



**FILED IN DISTRICT COURT  
OKLAHOMA COUNTY**

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

OKPLAC, INC., et al., )  
Plaintiffs, )  
v. )  
STATEWIDE VIRTUAL CHARTER )  
SCHOOL BOARD, et al., )  
Defendants. )

DEC -1 2023

**RICK WARREN  
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No. CV-2023-1857

**PLAINTIFFS' MOTION TO DISQUALIFY JUDGE**

Pursuant to District Court Rule 15(a), Plaintiffs respectfully move for disqualification of the Assigned Judge—the Honorable C. Brent Dishman—and for transfer of this case to another judge, on two grounds. First, the Assigned Judge serves on the board of trustees of College of the Ozarks, and counsel for six of the defendants in the case at bar recently represented the College in a case that presented issues similar to the issues presented here and that left the underlying controversy unresolved. Second, the Assigned Judge’s sister-in-law is a cofounder and a member of the controlling body—the Steering Committee—of the lead plaintiff in this case, Oklahoma Parent Legislative Advocacy Coalition (“OKPLAC”). Both of these relationships would cause the Assigned Judge’s impartiality to reasonably be questioned.

**FACTS**

**A. The Assigned Judge sits on the board of a college that retained and was recently represented by counsel for six of the defendants here in a case that presented issues similar to the ones here and that left the underlying controversy unresolved.**

1. The Assigned Judge is a member of the board of trustees of College of the Ozarks, a private religious college. (Ex. 1 at 8:2–8:3.) He has served on the College’s board since

2014. See College of the Ozarks Form 990s (2014–2022, Part VII, Section A, of each form), <https://bit.ly/3QSoJpj>.

2. Counsel of record for six of the defendants in this case—Alliance Defending Freedom (“ADF”)—was also counsel of record for the College in a lawsuit that the College filed in federal court on April 15, 2021, *School of the Ozarks, Inc. v. Biden*, Case No. 6:21-cv-03089-RK (W.D. Mo.). (Ex. 1 at 5–9; Exs. 2–5.) On behalf of the College, ADF asserted in the lawsuit (among other arguments) that the College had rights under the U.S. Constitution’s First Amendment and the federal Religious Freedom Restoration Act to be exempted from certain legal prohibitions that, in the College’s view, burdened its religious beliefs and exercise. See Compl. ¶¶ 408–54, ECF No. 1, No. 6:21-cv-03089-RK, 2021 WL 8322682 (W.D. Mo. Apr. 15, 2021). Specifically, ADF argued that prohibitions against discrimination based on sexual orientation and gender identity in housing could not be constitutionally or lawfully applied to the College’s student housing. See *id.* ¶¶ 424–25, 452. In a press release that it issued when it filed the lawsuit, the College emphasized ADF’s role in the case, stating in the release’s subheading that “*Alliance Defending Freedom attorneys represent College of the Ozarks,*” and stating in the release’s body that “ADF attorneys filed the lawsuit.” (Ex. 2.)

3. The College’s lawsuit was dismissed on jurisdictional grounds, as premature. See *Sch. of the Ozarks, Inc. v. Biden*, No. 6:21-03089-CV-RK, 2021 WL 2301938, at \*3–4 (W.D. Mo. June 4, 2021), *aff’d*, 41 F.4th 992, 1001 (8th Cir. 2022). Proceedings in the lawsuit concluded on June 20, 2023, when the U.S. Supreme Court denied the College’s ADF-filed petition for certiorari. See 143 S. Ct. 2638 (2023).

4. But both ADF and the College consider the matter to be far from over. In a webpage about the lawsuit, which it updated on November 13, 2023, ADF quoted one of its attorneys

as stating—after the Supreme Court’s denial of certiorari—that “[t]he U.S. Supreme Court left this issue unresolved.” (Ex. 3 at 4.) The webpage explained that the challenged federal policy “remains in place and unchanged, and courts have yet to rule on the directive’s lawfulness.” (Ex. 3 at 4.) The webpage further quoted an ADF attorney as stating that “ADF will do everything in its power” to advance the legal position it advocated in the College’s lawsuit. (Ex. 3 at 4.) Thus, in another webpage about the case, ADF stated that “this case or others could be refiled,” that “ADF stands ready to sue again,” and that “ADF remains vigilant.” (Ex. 4 at 6–7.)

