

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

STATE OF TEXAS,
STATE OF ALASKA,
STATE OF ALABAMA,
STATE OF ARKANSAS,
STATE OF FLORIDA,
STATE OF GEORGIA,
STATE OF INDIANA,
STATE OF IOWA,
STATE OF KANSAS,
STATE OF LOUISIANA,
STATE OF MISSOURI,
STATE OF MONTANA,
STATE OF NEBRASKA,
STATE OF SOUTH CAROLINA,
STATE OF SOUTH DAKOTA,
STATE OF UTAH, and
STATE OF WEST VIRGINIA,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official Capacity
as Secretary of Health and Human Services,
UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendants.

CASE NO. 5:24-cv-00225-C

JOINT STATUS REPORT

The Plaintiff States of Texas, Alaska, Alabama, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, South Carolina, South Dakota, Utah, and West Virginia (Plaintiffs) and Defendants Robert F. Kennedy, in his official capacity as Secretary of Health and Human Services, and the United States Department of Health and Human Services (Defendants) (together, the Parties), submit the following Joint Status Report in connection to the Court's Order, ECF No. 44. The Parties advise the Court as follows:

Defendants continue to evaluate their position in light of the President’s recent Executive Order, which provides that agencies shall not “promote or otherwise inculcate gender ideology.” *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, White House (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>. Accordingly, the Parties ask that the Court not disturb the current stay of briefing deadlines. No Party would be prejudiced by the continuation of the stay and it would preserve the resources of the Parties and the Court. The Parties propose to file a Joint Status Report with the Court on the twenty-first day of each month going forward.

Plaintiffs clarify that they have never moved—and do not plan to move—the Court to declare or enjoin Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, as unconstitutional on its face. Plaintiffs have not sought and do not seek to enjoin the disbursement of funds from the Department on the basis that the statute is unconstitutional.

The context of the entire Complaint, ECF No. 1, shows that the meaning and scope of Count 3 asserting a claim under the Spending Clause—and the declaratory and injunctive relief sought in the demand—is an as-applied challenge to any purported application of Section 504 to funds that are not authorized by the Rehabilitation Act. Such alleged unconstitutional applications include the requirements the Final Rule imposes on recipients to adopt the “most integrated setting” and the “at serious risk of institutionalization” standards of care. 89 Fed. Reg. 40,066, 40,183, 40,120–21, 40,192 (May 9, 2024).

Nothing in Plaintiffs’ Complaint seeks to restrain the disbursement of federal funds from the Department on the basis that the statute is unconstitutional, or to otherwise prevent the Federal Government from allocating spending or applying the provisions of the Rehabilitation Act to any recipients of such funds.

Dated: February 19, 2025.

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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on February 19, 2025 and that all counsel of record were served by CM/ECF.

/s/ Zachary L. Rhines

ZACHARY L. RHINES