *Curtis v. Okla. City Pub. Sch. Bd. of Educ.*, 147 F.3d 1200 (10th Cir. 1998) (noting that the school board had final policy-making authority under state law and that, to be successful on a § 1983 claim against the school board, the plaintiff was required to show a “direct causal link” between the school board’s “actions and the alleged constitutional deprivation”). However, in this case, the boards of education of School Defendants were stripped of their authority by S.B. 615’s

mandate that school boards must adopt the bathroom policy outlined therein, or else face significant penalties. In other words, it was not School Defendants' policymaking that caused the alleged constitutional deprivation at issue, but rather the State of Oklahoma's policymaking.

Multiple United States Courts of Appeals, including the Tenth Circuit, have addressed the issue of whether a municipal entity may be held liable for merely enforcing a state law, and, uniformly, those decisions demonstrate that School Defendants cannot be held liable because they followed S.B. 615's mandate. Particularly informative on this issue is the Second Circuit's analysis in *Vives v. City of N.Y.*, 524 F.3d 346, 351–53 (2d Cir. 2008), which discussed the landscape of the caselaw in various circuit courts that had addressed the question.⁴ There, the Second Circuit explained that the relevant inquiry is “whether a municipal policymaker has made a meaningful and conscious choice that caused a constitutional injury.” *Vives*, 524 F.3d at 351. If the municipal entity has not made a “meaningful and conscious choice,” then it cannot incur *Monell* liability. *See id.*

Even more instructive to the issue before this Court is the Second Circuit's opinion in *Juzumas v. Nassau Cty.*, 33 F.4th 681 (2d Cir. 2022), in which the court

⁴ At the time *Vives* was decided, the Sixth, Ninth, and Eleventh circuits had held that a municipality can be liable under *Monell* “when it determines to enforce a state law that *authorizes it to perform certain actions but does not mandate that it do so.*” *Vives v. City of New York*, 524 F.3d 346, 351 (2d Cir. 2008) (emphasis added) (citing *Garner v. Memphis Police Dep't*, 8 F.3d 358, 364 (6th Cir. 1993); *Evers v. Cty. of Custer*, 745 F.2d 1196, 1201 (9th Cir. 1984); *Cooper v. Dillon*, 403 F.3d 1208, 1222–23 (11th Cir. 2005)). Also at that time, the Fourth, Seventh, and Tenth circuits had held in various circumstances that municipal entities could not be liable for their implementation of policies created by state law. *See id.* (citing *Bockes v. Fields*, 999 F.2d 788, 791 (4th Cir. 1993); *Surplus Store & Exch., Inc. v. City of Delphi*, 928 F.2d 788, 791 (7th Cir. 1991);

looked back to the *Vives* analysis and found that there can be no “meaningful and conscious” choice when the state law at issue uses the mandatory “shall” language, as opposed to merely authorizing a municipal entity to implement a policy. 33 F.4th at 688–89. There, a county was sued for an alleged unconstitutional penal law directing that long guns “shall be removed and declared a nuisance[.]” *Id.* at 688. The *Juzumas* Court held that: “The language ‘shall’ in a statute is ‘mandatory, not precatory.’ This mandatory language ends our inquiry. *Juzumas*’s dispute rests with the state law, whose constitutionality he has not challenged.” *Id.* at 688–89. Just as the mandatory “shall” language at issue in *Juzumas* was dispositive on the issue of whether the municipal entity had any “meaningful and conscious” choice when implementing a policy, so it is here.

In *Whitesel v. Sengenberger*, the Tenth Circuit adopted a similar position as in *Vives*. 222 F.3d 861 (10th Cir. 2000). There, the Tenth Circuit found that a Board of County Commissioners “[could not] be liable for merely implementing a policy created by the state judiciary . . . [and that a plaintiff] must demonstrate that the [municipal entity] was ‘the moving force’ behind” the alleged constitutional deprivation at issue. *Id.* at 872 (citing *Gates v. Unified Sch. Dist. No. 449 of Leavenworth Cty., Kan.*, 996 F.2d 1035, 1041 (10th Cir. 1993)).

Regardless of whether this Court utilizes the “meaningful and conscious choice” inquiry or the “moving force” inquiry, the answer to each is the same: School Defendants cannot be liable under *Monell* merely because they implemented policies that were mandated by State law. School Defendants certainly had no “meaningful and conscious

Whitesel v. Sengenberger, 222 F.3d 861, 872 (10th Cir. 2000)).

choice.” Rather, State law mandated them to implement a bathroom policy—regardless of their own views as to what policy was best for their districts and their past practices—or else lose substantial state funding, potentially face adverse accreditation decisions, and put themselves at continuous risk of being sued by aggrieved parents. These serious risks are clearly untenable for school districts that are already underfunded, and, as a result, School Defendants had no “meaningful and conscious choice” except to comply with S.B. 615. Similarly, and for the same reasons, School Defendants are certainly not the “moving force” behind any alleged constitutional deprivation.

