

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

LIVINGSTON EDUCATIONAL
SERVICE AGENCY; SAGINAW
INTERMEDIATE SCHOOL
DISTRICT; WALLED LAKE
CONSOLIDATED SCHOOL
DISTRICT; and WAYNE-
WESTLAND COMMUNITY
SCHOOLS,

Plaintiffs,

Case No. 2:22-cv-10127

vs.

Hon.

XAVIER BECERRA, in his official
capacity as Secretary of Health and
Human Services; UNITED STATES
DEPARTMENT OF HEALTH AND
HUMAN SERVICES; JOOYEUN
CHANG, in her official capacity as
Assistant Secretary and Principal
Deputy Assistant Secretary of the
Administration for Children and
Families; ADMINISTRATION FOR
CHILDREN AND FAMILIES; and
BERNADINE FUTRELL, in her
official capacity as the Director of the
Office of Head Start,

Defendants.

Amy E. Murphy (P82369)
Robert T. Schindler (P70925)
Rebecca L. Strauss (P64796)
Breanne N. Gilliam (P85611)
Brett Swearingen (*P number pending*)
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VERIFIED COMPLAINT

Plaintiffs comprise Head Start grantees and Head Start contractors throughout the State. They file this Complaint for declaratory judgment, injunctive relief, and other relief to vindicate their rights and to preserve their ability to provide necessary services to children and families who participate in Head Start programs, as detailed below:

Introduction

1. Plaintiffs bring this action to challenge Defendants' Interim Final Rule, 86 Fed. Reg. 68,052 (Nov. 30, 2021) (to be codified at 45 C.F.R. pt. 1302), entitled "Vaccine and Mask Requirements To Mitigate the Spread of COVID-19 in Head Start Programs" (hereinafter "Head Start Mandate" or "Mandate").

2. The Head Start Mandate unlawfully imposes a mandatory vaccination requirement on all staff and certain contractors and volunteers. Those subject to the Mandate must be fully vaccinated against COVID-19 by January 31, 2022.

3. The Head Start Mandate, if enforced, will cause irreparable harm to Plaintiffs and the children and families whom Head Start was created to serve.

Plaintiffs will lose staff, which will result in classroom and program closures. Head Start children and families, a majority of whom live below the poverty line, will lose access to the Head Start services that they rely on for high quality early childhood education, food, and childcare.

Jurisdictional Allegations

4. Plaintiff Livingston Educational Service Agency (“Livingston ESA”) is a Michigan intermediate school district, headquartered at 1425 W. Grand River Road, Howell, Michigan 48843.

5. Plaintiff Saginaw Intermediate School District (“Saginaw ISD”) is a Michigan intermediate school district, headquartered at 3933 Barnard Road, Saginaw, Michigan 48603.

6. Plaintiff Walled Lake Consolidated School District (“Walled Lake”) is a Michigan General Powers school district, headquartered at 850 Ladd Road, Building D., Walled Lake, Michigan 48390.

7. Plaintiff Wayne-Westland Community Schools (“Wayne-Westland”) is a Michigan General Powers school district that provides educational opportunities for students from Westland, Wayne, Canton, Dearborn Heights, Inkster, and Romulus. Wayne-Westland is headquartered at 36745 Marquette, Westland, Michigan 48185.

8. Defendant Xavier Becerra is the Secretary of Health and Human Services. He is being sued in his official capacity.

9. Defendant United States Department of Health and Human Services (HHS) is an executive department of the United States government.

10. Defendant JooYeun Chang is the acting Assistant Secretary and Principal Deputy Assistant of the Administration for Children and Families. She is being sued in her official capacity.

11. Defendant Administration for Children and Families is an agency within HHS.

12. Defendant Bernadine Futrell is the director of the Office of Head Start. She is being sued in her official capacity.

13. The Court has original jurisdiction under 28 U.S.C. § 1331.

14. This Court has authority to award the requested injunctive relief under Federal Rule of Civil Procedure 65 and the requested declaratory relief under 28 U.S.C. §§ 2201-2202 and Federal Rule of Civil Procedure 57.

15. Venue in this district is proper because a substantial part of the events or omissions giving rise to the claim occurred in this district. 28 U.S.C. § 1391(b)(2).

General Allegations

The Head Start Program

16. Head Start is a federal program governed by statute and created “to promote the school readiness of low-income children by enhancing their cognitive, social, and emotional development.” 42 U.S.C. § 9831.

17. Head Start provides educational, nutritional, social, health and other services to low-income children and their families. 42 U.S.C. § 9831(2).

18. Early Head Start programs provide comprehensive child development and family support services to low-income infants and toddlers under the age of three and their families and to pregnant women and their families.

19. With limited exceptions, children are not eligible to participate in Head Start programs unless their families’ incomes fall below the poverty line. 42 U.S.C. § 9840.

20. Head Start programs have strict child-to-teacher ratios that must be followed in the classrooms.

21. A class that serves children under 36 months old is required to have two teachers with no more than eight children, or three teachers with no more than nine children. Each teacher in the class must have primary responsibility for no more than four children. 42 C.F.R. § 1302.21(b)(2).

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