UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

STUDENTS AND PARENTS FOR PRIVACY, a voluntary unincorporated association; **C.A.**, a minor, by and through her parent and guardian, **N.A.**; **A.M.**, a minor, by and through her parents and guardians, **S.M.** and **R.M.**; **N.G.**, a minor, by and through her parent and guardian, **R.G.**; **A.V.**, a minor, by and through her parents and guardians, **T.V.** and **A.T.V.**; and **B.W.**, a minor, by and through his parents and guardians, **D.W.** and **V.W.**, Plaintiffs, vs. **UNITED STATES DEPARTMENT OF EDUCATION**; **JOHN B. KING, JR.,** in his official capacity as United States Secretary of Education; **UNITED STATES DEPARTMENT OF JUSTICE**; **LORETTA E. LYNCH**, in her official capacity as United States Attorney General, and **SCHOOL DIRECTORS OF TOWNSHIP HIGH SCHOOL DISTRICT 211, COUNTY OF COOK AND STATE OF ILLINOIS**. Defendants.	**Case No. 1:16-cv-04945** **The Honorable Jorge L. Alonso** **Response in Opposition to Motion to Intervene as Defendants of Students A, B, and C, by and through their Parents and Legal Guardians, and of the Illinois Safe Schools Alliance**

Response in Opposition to Motion to Intervene as Defendants of Students A, B, and C, by and through their Parents and Legal Guardians, and of the Illinois Safe Schools Alliance

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INTRODUCTION

> The mission of the Office for Civil Rights is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights.
>
> We serve student populations facing discrimination and the advocates and institutions promoting systemic solutions to civil rights problems.

U.S. Dep't of Educ., *About OCR*, http://www2.ed.gov/about/offices/list/ocr/aboutocr.html (last visited May 27, 2016) (emphasis added).

Beginning upon receipt of Student A's complaint filed with the U.S. Department of Education's Office for Civil Rights in December 2013, the U.S. Department of Education has vigorously fought for the interests of Student A in District 211. Those efforts culminated with a threat to strip away District 211's federal funding, and led to District 211 signing a Resolution Agreement that gave Student A access to female locker rooms in violation of the rights and interests of Plaintiffs and other girls at Fremd High School.

Movants now seek to intervene by claiming that the combined forces of the U.S. Departments of Education and Justice are inadequately representing the interests of Movants—despite a history that clearly demonstrates the opposite. However, the Seventh Circuit imposes a high burden on proposed intervenors in these circumstances. They are required to demonstrate that the government entities charged with protecting their rights—as the U.S. Departments of Education and Justice ("DOE/DOJ") are charged with doing here—are acting in bad faith or with gross negligence. Movants allege neither and can certainly prove neither.

In addition, the Movants do not have a unique, significant legally protectable interest in this case. For over 40 years, Title IX has been universally understood to authorize schools to maintain separate locker rooms on the basis of biological sex. While Student Movants certainly have a legal right to access the locker rooms of their biological sex, and for those locker rooms to

be comparable to those of the opposite sex, *see* 34 C.F.R. § 106.33 (requiring "facilities provided for students of one sex" to be "comparable to such facilities provided for students of the other sex"), they do not have a legally protectable right to access locker rooms or other facilities of the opposite sex. Student Movants are not unique but rather are similarly situated to the thousands of other students in District 211 who receive the same protections against sex discrimination under Title IX and who share the same interest in seeing District 211 comply with Title IX.

It is only because of the unlawful efforts of DOE/DOJ to usurp the authority of Congress, redefine the meaning of "sex" under Title IX, and enforce their redefinition on school districts like District 211 that Student Movants can claim to have an interest in this litigation. But that interest is already represented by DOE/DOJ. And the Illinois Safe Schools Alliance's claimed interest is even more attenuated, as it is neither a student nor does it have student members. Such public advocacy organizations (and there are many) do not have any unique, legally protectable interest that warrants their intervention in this lawsuit.

ARGUMENT

I. Movants have not satisfied their burden for intervention as of right.

Under Fed. R. Civ. P. 24(a)(2), movants must satisfy four factors in order to intervene as of right: "(1) their motions to intervene were timely; (2) they possess an interest related to the subject matter of the ... action; (3) disposition of the action threatens to impair that interest; and (4) the [parties] fail to represent adequately their interest." *Ligas ex rel. Foster v. Maram*, 478 F.3d 771, 773 (7th Cir. 2007) (quoting *United States v. BDO Seidman*, 337 F.3d 802, 808 (7th Cir. 2003)). "A failure to establish any of these elements is grounds to deny the petition." *Id*.

