

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Board of Education of the Highland Local School
District,

Plaintiff,

v.

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
Vanita Gupta, in her official capacity as Principal
Deputy Assistant Attorney General,

Defendants.

Jane Doe, a minor, by and through her legal
guardians Joyce and John Doe,

Intervenor Third-Party Plaintiffs,

v.

Board of Education of the Highland Local School
District; Highland Local School District; William
Dodds, Superintendent of Highland Local School
District; and Shawn Winkelfoos, Principal of
Highland Elementary School,

Third-Party Defendants.

Case No. 2:16-cv-00524

Judge Algenon L. Marbley
Magistrate Judge Kimberley A. Jolson

**DEFENDANTS' CONSENT MOTION FOR AN EXTENSION OF TIME
TO RESPOND TO THE COMPLAINT**

Defendants respectfully move the Court for an extension of time to respond to Plaintiff's
Complaint until thirty (30) days after a decision on Plaintiff's pending Motion for Preliminary

Injunction. ECF No. 10. Pursuant to Local Rule of Civil Procedure 7.3(a), the undersigned counsel consulted with counsel for Plaintiff and counsel for Intervenor, who represented that Plaintiff and Intervenor consent to the requested extension.

On June 10, 2016, Plaintiff filed this action challenging Defendants' interpretation of the term "sex" as used in Title IX of the Education Amendments of 1972. The Complaint and Summons were served on June 30, 2016. ECF No. 19. Defendants' response to the Complaint is currently due on August 29, 2016.

On July 15, 2016, Plaintiff moved for a preliminary injunction. ECF No. 10. Defendants filed their response in opposition to that motion on August 16, 2016, ECF No. 33, and Plaintiff's reply brief is due August 23, 2016, *see* ECF No. 23. In the interest of conserving judicial resources and in order to provide Defendants an opportunity to file a response to the Complaint that is appropriate in light of the Court's decision on Plaintiff's pending Motion for Preliminary Injunction, Defendants respectfully request an extension of time to respond to the Complaint until thirty (30) days after the Court rules on the preliminary injunction. An extension of time to respond to the Complaint would conserve the resources of both the parties and the Court, as it would avoid simultaneous briefing of the Motion for Preliminary Injunction and any dispositive motion that the government may file in response to the Complaint, and would allow the Court's resolution of the Motion for Preliminary Injunction to inform any further briefing.

Based on the foregoing, Defendants respectfully request that their Consent Motion for an Extension of Time be granted.

Dated: August 23, 2016

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

JENNIFER D. RICKETTS
Director, Federal Programs Branch

SHEILA M. LIEBER
Deputy Director, Federal Programs Branch

/s/ Benjamin L. Berwick

BENJAMIN L. BERWICK (MA Bar No. 679207)

EMILY B. NESTLER (DC Bar No. 973886)

SPENCER E. AMDUR (PA Bar No. 322007)

Trial Attorneys, U.S. Department of Justice

Civil Division, Federal Programs Branch

1 Courthouse Way, Suite 9200

Boston, MA 02210

Telephone: (617) 748-3129

Facsimile: (617) 748-3965

Email: Benjamin.L.Berwick@usdoj.gov

Counsel for Defendants

CERTIFICATE OF CONFERENCE

I hereby certify that on August 9, 2016, the undersigned counsel consulted with counsel for Plaintiff, Jim Campbell, Senior Counsel for Alliance Defending Freedom, who represented that Plaintiff does not oppose the requested extension.

/s/ Benjamin L. Berwick
Benjamin L. Berwick

CERTIFICATE OF CONFERENCE

I hereby certify that on August 23, 2016, the undersigned counsel consulted with counsel for Intervenor, Asaf Orr, Staff Attorney for National Center for Lesbian Rights, who represented that Intervenor does not oppose the requested extension.

/s/ Spencer E. Amdur
Spencer E. Amdur

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2016, a copy of the foregoing Consent Motion for an Extension of Time to Respond to the Complaint was filed electronically via the Court's ECF system, which effects service upon counsel of record.

/s/ Spencer E. Amdur
Spencer E. Amdur