5. Similarly, six days after the Supreme Court denied review of its case, the College issued a press release about the Supreme Court’s action, in which it repeatedly spoke about the case in the present tense and stated that “the current ruling could jeopardize the College’s ability to function, cause emotional harm to students who rely on the College’s housing policies, and dissuade Christian students from attending the College.” (Ex. 5.) The release also quoted the College’s president as stating that the College “do[es] not intend to change” the housing policy at issue. (Ex. 5.) He added that “[t]he contest for religious liberty is not over, and we must remain vigilant”; that “[w]e are committed to defending our religious liberty as a Christian college”; and that “we will continue to stand for religious liberty in this country and will lead that charge . . . to the benefit of all religious colleges and universities.” (Ex. 5.)

6. On July 31, 2023—barely a month after the Supreme Court denied review of the College’s lawsuit—the case at bar was filed. This case challenges the Oklahoma Statewide Virtual Charter School Board’s approval of a religious school, St. Isidore of Seville Catholic Virtual School, as a public charter school. Plaintiffs allege that the Charter Board’s approval

of St. Isidore is unlawful because the school will (among other constitutional, statutory, and regulatory violations) unlawfully discriminate in admissions and employment—including based on sexual orientation and gender identity—and indoctrinate its students in a particular religion. (Pet. ¶¶ 220–39, 256–65.) ADF represents the Charter Board and its five voting members here. ADF has made arguments on behalf of the Charter Board in this case that are substantially similar to those it made on behalf of the College in *School of the Ozarks*. Specifically, ADF has contended that the First Amendment and the Oklahoma Religious Freedom Act exempt St. Isidore from Oklahoma constitutional and statutory provisions that bar public charter schools from discriminating in employment—including based on sexual orientation and gender identity—and from teaching a religious curriculum. (See Board Defs.’ Mot. Dismiss 17, 25–30 (Sept. 20, 2023).) The other defendants in the case have made similar arguments. (See Def. St. Isidore of Seville Catholic Virtual School’s Mot. Dismiss 12–24 (Sept. 20, 2023); Def. Okla. State Dep’t of Educ.’s Mot. Dismiss 4–12 (Sept. 20, 2023).)

**B. The Assigned Judge’s sister-in-law is a cofounder and a longtime member of the Steering Committee—which is the controlling body—of the lead plaintiff in this case.**

7. The lead plaintiff in this case is OKPLAC, Inc., an Oklahoma nonprofit corporation that is also known as Oklahoma Parent Legislative Advocacy Coalition. (Pet. ¶ 11; Ex. 6 ¶ 2; Ex. 7 ¶ 3.) Alongside other public-education advocates, Jennifer Dishman cofounded OKPLAC in December 2018. (Ex. 6 ¶ 3; Ex. 7 ¶ 4.) At all times since then, she has served as a member of OKPLAC’s Steering Committee, which is OKPLAC’s controlling body. (Ex. 6 ¶¶ 5, 9; Ex. 7 ¶¶ 6, 10.) The Assigned Judge’s brother is married to Jennifer Dishman. (Ex. 1 at 6:6–6:21; Ex. 7 ¶ 12.)

8. OKPLAC is a nonpartisan, statewide organization of volunteer advocates committed to promoting policies that protect, support, and strengthen Oklahoma’s public-school system. (Ex. 6 ¶ 2; Ex. 7 ¶ 3.) OKPLAC serves as an umbrella organization for many local parent legislative action committees (known as “PLACs”) that actively represent more than 200,000 Oklahoma public-school students and their parents. (Ex. 6 ¶ 2; Ex. 7 ¶ 3.) The membership of OKPLAC includes the local PLACs and their individual members. (Ex. 6 ¶ 2; Ex. 7 ¶ 3.)