Plaintiffs’ motion focuses on the classification of students under the Act. Plaintiffs’ Mtn. Preliminary Injunction [Dkt. 24], p. 12. The crux of Plaintiffs’ motion concerns the Oklahoma Legislature’s enactment of S.B. 615 and OSBE’s promulgated emergency rules to enforce the Act. School Defendants had no role in the enactment of S.B. 615 or OSBE’s adoption of administrative rules. The Act states that “[n]o school district board of education and public charter school governing board **shall** adopt a policy contrary to the provisions of this section . . . [u]pon finding of noncompliance with the provisions of subsections B and C of this section by the State Board of Education, the noncompliant school district or public charter school **shall** receive a five percent (5%) decrease in state funding. . .” OKLA. STAT. tit. 70, §1-125. The language of the statute is unequivocally mandatory as to multi-occupancy restroom usage at public schools or public charter schools. As recognized in Plaintiffs’ Complaint, School Defendants did not have any choice as to whether or not they could adopt the multi-occupancy restroom usage policy. Complaint [Dkt. 1], at ¶ 57.

But for the enactment of S.B. 615, School Defendants would not be named as defendants in this lawsuit. The Legislature and the OSBE stripped away School Defendants' control over how to operate their respective schools in relationship to the use of multi-occupancy restrooms. Thus, School Defendants are named in this case simply for complying with a mandatory law that requires the adoption of a policy.

Moreover, School Defendants' compliance with the Act is substantially related to the important government interest of safeguarding public funds. *See San Antonio Indep. Sch. Dist., et al. v. Rodriguez*, 411 U.S. 1 (1973); *Grimes v. City of Okla. City*, 49 P.3d 719 (Okla. 2002); *see also Shaw v. Hunt*, 517 U.S. 899 (1996). If School Defendants permitted Plaintiffs to use the multi-occupancy restroom that aligns with their gender identity, in violation of the Act, the OSBE would very likely penalize School Defendants by reducing the state funding they receive by five percent (5%) and changing their accreditation status.

For HICD, the loss of five percent (5%) of its state funding is approximately \$221,271.07 per year. For Noble and Moore, the loss of five percent (5%) constitutes approximately \$633,720.55 and \$4,100,000.00, respectively. Such a reduction in funds would impact the School Defendants' entire student bodies because the School Defendants would be faced with decreasing the number of teachers and support staff as well as eliminating classes and activities. School Defendants are experiencing increasing costs for such things as electricity, fuel for school vehicles, and classroom materials and supplies. To impose a five percent (5%) reduction in state funding on top of these increasing costs would very likely result in a reduction in force and fewer educational and

extra-curricular opportunities for students.

Additionally, if School Defendants opted not to follow the mandates of the Act and the OSDE Rules, parents of other students enrolled in the school district, whether or not attending the same school site as an alleged violation, could file lawsuits against School Defendants for failing to follow the Act. Liability would essentially be guaranteed because all that is required is that (1) a student, teacher, and/or staff member enter a restroom which does not match the sex identified on the individual's original birth certificate, and (2) the public school refused to comply with the Act. The money paid to future plaintiffs alleging violation of the Act would be money taken away and no longer benefiting School Defendants' student bodies as a whole.

III.

School Defendants are not liable under Title IX.

Plaintiffs assert that School Defendants discriminated against them and violated their rights under Title IX. Plaintiffs also assert that S.B. 615 and the policies of School Defendants harmed them. Plaintiffs' Mtn. Preliminary Injunction [Dkt. 24], p. 19.

Title IX provides that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . .

20 U.S.C. § 1681(a). To state a claim under Title IX, a plaintiff must allege that School Defendants: (1) had actual knowledge of, and (2) were deliberately indifferent to (3) sexual discrimination or harassment that was so severe, pervasive, and objectively

offensive that it (4) deprived the victim of access to the educational benefits or opportunities provided by the school. *Murrell v. Sch. Dist. No. 1, Denver, Colo.*, 186 F.3d 1238, 1246 (10th Cir. 1999) (citing *Davis v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629 (1999)).

Under Title IX a recipient of federal funds may only be liable for its own misconduct. *Murrell*, 186 F.3d at 1246. In other words, a school district can only be liable under Title IX for its intentional acts. *See Davis*, 526 U.S. at 642. The Supreme Court has rejected the application of vicarious liability and agency principles as the basis for holding a school district liable under Title IX. *See generally Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274 (1998).

As discussed above, the crux of Plaintiffs' claims concerns the Oklahoma Legislature's enactment of S.B. 615 and the OSBE's adoption of emergency rules which mandate public schools designate multi-occupancy restroom usage according to a student's sex on an individual's original birth certificate or be penalized with a five percent (5%) reduction of state funding by OSDE for noncompliance. Plaintiffs' Mtn. Preliminary Injunction [Dkt. 24], p.5. The OSDE controls and distributes both federal and state funds for all public schools and controls public schools' accreditation status. Thus, School Defendants have no choice but to follow state law. However, School Defendants are not vicariously liable for acts of the Oklahoma Legislature or the OSBE. Since School Defendants cannot be vicariously liable for the actions of State Defendants or others, School Defendants cannot be held liable for Plaintiffs' Title IX claims.

CONCLUSION

Based on the foregoing, School Defendants, though taking no position on the merits of Plaintiffs' requested relief as to S.B. 615 and OKLA. ADMIN. CODE tit. 210, §35-3-186(h), present the Court with information regarding their inclusion in this litigation and the untenable situation in which they find themselves because of S.B. 615. School Defendants respectfully request that the Court find that they are not the moving force behind the alleged injuries is S.B. 615 and the OSDE Rules.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2022 I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the ECF System.

S/Kent B. Rainey
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