

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

ALEXANDRIA DIVISION

RAPIDES PARISH SCHOOL BOARD,

Plaintiff,

V.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
et al.,

Defendants.

School Board will be unable to maintain its sex-separated programs and facilities as it has for many years.

In actuality, the School Board's premature motion for partial summary judgment is nothing more than an effort to obtain what would amount to an advisory opinion in violation of Article III given the lack of an actual controversy between adverse litigants. The School Board very nearly concedes a lack of concrete and imminent injury. Self-conscious of this defect, the School Board seeks to preview its merits argument with a misguided hope that the merits will be so compelling as to overlook fundamental jurisdictional defects. But even if the merits case was just so compelling, that cannot cure the terminal jurisdictional malady from which this case suffers. And even if this Court had jurisdiction over the School Board's claims (which it does not) such that relief awarded would not be advisory in nature, the School Board's opposition fails to dispute that any relief awarded upon entry of an order granting a motion for partial summary judgment would be interlocutory and thus ineffective until the Court enters final judgment, making the entire motion futile twice over. *See* ECF No. 25-1 at 9 & n.5.

Because this Court must establish its jurisdiction before turning to the merits, the Court should grant the Stay Motion. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94-95 (1998) (citation omitted) ("Without jurisdiction the court cannot proceed at all in any cause."). Neither the Court's nor the parties' time is well spent extensively debating the merits arguments raised in the School Board's motion for partial summary judgment now that a dispositive jurisdictional motion is pending. *See* ECF No. 30. And the School Board's contention that the Court should skip the pleading stage of this litigation, ECF No. 29 at 3, is inconsistent with its burden to establish jurisdiction "at [each of] the successive stages of the litigation." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992); *see also Sweeney v. Tex. State Univ.*, No. 14-cv-910, 2015 WL 2345086, at *4 (W.D. Tex. May 14, 2015) (explaining that a motion for summary judgment that was filed before a motion to dismiss was resolved was "plainly premature"); *Freedom Watch v. Dep't of State*, 925 F. Supp. 2d 55, 59 (D.D.C. 2013) ("Not needing more lawyers to spend more time on

more briefs on more subjects in order to decide the motion to dismiss, the Court granted the motion to stay [summary judgment briefing].”).

Second, the School Board raises a straw man. It contends that “it would be prejudiced by being precluded from seeking relief.” ECF No. 29 at 1. But the Stay Motion in no way precludes the School Board from seeking relief. Rather, again, the Stay Motion seeks to have this Court enforce the normal “successive” procedural “stages of the litigation”— courts first address Rule 12(b) motions before proceeding further in an action. *See Lujan*, 504 U.S. at 561. And “[D]efendants may have solid grounds for moving to dismiss complaints in cases brought under the APA.” *Zemeka v. Holder*, 963 F. Supp. 2d 22, 24 (D.D.C. 2013). They certainly do here. ECF No. 30-1. If the motion to dismiss is denied, the parties may then turn to cross-motions for summary judgment on any claims that remain, which is the normal process for seeking relief in an APA case.

CONCLUSION

For the foregoing reasons, and for the reasons in Defendants’ opening brief, the Stay Motion should be granted.

Dated: July 14, 2025

Respectfully submitted,

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