

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

THE METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY,
METROPOLITAN NASHVILLE BOARD OF
PUBLIC EDUCATION, and SHELBY COUNTY
GOVERNMENT,

Plaintiffs,

v.

No. 20-0143-II

TENNESSEE DEPARTMENT OF EDUCATION;
PENNY SCHWINN, in her official capacity as
Education Commissioner for the Tennessee
Department of Education; and BILL LEE, in his
official capacity as Governor for the state of
Tennessee,

Defendants.

GREATER PRAISE CHRISTIAN ACADEMY;
SENSATIONAL ENLIGHTENMENT ACADEMY INDEPENDENT SCHOOL;
CIERA CALHOUN; ALEXANDRIA MEDLIN; AND DAVID WILSON, SR.'S
MOTION TO INTERVENE

COME NOW Greater Praise Christian Academy and Sensational Enlightenment Academy Independent School (the "Schools") and Ciera Calhoun; Alexandria Medlin; and David Wilson, Sr., on behalf of themselves and their minor children (the "Parents"), by counsel and pursuant to Rule 24 of the Tennessee Rules of Civil Procedure, and respectfully move this Court to intervene as Defendants in the above-captioned case. As grounds for this motion and as more fully set forth in their memorandum of law and facts in support hereof, the Schools and Parents state as follows.

The Schools and Parents meet the standard for intervention by right, pursuant to Tenn. R. Civ. P. 24.01, because they claim an interest relating to the property or transaction which is the subject of the action, and they are so situated that the disposition of the action may, as a practical matter, impair or impede their ability to protect that interest. In the alternative, the Schools and Parents meet the standard for intervention by permission, pursuant to Tenn. R. Civ. P. 24.02, because their defense and the main action have a question of law or fact in common.

The Schools are private schools that serve low-income families with children zoned to attend Shelby County Schools and schools in the Achievement School District. They have submitted to Defendant Tennessee Department of Education an Intent to Participate statement for the Tennessee Education Savings Account (“ESA”) Pilot Program. If the ESA Pilot Program were enjoined or found unconstitutional, as requested in this lawsuit, they would suffer financial harm because they have a direct, substantial interest in expanding their student bodies and tuition revenues by participating in the ESA Pilot Program. They claim an interest in the ESA monetary property that is the subject of the action, and they are so situated that the disposition of the action would impede their ability to protect their property interest. In the alternative, their defense and the main action have a question of law in common, i.e. the constitutionality of the ESA Pilot Program.

The Parents are residents of Davidson and Shelby Counties with children who are zoned to attend schools in the Achievement School District and Shelby County Schools. Their household annual income last year was less than twice the federal income eligibility guidelines for free lunch. They intend to apply for an ESA for their children as soon as the application period opens and to use the ESA to enroll their children in the Category I, II, or III private school that provides the best learning environment for each child’s unique needs. If the ESA Pilot

Program were enjoined or found unconstitutional, as requested in this lawsuit, they would suffer financial and educational harm. They claim an interest in the ESA monetary property and the transaction of sending their children to a private school that is the subject of the action, and they are so situated that the disposition of the action would impede their ability to protect their property and transaction interests. In the alternative, their defense and the main action have a question of law in common, *i.e.* the constitutionality of the ESA Pilot Program.

Having been filed before a responsive pleading from Defendants, the motion of the Schools and Parents is timely. They respectfully request that this Court grant them intervenor-defendant status in this case prior to any hearing or substantive briefing in this matter.

Respectfully submitted,

/s/ Brian K. Kelsey

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Greater Praise Christian Academy;

Sensational Enlightenment Academy Independent School;

Ciera Calhoun; Alexandria Medlin; and David Wilson, Sr.

THIS MOTION IS SCHEDULED TO BE HEARD ON FRIDAY, MARCH 6, 2020, AT 9:00 A.M. PURSUANT TO LOCAL RULE OF PRACTICE 26.04(g), IF NO REPOSENSE IS TIMELY FILED AND PERSONALLY SERVED, THE MOTION SHALL BE GRANTED, AND COUNSEL NEED NOT APPEAR IN COURT AT THE TIME AND DATE SCHEDULED FOR THE HEARING.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been sent to the attorneys listed below via the methods listed below this 21st day of February, 2020.

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via Tenn. R. Civ. P. 5.02(2)

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