

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA**

EQUALITY FLORIDA, et al.,

Plaintiffs,

v.

RONALD D. DESANTIS, in his
official capacity as Governor of
Florida, et al.,

Defendants.

No. 4:22-cv-00134 (AW) (MJF)

**REPORT OF THE PARTIES' PLANNING MEETING AND
PROPOSED DISCOVERY PLAN**

Pursuant to Fed. R. Civ. Pro. 26(f), N.D. Fla. Local R. 16.1, and Paragraph 3 of this Court's May 13, 2022 Initial Scheduling Order (ECF No. 44 (the "Scheduling Order")), Plaintiffs Equality Florida, Family Equality, M.A., S.S., Zander Moricz, Lindsay McClelland, Jane Doe, Rabbi Amy Morrison, Cecile Houry, Dan and Brent VanTice, Lourdes Casares, Kimberly Feinberg, Lindsey Bingham Shook, Anh Volmer, Scott Berg, and Myndee Washington (together, "Plaintiffs") and Defendants Ronald D. DeSantis, Florida State Board of Education, Thomas R. Grady, Ben Gibson, Monesia Brown, Esther Byrd, Grazie P. Christie, Ryan Petty, Joe York, Jacob Oliva, Florida Department of Education, School Board of Manatee County, School Board of Sarasota County, School Board of Miami-Dade County, and St. Johns County School Board (together, "Defendants"), respectfully submit this

Joint Rule 26(f) Scheduling Report and Proposed Discovery Plan. Counsel for Plaintiffs and counsel for Defendants conferred on June 1, 2022, at 11:30 a.m. via telephone for the purpose of complying with the requirements of Rule 26(f).¹

I. NATURE OF THE CLAIMS AND DEFENSES. Plaintiffs assert that H.B. 1557 facially and as applied by Defendants violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment; the First Amendment; and Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688. Plaintiffs seek declaratory and injunctive relief, as well as damages. Defendants plan to move to dismiss the First Amended Complaint.

II. MOTION TO DISMISS. Pursuant to the Scheduling Order, Defendants will file any motion(s) to dismiss no later than **June 27, 2022**. The Parties have further stipulated and agreed, and jointly request, that Plaintiffs will have until July 27, 2022 to oppose any such motions, and Defendants will have until August 10, 2022 to reply. Although Defendants otherwise agree to the schedule proposed below, they reserve their right to seek a stay of discovery pending the outcome of their motion(s) to dismiss.

¹ Broward County School Board, Orange County School Board, and Pasco County School Board were added as Defendants in the First Amended Complaint, which Plaintiffs filed on May 25, 2022, and served on each of these new Defendants on May 31, 2022. To the extent that Plaintiffs had contact information for counsel to the new Defendants, Plaintiffs provided notice of the Parties' planned Rule 26(f) conference as well. Nevertheless, the new Defendants did not participate in the Rule 26(f) conference (which was held on the last date permitted by the Court's Scheduling Order).

III. JOINDER OF PARTIES AND FURTHER AMENDMENTS. Pursuant to this Court's Order, ECF No. 33, the deadline for filing an amended complaint and joining any new defendants was May 25, 2022. Plaintiffs filed a First Amended Complaint (ECF 47) on May 25, 2022.

IV. DISCOVERY PLAN. Plaintiffs believe that discovery will be needed on factual matters related to Plaintiffs' claims against Defendants as alleged in the First Amended Complaint, as well as any defenses raised by Defendants in their Answers and Affirmative Defenses. Plaintiffs have written to Defendants with respect to document retention and preservation issues, and Defendants have assured Plaintiffs that all Defendants (and their agents) are preserving relevant documents in accordance with Florida public records laws, including with respect to both official and personal accounts and devices.