A. Movants have failed to show gross negligence or bad faith by the U.S. Departments of Education and Justice, who adequately represent Movants' interests.

"[W]hen the representative party is a governmental body charged by law with protecting the interests of the proposed intervenors, the representative is presumed to adequately represent their interests unless there is a showing of gross negligence or bad faith." *Ligas*, 478 F.3d at 774; *accord United States v. S. Bend Cmty. Sch. Corp.*, 692 F.2d 623, 627 (7th Cir. 1982) ("Adequate representation of the students is therefore to be presumed where, as here, there has been no showing of gross negligence or bad faith."); *Buquer v. City of Indianapolis*, No. 1:11-CV-00708-SEB-MJD, 2013 WL 1332137, at *5 (S.D. Ind. Mar. 28, 2013) ("[W]here the governmental entity responsible for protecting the interests of the intervenors is the party accused of inadequacy, the Seventh Circuit has held that 'the representative party is presumed to adequately represent [the proposed intervenors'] interests unless there is a showing of gross negligence or bad faith.'" (alteration in original) (quoting *Ligas*, 478 F.3d at 774)).

The Departments of Education and Justice ("DOE/DOJ") are the two federal agencies charged with protecting students against unlawful discrimination under Title IX and other federal laws. Title IX states that the DOE "is authorized and directed to effectuate [its] provisions," and that it may enforce "[c]ompliance with any requirement of [Title IX]" through "termination" of federal funding or "by any other means authorized by law." 20 U.S.C. § 1682. Title IX's regulations further empower the DOE to make "find[ings] that a recipient [of federal funding] has discriminated against persons on the basis of sex in an education program or activity" and order the recipient to "take such remedial action as the Assistant Secretary deems necessary to overcome the effects of such discrimination." 34 C.F.R. § 106.3. The DOJ shares this authority to investigate and enforce the protections of Title IX. 28 C.F.R. § 54.110 (authorizing "designated agency official[s]"—a term defined as "the Assistant Attorney General, Civil Rights

Division"—to order recipients to "take such remedial action as the designated agency official deems necessary to overcome the effects of [sex] discrimination").

The DOJ likewise has express regulatory authority to protect students against violations of the Equal Protection Clause and other constitutional rights. 42 U.S.C. § 2000c-6 (authorizing the Attorney General, upon receipt of a complaint from a student or parent, "to initiate and maintain appropriate legal proceedings for relief)."

Both the DOE/DOJ have consistently asserted their interest and authority in protecting the rights of students under Title IX and the Equal Protection Clause in other federal court proceedings. In *Tooley v. Van Buren Public Schools*, No. 2:14-cv-13466 (E.D. Mich), the DOE/DOJ filed a statement of interest in support of a biological female student who identifies as male and is suing her school under Title IX, Title IV, and the Equal Protection Clause. In their statement, the DOE/DOJ assert that they "share responsibility for enforcing Title IX and its implementing regulations in the education context." Dkt. 64-1 at 2, available at https://www.justice.gov/sites/default/files/crt/legacy/2015/02/27/tooleysoi.pdf. The departments further state that they have "interven[ed] or participat[ed] as amicus curiae in lawsuits involving claims of sex discrimination based on sex stereotyping and gender-based harassment against students under both Title IX and the Equal Protection Clause." *Id*. at 3 n.3. *See also* Statement of Interest by the United States, *G.G. v. Gloucester Cty. Sch. Bd.*, No. 4:15-cv-00054, Dkt 28 at 2-3, (E.D. Va. June 29, 2015), available at https://www.justice.gov/sites/default/files/crt/legacy/2015/07/09/gloucestersoi.pdf ("The United States Departments of Justice and Education enforce Title IX and its implementing regulations in the education context.").

The DOE has a dedicated webpage where it describes the various policy guidance, case resolutions, and court filings that it has undertaken on behalf of students to defend their rights

and interests under Title IX. U.S. Dep't of Educ., *Resources for Transgender and Gender-Nonconforming Students*, http://www2.ed.gov/about/offices/list/ocr/lgbt.html. The page describes fourteen different case resolutions or court filings that the DOE has initiated on behalf of students, including Movant Student A.