9. Together with several other Edmond Public Schools parents, Ms. Dishman founded one of those PLACs—Edmond PLAC—in early fall of 2018. (Ex. 6 ¶ 3; Ex. 7 ¶ 4.) She then connected Edmond PLAC to other Oklahoma PLACs and participated in various meetings and discussions aimed at uniting multiple Oklahoma PLACs in a statewide organization. (Ex. 6 ¶ 3; Ex. 7 ¶ 4.) Those discussions culminated in the formation of OKPLAC in December 2018. (Ex. 6 ¶¶ 3–4; Ex. 7 ¶¶ 4–5.)

10. When OKPLAC was founded, a Steering Committee was formed to oversee the organization. (Ex. 6 ¶ 5; Ex. 7 ¶ 6.) Ms. Dishman has—at all times since OKPLAC’s founding in December 2018—served as a member of this Steering Committee, and she continues to do so now. (Ex. 6 ¶¶ 5, 9; Ex. 7 ¶¶ 6, 10, 14.)

11. The Steering Committee was the sole governing entity of OKPLAC during the first few months of OKPLAC’s existence. (Ex. 6 ¶ 5; Ex. 7 ¶ 6.) While the Steering Committee subsequently created a board of directors to perform some of the tasks that the Steering Committee initially performed itself, the Steering Committee continued to function and still functions as OKPLAC’s controlling body. (Ex. 6 ¶ 5; Ex. 7 ¶ 6.) The Steering Committee elects OKPLAC’s board of directors, including OKPLAC’s executive officers and chairs of OKPLAC standing committees (who are members of the board). (Ex. 6 ¶ 6; Ex. 7 ¶ 7.) The

Steering Committee has the authority to amend and has at times amended OKPLAC's bylaws. (Ex. 6 ¶ 6; Ex. 7 ¶ 7.) The Steering Committee sets OKPLAC's legislative goals. (Ex. 6 ¶ 6; Ex. 7 ¶ 7.) And the Steering Committee directs OKPLAC's priorities with input from OKPLAC chapters. (Ex. 6 ¶ 8; Ex. 7 ¶ 9.)

12. The Steering Committee also decides other high-level OKPLAC policy matters. (Ex. 6 ¶ 6; Ex. 7 ¶ 7.) For example, the Steering Committee approved OKPLAC's mission statement and statement of beliefs. (Ex. 6 ¶ 6; Ex. 7 ¶ 7.) The Steering Committee approved OKPLAC becoming a 501(c)(3) non-profit organization. (Ex. 6 ¶ 6; Ex. 7 ¶ 7.) The Steering Committee authorized trademarking the "OKPLAC" name. (Ex. 6 ¶ 6; Ex. 7 ¶ 7.) And recently, the Steering Committee approved changing the longer name used by OKPLAC from "Oklahoma Parent Legislative Action Committee" to "Oklahoma Parent Legislative Advocacy Coalition." (Ex. 6 ¶ 6; Ex. 7 ¶ 7.)

13. The Steering Committee's members are leaders of local PLAC chapters and are selected by the local PLACs and their members. (Ex. 6 ¶ 7; Ex. 7 ¶ 8.) The Steering Committee typically meets at least three times per year, and has met five times over the past year. (Ex. 6 ¶ 7; Ex. 7 ¶ 8.) OKPLAC has no paid staff, so the members of OKPLAC's board of directors are the people principally responsible for carrying out OKPLAC's day-to-day functions. (Ex. 6 ¶ 8; Ex. 7 ¶ 9.) The members of OKPLAC's board of directors regularly report to the Steering Committee on OKPLAC's activities, including on the spending of OKPLAC funds. (Ex. 6 ¶ 8; Ex. 7 ¶ 9.)

14. As an OKPLAC Steering Committee member, Ms. Dishman also has regularly engaged in policy advocacy on behalf of OKPLAC during events at the Oklahoma State Capitol since 2018. (Ex. 6 ¶ 9; Ex. 7 ¶ 10.) In addition, she has hosted events, candidate

forums, and advocacy meetings locally and assisted in hosting them at the state level. (Ex. 6 ¶ 9; Ex. 7 ¶ 10.)<sup>1</sup>

### PROCEEDINGS

Oklahoma District Court Rule 15(a) requires that, “[b]efore filing any motion to disqualify a judge, an *in camera* request shall first be made to the judge to disqualify or to transfer the cause to another judge.” This requirement has been satisfied.

