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11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF ARIZONA**  
13 **TUCSON DIVISION**

14 Jane Doe, by her next friend and parents  
15 Helen Doe and James Doe; and Megan Roe,  
16 by her next friend and parents, Kate Roe and  
17 Robert Roe,

18 Plaintiffs,

19 v.

20 Thomas C. Horne in his official capacity as  
21 State Superintendent of Public Instruction;  
22 Laura Toenjes, in her official capacity as  
23 Superintendent of the Kyrene School  
24 District; Kyrene School District; The  
25 Gregory School; and Arizona Interscholastic  
26 Association Inc.,

27 Defendants,

28 Warren Petersen, in his official capacity as  
President of the Arizona State Senate, and  
Ben Toma, in his official capacity as  
Speaker of the Arizona House of  
Representatives,

Intervenor-Defendants.

Case No. 4:23-cv-00185-JGZ

**PLAINTIFFS' MOTION TO EXTEND  
FACT DISCOVERY (FIRST REQUEST)**

1 Pursuant to LRCiv 7.3, Plaintiffs respectfully request a 60-day extension of the  
2 fact discovery period from March 8, 2024 to May 7, 2024, as well as a corresponding 60-  
3 day extension to the deadlines outlined below. This is the first request in this case to  
4 extend time for discovery. Plaintiffs have met and conferred with opposing counsel.  
5 Defendants The Gregory School, Kyrene School District, Superintendent Laura Toenjes,  
6 and the Arizona Interscholastic Association Inc. (“AIA”) all consent to the extension.  
7 Defendant Horne takes no position. Intervenor-Defendants alone, however, object to this  
8 first request for an extension.

9 Good cause exists to extend the fact discovery deadline by 60 days. Plaintiffs  
10 have diligently pursued their discovery obligations since the Rule 26 Conference on  
11 August 25, 2023. All Parties served initial disclosures on September 29, 2023, and  
12 Plaintiffs served their first set of discovery requests to Defendant Horne, Intervenor-  
13 Defendants, and Defendant AIA on October 30, 2023. To date, the Parties have  
14 exchanged requests for production, requests for admissions, and interrogatories; they  
15 have produced numerous documents and responses; and both Plaintiffs and Intervenor-  
16 Defendants have produced privilege logs. The Parties are conscientiously working to  
17 resolve pending discovery disputes and collect any outstanding documents or  
18 information.

19 Despite the significant progress, several fact discovery items currently remain  
20 pending. *First*, Defendant Horne recently informed Plaintiffs that he intends to  
21 supplement his document production, but it will take several weeks to collect and review  
22 documents. *Second*, Defendant AIA has not yet responded to Intervenor-Defendants’  
23 discovery requests, which could result in a sizable document production. *Third*, no  
24 depositions have been noticed in this matter, let alone scheduled. *Fourth*, Plaintiffs and  
25 Intervenor-Defendants are in the process of resolving a number of discovery disputes  
26 between them. In addition, it is possible that follow-up discovery requests will become  
27 necessary based on the additional information Plaintiffs receive from the remaining  
28 outstanding discovery discussed above. Even if these items are pursued with the utmost

1 diligence, it is not possible for fact discovery to be finished by the March 8, 2024  
2 deadline. Accordingly, Plaintiffs respectfully request an additional 60 days for the  
3 Parties to resolve these pending matters.

4 Because extending fact discovery will impact other case deadlines, Plaintiffs also  
5 request the below revised schedule, which also extends the below case deadlines by 60  
6 days.

7 Fact Discovery: May 7, 2024

8 Expert Discovery: September 17, 2024

9 Dispositive Motions: October 15, 2024

10 At the parties initial meet and confer regarding the Scheduling Order in this case, the  
11 parties discussed how, given the anticipated extensive expert discovery in this case, it  
12 would be most efficient for fact and expert discovery to proceed separately rather than  
13 occurring concurrently.

14 Plaintiffs anticipate that Intervenor-Defendants will argue that a discovery  
15 extension is not warranted because they are experiencing on-going harm from a state law  
16 being enjoined by the preliminary injunction. However, this Court already found any  
17 alleged ongoing harm to the State is not supported by the record. (Dkt No. 127 at 34.) In  
18 addition, this alleged urgency is belied by the fact that it took Intervenor-Defendants  
19 eleven weeks after the Court entered the Scheduling Order to serve their initial discovery  
20 requests in this case.

21 **CONCLUSION**

22 For the foregoing reasons, the Court should find good cause to grant Plaintiffs'  
23 motion to extend fact discovery and other related case deadlines by 60 days and adopt the  
24 amended deadlines listed above.

Respectfully submitted this January 30, 2024.

/s/ Colin M. Proksel

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**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR AN  
EXTENSION OF THE FACT DISCOVERY  
DEADLINE**

