

**IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

State of North Dakota, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 3:16-cv-386
)	
United States Department of Health)	ORDER
and Human Services, et al.,)	
)	
Defendants.)	

Defendants seek an extension of time to respond to plaintiffs’ complaint, (Doc. #47), until fourteen days after the court rules on defendants’ pending motion for voluntary remand and stay, (Doc. #45), or until fourteen days after the court rules on plaintiffs’ motion for an additional stay in response to defendants’ motion for remand and stay, (Doc. #46), whichever is later. Defendants state that plaintiffs consent to the motion. (Doc. #47, p. 2). Defendants assert that the Department of Health and Human Services (HHS) “has now had time to scrutinize the two aspects of the HHS regulation that Plaintiffs challenge in this case and has requested a remand and stay so as to have the opportunity to reevaluate the regulation through proper rulemaking proceedings.” Id.

Plaintiffs respond that they consent to the proposed extension of response time, but they “do not agree to the Government’s argument that the sufficient purpose for this stay is to give Defendant HHS the opportunity to revisit” its regulation. (Doc. #48, pp. 1-2). Plaintiffs note they agree that HHS should revisit its regulation, which includes an “expansive definition of ‘sex’ under Title IX,” but plaintiffs assert they have also “consistently made clear that Defendant EEOC must also revisit its related and equally expansive rule defining ‘sex’ under Title VII.” Id. at 2. Plaintiffs add, “This later concern

is precisely why the . . . Plaintiffs have requested that the Court extend its temporary enforcement stay to Defendant EEOC with regard to its interpretation of Title VII on the subject matters contested here.” Id.

Because plaintiffs have no objection to the proposed extension of time itself, defendants’ motion, (Doc. #47), is **GRANTED**. In doing so, the court extends only the defendants’ response time—without consideration of any purported purpose.

IT IS SO ORDERED.

Dated this 7th day of June, 2017.

/s/ Alice R. Senechal
Alice R. Senechal
United States Magistrate Judge