On October 13, 2023, the Assigned Judge held a status conference to provide the parties with information relating to the two potential grounds for disqualification raised in this motion. (Ex. 1 at 5:11–5:15.) In addition, on October 9 (after the October 13 status conference had been scheduled), Plaintiffs had sent an *in camera* letter to the Assigned Judge informing him of Ms. Dishman’s role in OKPLAC and asking him to disqualify himself. (Ex. 8 ¶ 3.) At the October 13 status conference, the Assigned Judge directed the parties to provide further written correspondence regarding whether he should disqualify himself. (Ex.

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<sup>1</sup> Ms. Dishman was elected to OKPLAC’s board of directors on October 8, 2023 (Ex. 6 ¶ 14; Ex. 7 ¶ 14), but Plaintiffs do not rely on her election to that board as a basis for disqualification. Plaintiffs rely (in addition to the Assigned Judge’s role as a member of the board of College of the Ozarks) solely on Ms. Dishman’s membership on the Steering Committee.

Plaintiffs state for the record, however, that Ms. Dishman’s election to OKPLAC’s board was unrelated to this case being assigned to the Assigned Judge. (Ex. 6 ¶ 15; Ex. 7 ¶ 15.) Ms. Dishman agreed to serve on OKPLAC’s board of directors on September 18, 2023. (Ex. 7 ¶ 11.) At that time, she did not know that the Assigned Judge was assigned to this case, and no OKPLAC officer or member knew that Ms. Dishman had a familial relationship with the judge assigned to this case. (Ex. 6 ¶¶ 12–13; Ex. 7 ¶ 12.) An OKPLAC member first learned of the relationship on September 20, and Ms. Dishman first learned that the Assigned Judge was assigned to this case on September 22. (Ex. 6 ¶ 11; Ex. 7 ¶ 12.) The Assigned Judge’s role as the judge assigned to this case played no role in the making or maintenance of Ms. Dishman’s decision to join the OKPLAC board, and Ms. Dishman’s relationship to the Assigned Judge was not a factor in OKPLAC’s decisions to nominate and elect her to the board. (Ex. 6 ¶ 15; Ex. 7 ¶ 15.)

1 at 5:15–5:23.) On October 20, 2023, Plaintiffs sent the Assigned Judge an *in camera* letter asking him to disqualify himself because of his role as a member of the board of College of the Ozarks and Ms. Dishman’s role as a member of OKPLAC’s Steering Committee. (Ex. 8 ¶ 5.) At an *in camera* hearing held on November 2, 2023, the Assigned Judge announced that he had concluded that disqualification was not required and declined to voluntarily recuse himself. (Ex. 8 ¶ 6.)

### ARGUMENT

Oklahoma Judicial Ethics Rule 2.11(A) requires that a judge “disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned.” In deciding whether disqualification is warranted, “the courts must be sensitive to the appearances of possible impropriety as well as to the actual occurrences.” *Miller Dollarhide, P.C. v. Tal*, 2007 OK 58, ¶ 16, 163 P.3d 548. “[E]ven though a judge personally believes himself to be unprejudiced, unbiased and impartial, he should nevertheless certify his disqualification where there are circumstances of such a nature to cause doubt as to his partiality, bias or prejudice.” *Merritt v. Hunter*, 1978 OK 18, ¶ 5, 575 P.2d 623. The Oklahoma Supreme Court has acknowledged that “this stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties.” *Miller Dollarhide*, 2007 OK 58, ¶ 17. Nevertheless, this strict rule is required to “preserve the purity and impartiality of the court and to foster the respect and confidence of the people for its decision.” *Id.* ¶ 16. In deciding a motion to disqualify, “error, if any, should be made in favor of disqualification.” *Id.* ¶ 20.

Here, the Assigned Judge’s impartiality could reasonably be questioned for two unrelated reasons: (1) his status as a board member of a college that was recently represented



by the Charter Board's counsel in a case that presented issues similar to this one and that left the underlying controversy unresolved; and (2) his sister-in-law's role as a member of the Steering Committee—the controlling body—of lead plaintiff OKPLAC. Each of these circumstances independently warrants disqualification.