In fact, the Declaration of Parent A, mother of Student A, provides the most detailed exposition of the extent to which the DOE has fully represented the Movants' interest in this case. After Parent A and Student A filed a complaint with the DOE's Office of Civil Rights, the DOE initiated an "investigation" of whether Student A's rights under Title IX had been violated. Dkt 32-1, ¶ 14. At the conclusion of the investigation, the DOE issued a finding that "District 211 was in violation of Title IX." *Id.* ¶ 16. The DOE demanded full compliance by District 211 with a settlement agreement written by the DOE under threat of revocation of the District's federal funding. *Id.* ¶ 17. District 211 complied with the DOE's remedial measures, and Student A has been allowed to use the girls' locker room. *Id.* ¶ 18.

Based upon the express statutory and regulatory authority, their own assertions in legal pleadings in similar cases, and the DOE's actions against District 211 on behalf of Student A, it is clear that the DOE/DOJ are not only "charged by law with protecting the interests of the proposed intervenors," *Ligas*, 478 F.3d at 774, but they have actually exercised that authority through their investigation and enforcement of their interpretation of Title IX against District 211 on behalf of Movants. And given the DOE/DOJ's zealous advocacy on behalf of Student A, there is no reason to believe that the DOE/DOJ would not also protect the interests of Students B and C, as they are charged to do by law.

Therefore, to overcome the strong presumption that the DOE/DOJ is adequately representing their interests, Movants must establish that the DOE/DOJ is acting in bad faith or with gross negligence. Movants have alleged neither.

Rather, Movants' arguments as to the inadequacy of the DOE/DOJ are based upon two assertions. First, Movants allege that the DOE/DOJ does not represent the interest of Students B and C because "the resolution agreement applies only to Student A's use of the girls' locker rooms." Dkt. 32 at 13. This is not accurate. As stated in the DOE's December 3, 2015 letter to District 211:

> As to other students, OCR noted that the District's nondiscrimination policy specifically prohibits discrimination based on gender. To ensure that all students, including transgender students, are not discriminated on the basis of gender, the Agreement requires the District to provide OCR with information on all gender-based discrimination incidents and complaints. OCR will monitor implementation of the Agreement until the District has fulfilled the terms of the Agreement and is in compliance with Title IX and its implementing regulations at issue in this case.

Available at https://www2.ed.gov/about/offices/list/ocr/docs/investigations/05141055-a.pdf (emphasis added). The DOE is continuing to monitor District 211, requiring the District to report all "incidents and complaints" until such a time as the DOE is assured that the District "is in compliance with Title IX." Assuming that Students B and C actually enroll in District schools in the coming years, the DOE would require the District to report any complaints made by Students B and C (or any other student) alleging that the District is not in full compliance with its interpretation of Title IX, and DOE could enforce compliance with that interpretation.

Because the DOE reserved for itself authority to monitor the District and investigate any additional complaints or incidents by other students, the DOE is continuing to represent the interests of all students enrolled in the District, including Students B and C at such a time as they actually enroll in District 211.

Additionally, the reason that the Resolution Agreement only authorizes Student A to enter into the girls' locker rooms is because only Student A filed a complaint with the DOE. Students B and C did not (and could not, since they do not attend a school in the District). Based on the statements made by the DOE in the December 3, 2015 letter, it can be presumed that if Students B or C filed a complaint with the DOE, the DOE/DOJ would take the same actions on their behalf that they did on Student A's behalf.

The second basis for Movants' claim that the DOE/DOJ do not represent their interest is the purely speculative argument that the DOE/DOJ will assert different arguments and issues in the case, and that they might not assert an equal protection argument.[1] There are several flaws with this argument. First, the DOE/DOJ has repeatedly asserted its authority to enforce the Equal Protection Clause and has express statutory authority to do so. *See* Statement of Interest of the United States, *Tooley v. Van Buren Public Schs.*, No. 2:14-cv-13466, Dkt 64-1 at 2 (stating that the DOE/DOJ have defended the interest of students "under [both]Title IX and the Equal Protection Clause"); United States' Memorandum as *Amicus Curiae* in Response to Defendants' Motion to Dismiss/Motion for Summary Judgment, *Pratt v. Indian River Cent. Sch. Dist.*, No. 7:09-cv-00411, Dkt 68-2 at 2-3 (N.D.N.Y. Aug. 13, 2010) *available at* https://www.justice.gov/sites/default/files/crt/legacy/2011/03/30/prattamicus.pdf (asserting that "the Attorney General may intervene in any lawsuit in federal court seeking relief from a denial

