

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

JULIEANNE AUSTIN, et al.,)
Plaintiffs,)
)
v.)
)
THE BOARD OF EDUCATION OF)
COMMUNITY UNIT SCHOOL DISTRICT)
#300, et al.,)
)
Defendants.)

2021-CH-500002

FILED
DEC 30 2021
38
Clerk of the
Circuit Court

ORDER ON VERIFEID PETITION TO INTERVENE

This matter is before the Court on the Verified Petition to Intervene as a matter of right pursuant to 735 ILCS 5/2-408 filed by Intervenor Associations (“Intervenors”) on December 13, 2021. This Court having jurisdiction, heard arguments on December 28, 2021 and took the matter under advisement. The Court now having considered the record, including arguments of counsel, all filed pleadings, memoranda, affidavits, and exhibits denies the motion.

In support of its decision, the Court finds that the representation of the intervenors’ interests are already adequately represented in that the Illinois State Board of Education and the State Superintendent are already named defendants. These defendants have the same interests as the intervenors and can suitably represent their interests. “[W]here the applicant’s interest closely corresponds to that of an existing party, adequate representation is inferred.” *City of Chicago v. John Hancock Mut. Life Ins. Co.*, 127 Ill.App.3d 140, 145 (1st Dist. 1984).

The intervenors’ interests are also in complete alliance with the government’s interests. The Attorney General is the state’s legal officer and is responsible for protecting the public interest of the state and its people. The job of the Attorney General is to advocate on behalf of all of the people of the state of Illinois; work with members of the General Assembly for new

laws; represent state government in litigation and litigate to ensure state and federal laws are followed and respected. See <https://www.illinoisattorneygeneral.gov/about/index.html>. “The intervenor must stand to gain or lose ‘by the direct legal operation and effect of a judgment or suit.’” *In re: Marriage of Perkinson*, 147 Ill. App.3d 692, 698 (4th Dist. 1986)(citing *Caterpillar Tractor Co. v. Lenckos*, 84 Ill.2d 102, 112 (1981)(holding that the interests must be direct and substantial.). Intervenors do not have an enforceable or recognizable right any more than the general interest in the subject matter of the proceeding.

While intervenors assert that if plaintiffs are successful in obtaining an injunction, the safety of the workplace will be put in jeopardy as Covid-19 spreads uncontrollably in their respective schools, the Court finds this statement speculative and not supported by any facts. As plaintiffs’ counsel stated during oral arguments, counsel is not seeking an across the board ruling that students do not have to wear masks, he is merely attempting to obtain due process for the students in conformance with the laws. An interest that is speculative, hypothetical, or incidental does not constitute an interest sufficient to warrant intervention. *Argonaut Ins. Co. v. Safway Steel Products, Inc.*, 355 Ill. App. 3d 1, 290 Ill. Dec. 797, 822 N.E.2d 79 (1st Dist. 2004); *In re Marriage of Perkinson*, 147 Ill. App. 3d 692, 101 Ill. Dec. 137, 498 N.E.2d 319 (4th Dist. 1986).

Addressing intervenors alternative request to be allowed to permissive intervention, this request is also denied. Their addition would only cause further delay in these proceedings. It is of the utmost important that these issues be addressed as expeditiously as possible.

Finally, the rights claimed by intervenors are general interests which are adequately represented by the parties currently in this matter. A judgement in favor of plaintiffs would have no direct legal consequence for intervenors, which is a requirement for intervention.

For the foregoing reasons, the petition to intervene is denied.

Date: December 30, 2021



Raylene DeWitte Grischow
Circuit Court Judge