**I. Disqualification is warranted by the Assigned Judge's role as a board member of a college that retained and was recently represented by counsel for six of the defendants here in a case that presented issues similar to the ones here and that left the underlying controversy unresolved.**

When counsel appearing before the court is currently representing or recently represented the assigned judge, the judge should be disqualified to avoid the appearance of impropriety. *See* Okla. Jud. Ethics Op. 1999-3, 1999 OK JUD ETH 3, ¶ 6, 86 P.3d 663 (“The Judge should probably recuse where the representation by one of the attorneys is somewhat current, perhaps a year since the representation.”); *Ballard v. Campbell*, 127 So. 3d 693, 695 (Fla. Dist. Ct. App. 2013) (“The general rule is that disqualification is required if counsel for one of the parties is representing or has recently represented the judge.”); *Smith v. Sikorsky Aircraft*, 420 F. Supp. 661, 662 (C.D. Cal. 1976) (judge disqualified self because counsel for one of the parties had represented judge five years earlier); *In re Howes*, 880 N.W.2d 184, 200 (Iowa 2016) (judge violated ethical rules by, and was publicly admonished by state supreme court for, failing to disqualify self from case where party was represented by lawyer who had represented judge two months earlier); *Carbana v. Cruz*, 595 F. Supp. 585, 589 (D.P.R. 1984) (judge disqualified self because party's counsel had represented judge in recently concluded case), *aff'd*, 767 F.2d 905 (1st Cir. 1985); *Catsimatidas v. Innovative Travel Grp., Inc.*, No. 84 CIV. 5697 (SWK), 1988 WL 3420, at \*1 (S.D.N.Y. Jan. 13, 1988) (judge disqualified self because party's counsel had recently represented judge).

The Assigned Judge here is, and has been for nearly a decade, a member of the board of trustees of College of the Ozarks. (Facts, *supra*, ¶ 1.) The College retained and was represented by Alliance Defending Freedom—counsel for six of the defendants in the case at bar—in a lawsuit that was concluded barely more than a month before this case was filed. (Facts ¶¶ 2–3, 6.) The representation is so recent that disqualification is required under the above-cited authorities.

Moreover, the College’s lawsuit was dismissed on jurisdictional grounds—as premature—and ADF and the College both consider the underlying controversy to be far from over. (Facts ¶¶ 3–5.) ADF and the College describe the matter as “unresolved” (Ex. 3 at 4; Ex 5), and the College believes that it faces ongoing harm as a result (Ex. 5). Accordingly, ADF has stated that “this case . . . could be refiled,” that ADF “stands ready to sue again,” and that “ADF will do everything in its power” to advance the legal position that it advocated in the College’s lawsuit. (Ex. 3 at 4; Ex. 4 at 6–7.) Similarly, the College has stated that “[t]he contest . . . is not over” and that it “will continue to stand for religious liberty in this country and will lead that charge.” (Ex. 5.) In other words, ADF could resume active representation of the College at any time. The lack of substantive finality to the College’s case heightens the appearance of impropriety that would result if the Assigned Judge remains on this case. *See Howes*, 880 N.W.2d at 190 (in ruling admonishing judge for failing to disqualify self, state supreme court noted that matter in which lawyer had represented judge had not truly concluded, and that lawyer again acted on judge’s behalf in that matter after lawyer appeared before judge in matter from which judge should have recused).

In addition, the fact that this case and the College's case present similar legal questions further exacerbates the appearance of impropriety. In both cases, ADF has argued on behalf of its clients that the First Amendment and a federal or state religious-freedom statute override legal prohibitions—including prohibitions against discrimination based on sexual orientation and gender identity—that a religious school objects to on religious grounds. (Facts ¶¶ 2, 6.) Thus, if the Assigned Judge remains on the case, he will need to issue a decision on legal questions whose resolution could also substantially affect the College in an unresolved legal controversy.