[1] Numerous courts have rejected Equal Protection claims brought in identical contexts, showing that the Movants' preferred litigation strategy lacks merit. *See Johnston v. Univ. of Pittsburgh of Commonwealth Sys. of Higher Educ.*, 97 F. Supp. 3d 657, 670 (W.D. Pa. 2015), *appeal dismissed* (Mar. 30, 2016) ("[S]eparating students by sex based on biological considerations—which involves the physical differences between men and women—for restroom and locker room use simply does not violate the Equal Protection Clause."); *Kastl v. Maricopa Cty. Cmty. Coll. Dist.*, 325 F. App'x 492, 494 (9th Cir. 2009) (ruling in case brought by a biological male student who demanded access to college's female restrooms that "Kastl's Title IX and Equal Protection claims fall with her Title VII claim").

of equal protection under the Fourteenth Amendment"). Second, because the DOE/DOJ have not filed any responsive pleadings in this case, it is entirely conjectural for the Movants to claim that the DOE/DOJ will not raise the issues and arguments preferred by the Movants. Finally, the Movants are essentially asserting a hypothetical disagreement as to the litigation strategy the DOE/DOJ might take. But "quibbles with the [DOE/DOJ's] litigation strategy … does not provide the conflict of interest necessary to render the [DOE/DOJ's] representation inadequate." *Wis. Educ. Ass'n Council v. Walker*, 705 F.3d 640, 659 (7th Cir. 2013); *accord Buquer*, 2013 WL 1332137, at *6 (proposed intervenors "dispute with regard to the application of relevant caselaw evidences neither gross negligence nor bad faith on the part of the Attorney General, and is thus insufficient to overcome the presumption that the representation is adequate"); *One Wis. Inst., Inc. v. Nichol*, 310 F.R.D. 394, 399 (W.D. Wis. 2015) ("The proposed intervenors are not pursuing a different goal, and their views on the best legal arguments to use to reach that goal amount to little more than 'post-hoc quibbles' with the litigation strategy that the attorney general has pursued in this case; such quibbles do not support intervention as of right.").

The DOE/DOJ are charged under federal law with protecting the rights of Movants. And the Movants' own declarations demonstrate that the DOE/DOJ have effectively advocated and represented their interest for several years, Dkt 32-1 at ¶¶ 14-19 (Parent A describing the significant work of DOE on behalf of Student A), culminating with the Resolution Agreement signed by District 211, Dkt 21-3 (Resolution Agreement). Under such facts, the DOE/DOJ are presumed to provide adequate representation to Movants' interest, and there are no allegations to the contrary.

B. Movants do not have a unique, significant legal interest.

"A proposed intervenor must demonstrate a direct, significant and legally protectable interest in the property at issue in the law suit. The interest must be based on a right that belongs

to the proposed intervenor rather than to an existing party in the suit." *Keith v. Daley*, 764 F.2d 1265, 1268 (7th Cir. 1985).

The "significant legal interest" that a movant must demonstrate to succeed on a motion to intervene has several components. First, the movant must "be someone whom the law on which his claim is founded was intended to protect." *Flying J, Inc. v. Van Hollen*, 578 F.3d 569, 572 (7th Cir. 2009). Second, the asserted interest "must be unique to the proposed intervenor." *Wis. Educ. Ass'n Council*, 705 F.3d at 658. And finally, the interest requires the movant to satisfy a heightened Article III standing requirement. *Flying J, Inc.*, 578 F.3d at 571. ("'Interest' is not defined, but the case law makes clear that more than the minimum Article III interest is required.").

1. Students A, B, and C do not have a significant legal interest.

Student Movants claim that, because they are in the "zone of interests protected by Title IX," they have a significant legal interest in the case. Dkt. 32 at 8. Under Movants' theory, all 50 million elementary and secondary public school students and 20 million college students in the United States would be eligible for intervention is this case. More than simply being in the "zone of interest" of Title IX is required to have a significant legal interest.

Title IX protects every student at every college and school that is a recipient of federal education funding. It protects the right of students to use facilities designated for their biological sex, and the right to have facilities that are comparable to those of the opposite sex. 34 C.F.R. § 106.33. But Student Movants are not being denied either of these rights.