In an effort to conduct discovery efficiently and ensure that the Parties remain on track with the schedule set by the Court, Plaintiffs proposed an interim deadline for service of initial discovery requests (by June 17), a shortened period for service of responses and objections (by June 30), and an interim deadline for substantial completion of document production (by August 17). Defendants believe that proposed schedule is impracticable and that the default deadlines set forth in the Federal Rules of Civil Procedure should govern these issues. If Plaintiffs wish to serve their initial discovery requests mere days after the parties' initial disclosures

are due (on June 15), they are free to do so. But there is no reason Defendants should be bound by any such deadline. Nor is a mere 13 days sufficient to respond to initial discovery requests. And having not yet seen Plaintiffs' discovery requests or drafted their own, Defendants cannot agree in advance to the completion of document production months before the discovery cutoff. Defendants do not object to the November 4, 2022 deadline for the close of all discovery.

The Parties note that discovery has commenced pursuant to Paragraph 7 of the Schedule Order, and jointly and respectfully propose the following discovery plan:

- a. The Parties will exchange the initial disclosures required by Rule 26(a)(1) no later than **June 15, 2022**, in accordance with the Scheduling Order.
- b. The Parties agree that the maximum number of interrogatories will be governed by the number allowed by Rule 33 of the Federal Rules of Civil Procedure, and that each side shall have a total number of depositions equal to the number of parties on the other side. In addition, each party shall have the opportunity to depose any fact or expert witness who submits an affidavit in connection with a motion for summary judgment or who will

testify at trial. The Parties further agree to the following number of requests for admission:

- 30 total for the Plaintiffs,
- 30 total for the State Defendants, and
- 5 for each School Board Defendant.

c. Opening expert reports shall be submitted by **September 16, 2022**.

d. Motions to compel discovery shall be filed by **October 5, 2022**.

e. Rebuttal expert reports shall be submitted by **October 14, 2022**.

f. All discovery, fact and expert, will be completed no later than **November 4, 2022**, in accordance with Paragraph 8 of the Scheduling Order.

g. No other changes should be made at this time to the limitations on discovery imposed under the Federal Rules of Civil Procedure, or the Local Rules of the Northern District of Florida, or otherwise.

V. DISPOSITIVE MOTIONS. The parties have conferred and jointly propose the following schedule for the submission and briefing of dispositive motions. Dispositive motions, including Summary Judgment and *Daubert* motions, will be filed no later than November 11, 2022. Any opposition to a dispositive motion will be filed no later than December 9, 2022. Any reply to a dispositive motion will be filed no later than December 23, 2022.

VI. PRETRIAL DISCLOSURES. In accordance with Fed. R. Civ. P. 26(a)(3)(B) and Paragraph 6(c) of the Scheduling Order, the deadline for pretrial disclosures is January 14, 2023. Any objections to pretrial disclosures must be made no later than January 28, 2023.

VII. TRIAL. Pursuant to the Scheduling Order, trial will be during the two-week period that begins on February 13, 2023.

VIII. STATUS AND LIKELIHOOD OF SETTLEMENT. The Parties have discussed settlement and agree that a settlement is not possible at this time and that settlement is unlikely to occur in the near future.

IX. MAGISTRATE JUDGE. The Parties have conferred and do not consent to have the magistrate judge preside over the entire case.

X. ADDITIONAL ORDERS. The Parties have further agreed in principle to draft and submit for the Court's review and approval the following additional orders:

- i. Confidentiality Stipulation and Proposed Order;
- ii. Rule 502 Clawback Stipulation and Proposed Order; and
- iii. ESI Protocol Stipulation and Proposed Order.

XI. OTHER MATTERS.

- a. The Parties have agreed to accept service via electronic service (i.e., email) after initial service of process.

b. This case should not be made subject to the Manual for Complex
Litigation.

Dated: June 8, 2022

/s/ Roberta A. Kaplan

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CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2022, I electronically filed the foregoing with the Clerk of Court using CM/ECF, and that a true and correct copy of the foregoing has been furnished on all counsel of record and *pro se* parties, either via transmission of Notices of Electronic Filing generated by CM/ECF, or in some other authorized manner.

/s/ D. Brandon Trice
D. Brandon Trice, Esq.