

IN THE CHANCERY COURT FOR THE TWENTIETH JUDICIAL DISTRICT
DAVIDSON COUNTY, TENNESSEE

THE METROPOLITAN)
GOVERNMENT OF NASHVILLE)
AND DAVIDSON COUNTY, *et al.*,)

Plaintiffs,)

v.)

TENNESSEE DEPARTMENT OF)
EDUCATION, *et al.*,)

Defendants,)

and)

NATU BAH, *et al.*,)

Intervenor-Defendants.)

Case No. 20-0143-II
Consolidated with Case No. 20-0242-II

PLAINTIFF COUNTIES' MOTION FOR TEMPORARY INJUNCTION

Plaintiffs, the Metropolitan Government of Nashville and Davidson County and Shelby County Government (“Plaintiff Counties”), move this Honorable Court to issue a temporary injunction pursuant to Tenn. R. Civ. P. 65¹, enjoining the Defendants, Tennessee Department of Education (“TDOE”), Education Commissioner Penny Schwinn, and Governor Bill Lee (“State Defendants”), from implementing the “Tennessee Education Savings Account Pilot Program,” Tenn. Code Ann. §§ 49-6-2601, *et seq.* (“ESA Act”), pending the Court’s decision on the merits of Plaintiff Counties’ claims.²

¹ This is Plaintiff Counties’ first request for an injunction. Additionally, because the Plaintiff Counties are governmental entities that are requesting that State halt a non-revenue producing program, they request waiver of any applicable bond requirement.

² This lawsuit also includes two sets of Intervenor-Defendants. “Bah Intervenor-Defendants” include Natu Bah, Builguissa Diallo, and Star-Mandolyn Brumfield. “Greater Praise Intervenor-Defendants” include Greater Praise Christian Academy, Sensational Enlightenment Academy Independent School, Ciera Calhoun, Alexandria Medlin, and David Wilson, Sr.

All factors weigh in favor of an injunction here. Plaintiff Counties are likely to succeed on the merits of their equal protection claim in Count II of the Complaint because the ESA Act unconstitutionally imposes a school voucher-type program in only two Tennessee school districts—at the financial expense of the counties that fund them and at the educational expense of the districts and the students that remain in them. The General Assembly intentionally and unapologetically excluded every other school district in Tennessee from the Act’s application to “protect” those districts from the Act’s harmful impact. It did so without any justifiable rationale and without tailoring the program to any educational goal. The State Defendants’ hurried rollout, a mere two weeks before the school year is set to begin, will only exacerbate the detrimental impact on school operations and educational outcomes.

The public interest also weighs in favor of an injunction. Beyond the harm that will result from siphoning millions of education dollars from the districts with no way to fill the gap in the short term, and the monumental cost that Plaintiff Counties will exclusively bear to fund the program, the public also has an interest in government acting only as it is authorized. In their haste to implement the ESA Program, the State Defendants are now proposing to make direct payments to private schools with public dollars instead of using the “education savings accounts” contemplated in the Act. An injunction is necessary to prevent this unauthorized State action.

All factors weigh in favor of a temporary injunction here. Plaintiff Counties, therefore, respectfully request that the Court enjoin further implementation of the ESA Act pending the outcome of this case on the merits.

Respectfully submitted,

THE DEPARTMENT OF LAW OF THE
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NOTICE REGARDING HEARING

PLAINTIFF COUNTIES REQUEST THAT THIS MATTER BE HEARD ON AN EXPEDITED BASIS AT THE COURT'S DISCRETION AND CONVENIENCE. PLAINTIFF COUNTIES HAVE FILED A MOTION TO EXPEDITE OUTLINING THAT REQUEST. FAILURE TO FILE AND SERVE A TIMELY WRITTEN RESPONSE TO THIS MOTION AS ORDERED BY THE COURT MAY RESULT IN THE MOTION BEING GRANTED WITHOUT FURTHER HEARING.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been forwarded via electronic mail (in lieu of U.S. mail by agreement of the parties) and the electronic filing system to the following:

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on this the 22nd day of July, 2022.

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