Rather, Student Movants claim that Title IX provides them a "right" to use the locker rooms and restrooms of the opposite sex. But as more fully explained in Plaintiffs' Memorandum in Support of Plaintiffs' Motion for Preliminary Injunction, Title IX's definition of sex does not

include gender identity. *See* Dkt. 23 at 5-8. Students A, B, and C premise their "significant legal interest" in this case upon the mistaken belief that gender identity is specifically protected by Title IX. The Seventh Circuit has declined to extend Title VII's prohibition against sex discrimination to gender identity, and the same rationale applies to Title IX. *Ulane v. E. Airlines, Inc.*, 742 F.2d 1081, 1085 (1984) ("[A] prohibition against discrimination based on an individual's sex is not synonymous with a prohibition against discrimination based on an individual's ... discontent with the sex into which they were born.").

Student Movants' alleged legally protectable interest in this case is entirely premised upon the DOE/DOJ's unlawful redefinition of "sex" under Title IX to include gender identity. But unless Congress chooses to amend Title IX to include gender identity, Title IX does not provide Student Movants a legally protectable interest in using facilities designated for the opposite sex. Nor do Student Movants have an interest in defending the DOE/DOJ's redefinition of "sex" in Title IX, as the responsibility for defending the redefinition falls squarely on the shoulders of Defendants DOE/DOJ, who are fully capable of representing that interest in this case.

Student Movants' alleged interests are also not "unique" from those of every other student in District 211. This lawsuit will result in one of two likely outcomes: (1) District 211 will have a policy that gives students the choice of using the communal locker rooms and restrooms consistent with their biological sex or one of several single-stall changing rooms/restrooms, or (2) District 211 will have a policy that allows students to use the communal locker rooms and restrooms based on their subjective feelings of gender identity. Under either outcome, all 11,750 students in District 211 are impacted in the same way. Thus, there are no "unique" interests held by Students A, B, and C that support their motion to intervene.

Finally, neither Students B nor C satisfy the Article III standing requirements. They are not currently enrolled in District 211. They were not involved with, nor directly impacted by District 211's investigation by the DOE. They are not named in the Resolution Agreement. They have not been subject to any policies or practices of District 211 regarding access to locker rooms and restrooms of the opposite sex. Any alleged injury is purely speculative.

Because Student Movants do not have a legally protectable interest in using facilities designated for the opposite sex, and because the DOE/DOJ has a significant interest in defending against Plaintiffs' challenge to its redefinition of "sex" in Title IX and is fully capable of doing so, Student Movants should not be granted the right to intervene in this case.

2. Illinois Safe Schools Alliance does not have a significant legal interest.

Illinois Safe Schools Alliance (ISSA) is not protected by Title IX. It has no rights—statutory or otherwise—that are directly implicated in this lawsuit. It does not allege that it has members who are enrolled in District 211. Rather, ISSA is a public advocacy group that asserts that it has expertise on LGBT issues.

In *American National Bank & Trust Co. of Chicago v. City of Chicago*, 865 F.2d 144 (7th Cir. 1989), the Seventh Circuit determined that a local union with expertise in plumbing issues did not have a significant legal interest to warrant intervention as of right. "[T]he fact that the Union may have a particular expertise is no ground for mandatory intervention. If it were, every potential expert witness would meet the interest requirement. This Court has held that a group's particular expertise by itself is insufficient to meet the interest requirement." *Id.* at 147. Here, ISSA's claim of expertise in working with schools to draft non-discrimination policies does not create a significant legal interest in this case.

Nor does ISSA establish a sufficient interest with its assertion that it advocates on behalf of students who identify as LGBT. The union in *American National Bank & Trust Co. of Chicago* likewise argued that its work to "protect[] the health and safety of its members" gave it an interest to intervene. The Seventh Circuit found such advocacy work to be insufficient. "Even if the code section were found unconstitutional, and even if the revocation of the variance were found improper, the Union's interest is unaffected." *Id*. at 147.

Regardless of the outcome of this lawsuit, ISSA will still be allowed to robustly promote its views concerning those who identify as LGBT. It will still be able to work with schools to draft policies it supports. It will still be able to oppose legislation with which it disagrees. And it can even lobby the United States Congress to amend Title IX to include gender identity if it so wishes. But its interest in promoting its views relating to LGBT issues will be unaffected by the outcome of this case. Therefore, ISSA does not have a significant legal interest and its motion to intervene should be denied.

