

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF CONNECTICUT**

SELINA SOULE, a minor, by Bianca Stanescu, her mother; CHELSEA MITCHELL, a minor, by Christina Mitchell, her mother; ALANNA SMITH, by Cheryl Radachowsky, her mother,

Plaintiffs,

v.

CONNECTICUT ASSOCIATION OF SCHOOLS, INC. d/b/a CONNECTICUT INTERSCHOLASTIC ATHLETIC CONFERENCE; BLOOMFIELD PUBLIC SCHOOLS BOARD OF EDUCATION; CROMWELL PUBLIC SCHOOLS BOARD OF EDUCATION; GLASTONBURY PUBLIC SCHOOLS BOARD OF EDUCATION; CANTON PUBLIC SCHOOLS BOARD OF EDUCATION; DANBURY PUBLIC SCHOOLS BOARD OF EDUCATION

Defendants.

No. 3:20-cv-00201 (RNC)

NOTICE OF CASE DEVELOPMENT

The United States Department of Education, its Office for Civil Rights (“OCR”), and Acting Secretary of Education Phillip H. Rosenfelt, in his official capacity (collectively, “ED”),¹ respectfully submit this notice of case development.

On February 23, 2021, ED notified the defendants that it was withdrawing the August 31, 2020 Revised Letter of Impending Enforcement Action (“Revised Letter”), and the May 15, 2020

¹ On January 8, 2021, Secretary of Education Betsy DeVos left office. The current Acting Secretary is Philip H. Rosenfelt.

Letter of Impending Enforcement Action (“Letter”), as well as the underlying findings and determinations, because ED had determined that they were issued without the review required by the Office of Management and Budget. *See* Ex. 1. ED further explained that pursuant to Executive Order 13988, on *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*, 86 Fed. Reg. 7023 (Jan. 25, 2021), OCR was reviewing the cases. *Id.* ED stated that the Revised Letter’s statement of OCR’s interpretation of Title IX and its implementing regulations should not be relied upon in this or any other matter. *Id.* Finally, ED explained that it had notified the United States Department of Justice that it was withdrawing its referral and recommendation for enforcement of noncompliance findings by OCR against the defendants in this case. *Id.*

These developments confirm that there is no basis to join ED to this lawsuit. Accordingly, for these reasons, as well as the other reasons stated in the government’s opposition, Defendants’ joinder motion should be denied.

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Respectfully submitted,

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DATED: February 23, 2021



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

February 23, 2021

Sent via email only to:

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*The Department of Education's mission is to promote student achievement and preparation for global competitiveness
by fostering educational excellence and ensuring equal access.*

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Re: Case No. 01-19-4025
Connecticut Interscholastic Athletic Conference

Case No. 01-19-1252
Glastonbury Public Schools

Case No. 01-20-1003
Bloomfield Public Schools

Case No. 01-20-1004
Canton Public Schools

Case No. 01-20-1005
Cromwell Public Schools

Case No. 01-20-1006
Danbury Public Schools

Case No. 01-20-1007
Hartford Public Schools

Dear Attorneys Mizerak, Monastersky, Murphy, Yoder, and Zelman:

This letter is to notify you that the U.S. Department of Education (the Department) Office for Civil Rights (OCR) hereby withdraws the Revised Letter of Impending Enforcement Action (“Revised Letter”), dated August 31, 2020, the Letter of Impending Enforcement Action (“Letter”), dated May 15, 2020, and the underlying findings and determinations in the above-referenced cases. Please also be advised that the Department has withdrawn its referral of the above-referenced cases to the U.S. Department of Justice requesting initiation of judicial proceedings.

The Revised Letter states that it “constitutes a formal statement of OCR’s interpretation of Title IX and its implementing regulations.” However, the Department has determined that the Revised Letter was issued without the review required for agency guidance documents that set out policy on a regulatory issue (known as “statements of general applicability and future effect”) under the Office of Management and Budget’s Final Bulletin on Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). In addition, pursuant to Executive Order 13988 on *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*, OCR is reviewing the above-referenced cases. Therefore, the Revised Letter’s statement of OCR’s interpretation of Title IX and its implementing regulations should not be relied upon in this or any other matter.

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If you have any questions, please contact Timothy Blanchard, Regional Director, at 646-428-3805 or timothy.blanchard@ed.gov or Rachel Pomerantz, Chief Attorney, at 646-428-3835 or rachel.pomerantz@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne B. Goldberg". The signature is fluid and cursive, with a large initial "S" and a checkmark-like flourish at the end.

Suzanne B. Goldberg
Acting Assistant Secretary for Civil Rights

cc: Glenn Lungarini, CIAC Executive Director, via email only
Alan B. Bookman, Glastonbury Superintendent, via email only
Kevin D. Case, Canton Superintendent, via email only
Dr. Enza Macri, Cromwell Superintendent, via email only
Dr. Sal V. Pascarella, Danbury Superintendent, via email only
Dr. James Thompson, Jr., Bloomfield Superintendent, via email only
Dr. Leslie Torres-Rodriguez, Hartford Superintendent, via email only
Roger G. Brooks, Alliance Defending Freedom, Complainant, via email only