Defendants previously argued that ADF's representation of the College does not call for disqualification because ADF did not represent the Assigned Judge in his personal capacity. But rules and authorities governing disqualification treat the interests and relationships of an entity on whose board a judge sits similarly to a judge's personal interests and relationships. For example, a judge must disqualify himself not only when he is personally a party to a proceeding but also when he is a director or trustee of a party to the proceeding. *See* Okla. Code Jud. Conduct R. 2.11(A)(2)(a); *see also* Mass. Jud. Branch CJE Op. No. 91-3, 1991 WL 11760277, at \*1 (Dec. 30, 1991) (judge who serves on advisory committee of hospital must recuse himself from any cases involving hospital). Moreover, disqualification is required not only when a judge has an economic interest in the controversy "individually" but also when she has such an interest "as a fiduciary." *See* Okla. Code Jud. Conduct R. 2.11(A)(3). Thus, in *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 850, 861 (1988), the U.S. Supreme Court held that a judge was required to disqualify himself from a case whose resolution would have affected a property sale that was being negotiated by a university on whose board of trustees the judge sat. Likewise, ADF's recent

representation of the College in a lawsuit that left the underlying controversy unresolved should be treated the same as if ADF had represented the Assigned Judge in such a case individually.

For these reasons, Plaintiffs respectfully submit that the relationships between the Assigned Judge, the College, and the Charter Board's counsel here severely undermine the appearance of "an impartial and disinterested tribunal" (*Casey v. Casey*, 2011 OK 46, ¶ 12, 270 P.3d 109) and therefore necessitate the Assigned Judge's disqualification.

**II. Disqualification is warranted because the Assigned Judge's sister-in-law is a longtime member of the Steering Committee—which is the controlling body—of the lead plaintiff in this case.**

Rule 2.11(A) of the Oklahoma Code of Judicial Conduct requires disqualification when a judge has a close familial relationship with a person who is in a position of authority in an organizational party to the case. In relevant part, the rule provides:

(A) A judge *shall* disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, *including but not limited to* the following circumstances:

....

(2) The judge knows that the judge, the judge's spouse, a member of the judge's household, or a person within the third degree of relationship to any of them, or the spouse of such a person is:

(a) a party to the proceeding, *or an officer, director, general partner, managing member, or trustee of a party.*

(Emphases added.)

Here, Ms. Dishman is the spouse of a person within the third degree of relationship to the Assigned Judge—his brother. *See* Ex. 7 ¶ 12; Okla. Code Jud. Conduct, Terminology. And, in her role as a member of OKPLAC's Steering Committee, she is a "director" of a party. While OKPLAC's Steering Committee is not called a "board of directors" and

OKPLAC has a body subordinate to the Steering Committee that it has dubbed a “board of directors,” all the members of the Steering Committee are “directors” of OKPLAC within the legal meaning of the term, and the Steering Committee’s powers and functions are similar to those of the board of directors of an organization.

Black’s Law Dictionary (11th ed. 2019) defines “director” as “1. Someone who manages, guides, or orders; a chief administrator. 2. A person appointed or elected to sit on a board that manages the affairs of a corporation or other organization by electing and exercising control over its officers.” Black’s further defines “board of directors” as “[t]he governing body of a corporation, partnership, association, or other organization, elected by the shareholders or members to establish policy, elect or appoint officers and committees, and make other governing decisions.” *See also State v. Van Huizen*, 435 P.3d 202, 208 (Utah 2019) (citing Black’s Law Dictionary to interpret a Utah rule identical to Oklahoma Code of Judicial Conduct Rule 2.11(A)(2)(a)). In addition to those functions, boards of directors typically are responsible for adopting and amending bylaws, selecting committee chairs, holding periodic meetings, and providing general oversight to their organization. *See, e.g.*, Restatement of the Law, Charitable Nonprofit Orgs. § 2.05 (2021).

Here, the Steering Committee is OKPLAC’s controlling body. (Ex. 6 ¶ 5; Ex. 7 ¶ 6.) The Steering Committee elects OKPLAC’s officers and committee chairs, amends OKPLAC’s bylaws, sets OKPLAC’s legislative goals, directs OKPLAC’s priorities, decides other high-level OKPLAC policy matters, and receives reports from OKPLAC officers. (Ex. 6 ¶¶ 6, 8; Ex. 7 ¶¶ 7, 9.) The members of the Steering Committee are selected by OKPLAC’s membership. (Ex. 6 ¶ 7; Ex. 7 ¶ 8.) The Steering Committee typically meets at least three

times per year, and met more often over the past year. (Ex. 6 ¶ 7; Ex. 7 ¶ 8.) Thus, the Steering Committee is similar to a typical board of directors.

