

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Newport News Division

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-00054

GLOUCESTER COUNTY SCHOOL  
BOARD,

Defendant.

**DEFENDANT'S MOTION FOR EXTENSION OF TIME  
TO FILE MOTION TO DISMISS THE AMENDED COMPLAINT**

Defendant Gloucester County School Board ("School Board"), by counsel, hereby moves this Court for an extension of time to file a motion to dismiss the Amended Complaint. The School Board states as follows in support of its motion:

1. On August 18, 2017, the parties filed a Joint Position Statement, wherein they proposed that the School Board file a responsive pleading or motion within 21 days from the docketing of Plaintiff's Amended Complaint. (ECF Doc. 111 at 2). The School Board did not anticipate that the Court would docket the Amended Complaint before the Fourth Circuit issued its final mandate.

2. On August 22, 2017, the Court ordered that the School Board file a responsive pleading or motion on or before September 15, 2017. (ECF Doc. 112).

3. Today, August 30, 2017, the Fourth Circuit granted Plaintiff's motion to dismiss the appeal and issued its mandate. Counsel for the School Board had always believed that this Court did not regain jurisdiction over Plaintiff's Amended Complaint until today. See United

States v. Modanlo, 762 F.3d 403, 408 (4th Cir. 2014) (“A district court does not regain jurisdiction until the issuance of the mandate by the clerk of the court of appeals.”); see also DuBuit v. Harwell Enterprises, Inc., 540 F.2d 690, 693 (4th Cir. 1976) (“[J]urisdiction of the district court, if any, [is] dependent upon the terms of the appellate mandate.”); United States v. Rivera, 844 F.2d 916, 921 (2d Cir.1988) (“Simply put, jurisdiction follows the mandate.”).

4. The School Board asks that it be granted an extension to file its motion to dismiss the Amended Complaint until September 22, 2017, an extension of five (5) business days. Counsel for the Plaintiff consents to this extension. Further, this extension would be consistent with what was anticipated when the School Board agreed to the deadlines outlined in the Joint Position Statement.

5. Importantly, granting the requested extension would also allow for the issues in this case to be fully considered. This case presents complicated legal questions concerning what rights Plaintiff may have had under Title IX and the Equal Protection Clause of the United States Constitution, and what rights Plaintiff has now, given that Plaintiff is no longer a Gloucester County Public School student. Further still, there are new decisions in the area of transgender student rights weekly.

6. Finally, lead counsel for the School Board will be out of the country from August 31, 2017 until September 10, 2017.

7. In light of the complicated and evolving legal issues that this case presents, the vacation schedule of lead counsel for the School Board, and the School Board’s good faith belief that this Court just today regained jurisdiction over this action, granting an extension until September 22, 2017 is warranted and will not prejudice Plaintiff.

8. Counsel for Plaintiff has agreed to this extension. A sketch Agreed Order is attached hereto.

WHEREFORE, the School Board, by counsel, moves that it be granted an extension of time until September 22, 2017 to file a motion to dismiss the Amended Complaint.

**GLOUCESTER COUNTY SCHOOL  
BOARD**

By Counsel

/s/

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**CERTIFICATE**

I hereby certify that on the 30<sup>th</sup> day of August 2017, I filed a copy of the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send a Notice of Electronic Filing to all counsel of record.

/s/ \_\_\_\_\_  
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**AGREED ORDER**

THIS DAY CAME Defendant Gloucester County School Board (“School Board”), by counsel, and moved for an extension of time until September 22, 2017 to file a Motion to Dismiss the Amended Complaint.

For good cause shown, it is hereby ADJUDGED, ORDERED AND DECREED that the deadline for the School Board to file a Motion to Dismiss is extended to September 22, 2017.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
United States District Court Judge