II. Movants have failed to show that permissive intervention is warranted.

Typically, permissive intervention is left to the court's discretion so long as the movants establish timeliness, independent jurisdiction and common questions of law and fact, Fed. R. Civ. P. 24(b). However, in cases like the one here, where the government represents the Movants' interests, when Movants "fail[] to overcome the presumption of adequate representation by the government," courts have ruled that "the case for permissive intervention disappears." *One Wis. Inst., Inc.*, 310 F.R.D. at 399 (quoting *Menominee Indian Tribe of Wis. v. Thompson*, 164 F.R.D. 672, 678 (W.D. Wis. 1996)).

This is good policy because it is in the interest of judicial economy. As discussed above, the DOE/DOJ have adequately and zealously represented the movants' interests at every stage

since Student A's first complaint to the DOE. Permissive intervention is not warranted to represent the movants' interests, and allowing it will only serve to unduly delay litigation at all stages of this case. Courts have denied permissive intervention on that basis when judicial discretion was exercised. *Keith*, 764 F.2d at 1272. (Permissive intervention was denied "in order to avoid any possible undue delay or prejudice to the parties.") (*Heartwood v. U.S. Forest Service, Inc.*, 316 F.3d 694, 702(7th Cir. 2003) ("Because the court failed to consider whether intervention would cause undue delay or prejudice, the grant of permissive intervention was improper.")

Plaintiffs' claims are primarily focused upon the actions of the DOE/DOJ in promulgating a legislative rule that redefines the term "sex" under Title IX to include "gender identity." These claims are rooted in the Administrative Procedure Act, the Constitution, and the language and history of Title IX. If Movants are allowed to intervene, it will dramatically change the focus of this case. Based upon their declarations submitted in support of the Motion to Intervene, Movants will undoubtedly begin submitting reports from psychologists, therapists and doctors for Students A, B, and C, describing the various treatments they receive for gender dysphoria. *See* Dkt 32-1, ¶ 22 (asserting that access to female restrooms is needed for Student A's "prescribed course of medical treatment for Gender Dysphoria"); Dkt 32-2, ¶¶ 6-7(describing Student B's medical treatment); Dkt 32-3, ¶ 8 (describing Student C's medical treatment). These reports will necessitate rebuttal from the other parties, additional expert depositions, and discovery delving into these issues, none of which are germane to this lawsuit. By Movants' own admissions, they intend to insert additional claims and arguments into the case that will further protract this litigation to the detriment of all parties. *See* Dkt 32 at 14 ("Movants intend to provide their own arguments regarding these novel claims and to introduce evidence of

their personal experiences in the District…."). But for permissive intervention, the Seventh Circuit requires that the proposed intervenors' "claim[s] and the main action share common issues of law or fact." *Ligas*, 478 F.3d at 775. The purpose of this requirement is to prevent "a single lawsuit from becoming unnecessarily complex, unwieldy or prolonged." *Shea v. Angulo*, 19 F.3d 343, 349 (7th Cir. 1994).

In accordance with this Seventh Circuit guidance, Plaintiffs' constitutional and statutory claims, which are not fact-intensive and present clean questions of law, should be decided by this Court, without muddying the waters with the fact-intensive claims the proposed intervenors hope to bring. The full force of the federal government, which has been representing Student A since 2013 and has, thus far, achieved victory for him every step of the way, is perfectly capable of representing the interests of the proposed intervenors. Indeed, they have filed a response in opposition to the Movants' motion to intervene as of right, stating that *they* are the defenders of Title IX and that they will zealously represent the Movants' interests, which are the same as their own. *Federal Defendants' Response to the Motion to Intervene*, Dkt 46 at 3.

CONCLUSION

Movants' intervention in this case will increase the complexity of the case and prolong the proceedings because of the additional discovery, briefing, and other matters necessitated by the new issues and claims Movants desire to pursue. Movants are adequately represented by the government. And Illinois Safe Schools Alliance has not shown a significant legal interest supporting intervention. For these reasons, Plaintiffs respectfully request that this Court deny the Motion to Intervene by Students A, B, and C, and the Illinois Safe Schools Alliance.

Respectfully submitted this the 7th day of June, 2016.

By: /s/ Jeremy D. Tedesco

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CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2016, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following counsel of record who are registered users of the ECF system:

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