

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

ALEXANDRIA DIVISION

_____)	
RAPIDES PARISH SCHOOL BOARD,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:25-CV-00070-DDD-JPM
)	
UNITED STATES DEPARTMENT OF)	
HEALTH AND HUMAN SERVICES,)	
<i>et al.</i> ,)	
)	
Defendants.)	
_____)	

NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants respectfully notify the Court of a recent agency action issued by the United States Department of Health and Human Services (“HHS”) that is relevant to the pending motions to dismiss and for partial summary judgment, ECF Nos. 19, 30.

In Count I of the Complaint, Plaintiff seeks facial pre-enforcement review of the following regulation: 2 C.F.R. § 300.300(c). Compl. ¶¶ 304-337.

On May 29, 2026, several federal agencies, including HHS, published a proposed rule in the Federal Register. *Regulation of Federal Financial Assistance*, [91 Fed. Reg. 32,199](#) (May 29, 2026). Among other changes to the Code of Federal Regulations, HHS proposes to remove in their entirety the agency statements codified at 2 C.F.R. § 300.300 and challenged in Count I. *See id.* at 32,264 (“[r]emov[ing] and reserv[ing] § 300.300”).

In the preamble to the proposed rule, the agencies¹ explain that the proposed rule is intended “to remove commentary on the Supreme Court’s decision in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020). OMB proposes to find that this commentary is unnecessary within the

¹ HHS and other agencies “adopt[ed] th[is] common preamble language” issued by the Office of Management and Budget (“OMB”). 91 Fed. Reg. at 32,233.

government-wide regulatory text, and no longer consistent with Administration policy.” *Id.* at 32,216.

Moreover, the May 2026 agency action proposes to codify the following agency statements at 2 C.F.R. § 200.300(b):

Limitations on authorized use of Federal award funds. In administering Federal awards, to the maximum extent permitted by law, the Federal agency or pass-through entity must ensure that Federal awards and subawards are not used to fund, promote, encourage, subsidize, or facilitate: . . .

(2) Gender ideology as defined in Executive Order 14168. Gender ideology includes theories or ideologies that deny the biological reality of sex or the sex binary in humans, or endorse or advocate for the notion that sex is a chosen or mutable characteristic; or

(3) The so-called “transition” of a child under 19 years of age from one sex to another, including the chemical and surgical mutilation of children. The term “chemical and surgical mutilation” has the meaning provided in Executive Order 14187.

Id. at 32,253. HHS proposes adopting these statements by reference in proposed 2 C.F.R. § 300.106. *See id.* at 32,264. Public comments on the proposed changes are due July 13, 2026. *Id.* at 32,199.

This agency action supports dismissal of Count I based on arguments presented on pages 16-17 of Defendants’ memorandum in support of their motion to dismiss, ECF No. 30-1, on pages 6-7 of their reply, ECF No. 39, and on pages 11-14 of their opposition to Plaintiff’s motion for partial summary judgment, ECF No. 34.²

² HHS has also published in the Federal Register a notification that the regulations challenged in Count II have been vacated by another federal district court. *Notice of Vacatur Regarding Certain Provisions of the 2024 Nondiscrimination in Health Programs and Activities Final Rule*, [91 Fed. Reg. 32,887](#) (June 2, 2026). Defendants already provided this Court with notice of that court’s final judgment and order. ECF No. 47 at 1-2. In the Federal Register publication, HHS stated that “[a]s long as the specified provisions of the 2024 Section 1557 regulations remain vacated, those provisions are legally void to the extent that they expand Title IX’s definition of sex discrimination to include gender-identity discrimination. [HHS Office for Civil Rights] cannot and will not investigate or enforce compliance with, the provisions of the

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Respectfully submitted,

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2024 Rule that were vacated, to the extent that such provisions expanded Title IX’s definition of sex discrimination to include gender-identity discrimination.” 91 Fed. Reg. at 32,888.