

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

**THE STATE OF TENNESSEE; THE
STATE OF ALABAMA; THE STATE OF
ALASKA; THE STATE OF ARIZONA;
THE STATE OF ARKANSAS; THE
STATE OF GEORGIA; THE STATE OF
IDAHO; THE STATE OF INDIANA;
THE STATE OF KANSAS; THE
COMMONWEALTH OF KENTUCKY;
THE STATE OF LOUISIANA; THE
STATE OF MISSISSIPPI; THE STATE
OF MISSOURI; THE STATE OF
MONTANA; THE STATE OF
NEBRASKA; THE STATE OF OHIO;
THE STATE OF OKLAHOMA; THE
STATE OF SOUTH CAROLINA; THE
STATE OF SOUTH DAKOTA; THE
STATE OF WEST VIRGINIA,**

Plaintiffs,

—and—

**ASSOCIATION OF CHRISTIAN
SCHOOLS INTERNATIONAL; A.S.,** a
minor, by Brandi Scarborough, her mother;
C.F., a minor, by Sara Ford, her mother;
A.F., a minor, by Sara Ford, her mother,

Intervenor-Plaintiffs,

v.

**UNITED STATES DEPARTMENT OF
EDUCATION; MIGUEL CARDONA,** in
his official capacity as Secretary of
Education; **EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION;
CHARLOTTE A. BURROWS,** in her
official capacity as Chair of the Equal
Employment Opportunity Commission;

Case No. 3:21-CV-00308

**MOTION TO REQUEST
RULING ON INTERVENOR-
PLAINTIFFS' MOTION TO
INTERVENE**

UNITED STATES DEPARTMENT OF JUSTICE; MERRICK B. GARLAND, in his official capacity as Attorney General of the United States; **KRISTEN CLARKE**, in her official capacity as Assistant Attorney General for Civil Rights at the United States Department of Justice,

Defendants.

Proposed Intervenor-Plaintiffs Association of Christian Schools International (ACSI), A.S., C.F., and A.F. (collectively, Intervenor), respectfully request that this Court immediately grant their motion to intervene filed on October 4, 2021.

In the memorandum supporting that motion, Proposed Intervenor showed that they satisfy the requirements for intervention as of right as their request was timely, their interests are directly affected by this litigation, and they make arguments distinct from those made by Plaintiffs. *See* Fed. R. Civ. P. 24; *see also* Intervenor-Pls.’ Mem. in Supp. of their Mot. to Intervene, Doc. 51-1. They also showed that they qualify for permissive intervention because their participation would provide for a more complete airing of the issues in dispute without unduly delaying the matter. *Id.*

This Court has already established the Plaintiff States have standing because they have “an injury in fact that is fairly traceable to the challenged agency action and will likely be redressed by a favorable decision.” Mem. Op. and Order at 17, Doc. 86. In the Sixth Circuit, intervenors “need not have the same standing necessary to initiate a lawsuit ... where the plaintiff has standing.” *Associated Builders & Contractors v. Perry*, 16 F.3d 688, 690 (6th Cir. 1994). So to participate in this case, all Intervenor must show is that they satisfy the

requirements for intervention set out in Federal Rule of Civil Procedure 24. As set forth in the briefing on the motion to intervene, they do.

The request to intervene has become urgent because of the government's recent appeal of this Court's preliminary-injunction order—an injunction that protects the intervenor athletes and many of ACSI's members. In fact, proposed-intervenors intend to file a motion with the 6th Circuit to participate in the appeal of this Court's preliminary-injunction order.

A ruling on the intervention request is also urgent because the parties are actively litigating the contents of the administrative record, and summary-judgment motions will likely be filed soon after the record is finalized. Intervenors request that this Court immediately grant their motion to intervene so they can participate in all of these activities and assist the Court in reaching a full and complete resolution of the outstanding issues.

Respectfully submitted this 13th day of September, 2022.

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Certificate of Service

I hereby certify that on the 13th day of September, 2022, I electronically filed the foregoing document with the Clerk of Court and that the foregoing document will be served via the CM/ECF system on all counsel of record.

s/ Jonathan A. Scruggs

Jonathan A. Scruggs

Attorney for Intervenor-Plaintiffs