

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

**B.P.J., by her next friend and mother,  
HEATHER JACKSON,  
Plaintiff,**

v.

**Civil Action No. 2:21-cv-00316  
Honorable Joseph R. Goodwin, Judge**

**WEST VIRGINIA STATE BOARD OF EDUCATION,  
HARRISON COUNTY BOARD OF EDUCATION,  
WEST VIRGINIA SECONDARY SCHOOL  
ACTIVITIES COMMISSION, W. CLAYTON BURCH  
in his official capacity as State Superintendent, and  
DORA STUTLER in her official capacity as  
Harrison County Superintendent,  
Defendants,**

**And**

**LAINIEY ARMISTEAD,  
Defendant-Intervenor.**

**WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION'S  
MOTION FOR SUMMARY JUDGMENT**

**NOW COMES** Defendant West Virginia Secondary School Activities Commission (“WVSSAC”), by counsel, Roberta F. Green, Kimberly M. Bandy, Shannon M. Rogers and Shuman McCuskey Slicer PLLC, and, pursuant to Rule 56(c) of the Federal Rules of Civil Procedure, hereby respectfully submits this Motion for Summary Judgment on the claims asserted against the WVSSAC by Plaintiff, along with supporting memorandum of law seeking summary judgment in favor of the WVSSAC on any and all claims presented by Plaintiff against it.

Plaintiff has failed to present sufficient evidence to prove the claims presented against WVSSAC, specifically that the WVSSAC is a state actor who has the ability or authority to enforce H.B. 3293 and/or capable of violating her Title IX and Equal Protection Rights under the

Fourteenth Amendment. Further, the evidence presented through written discovery including admissions, depositions, and expert reports fails to establish any evidence that Plaintiff has been harmed by WVSSAC or that she would be harmed by WVSSAC if H.B. 3293 were upheld. Plaintiff's evidence asserted against the WVSSAC is wholly speculative and is not ripe for pre-enforcement adjudication. For these and other reasons more fully set forth in the accompanying memorandum of law, WVSSAC respectfully requests that this Court grant summary judgment in its favor on the claims advanced by Plaintiff, dismiss said claims with prejudice, and dismiss WVSSAC as a party to this action. WVSSAC seeks any and all further relief deemed appropriate by the Court.

**WEST VIRGINIA SECONDARY SCHOOL  
ACTIVITIES COMMISSION,  
By Counsel.**

***/S/ Roberta F. Green***

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**CERTIFICATE OF SERVICE**

I hereby certify that I, Roberta F. Green, have this day, the 21st day of April, 2022, served a true and exact copy of **“WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION’S MOTION FOR SUMMARY JUDGMENT”** with the Clerk of Court using the CM/ECF System, which will send notification of such filing to the following counsel of record:

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