The facts that the Steering Committee is not called a “board of directors” and that OKPLAC established a subordinate body that it does call a “board of directors” are not controlling. “A person’s function with respect to the charity, rather than the nomenclature, determines whether the person is a board member”; “[s]imilarly, a group’s function with respect to a charity, rather than the formal title of the group (e.g., board of trustees, council, directors, or governors), determines whether the group is a board of a charity.” Restatement of the Law, Charitable Nonprofit Orgs. § 2.05. In this case, OKPLAC’s Steering Committee is the organization’s controlling body, and OKPLAC’s board of directors carries out the organization’s day-to-day functions (as OKPLAC has no paid staff). (Ex. 6 ¶¶ 5, 8; Ex. 7 ¶¶ 6, 9.) The relationship between OKPLAC’s Steering Committee and OKPLAC’s board of directors is similar to the one in *Santos v. Chappell*, 318 N.Y.S.2d 570, 576 (N.Y. Sup. Ct. 1971), where the court concluded that an organization’s “Board of Governors is in real corporate counterpart the Board of Directors” and the organization’s “nominal ‘Board of Directors’ is in reality an executive committee.” As stated in *First Covenant Trust v. Willis*, No. E2023-00230-COA-T10B-CV, 2023 WL 2200599, at \*3 (Tenn. Ct. App. Feb. 24, 2023), “[i]t is not the title of the employee that matters, but rather whether that employee has ‘skin in the game,’ which might be impacted by the lawsuit.” As a cofounder of OKPLAC and a member of its controlling Steering Committee since the organization’s creation, Ms. Dishman undoubtedly has “skin in the game.”

That the Steering Committee is fairly large, with about forty-eight total members (Ex. 6 ¶ 8; Ex. 7 ¶ 8), also does not change anything. While most organizational boards are

smaller, some boards have fifty members or more. *See, e.g.*, Mike Boland & Don Hofstrand, *The Role of the Board of Directors*, Iowa State University Extension and Outreach AG Decision Maker (Nov. 2021), <https://bit.ly/3QSoTNp>; *Is Your Board of Directors / Advisors More Ceremonial, Liberated or Progressive?*, Cardinal Board Services, <https://bit.ly/3sUUXIy> (last visited Nov. 28, 2023).

Moreover, even if Ms. Dishman’s role as a member of the Steering Committee does not technically fit within any of the terms in Rule 2.11(A)(2)(a)—“officer, director, general partner, managing member, or trustee”—the rule makes clear that, for determination of whether disqualification is required, these enumerated examples serve as a guide but are not exclusive. *See* Rule 2.11(A) (duty to disqualify is triggered when “the judge’s impartiality might reasonably be questioned, *including but not limited to* [the enumerated examples]” (emphasis added)); *Shelby Cnty. Gov’t v. City of Memphis*, No. W2014-02197-COA-T10B-CV, 2015 WL 127895, at \*5 (Tenn. Ct. App. Jan. 8, 2015) (“[M]erely because the situation alleged to create an appearance of impropriety is not specifically mentioned in Rule 2.11, this Court may still conclude that the situation warrants recusal of the trial judge.”). At the very least, members of the Steering Committee have similar responsibilities to those of the organizational positions enumerated in Rule 2.11(A)(2)(a), and serving on the Steering Committee is an important leadership position in OKPLAC. (*See* Ex. 6 ¶¶ 5–8; Ex. 7 ¶¶ 6–9.) Indeed, the Steering Committee is the ultimate authority in OKPLAC—it has more power than the entity that OKPLAC calls the “board of directors.” (*See* Ex. 6 ¶¶ 5–6, 8; Ex. 7 ¶¶ 6–7, 9.) Thus, whether or not membership on the OKPLAC Steering Committee renders

Ms. Dishman a “director” within the meaning of Rule 2.11(A)(2)(a), the Assigned Judge’s disqualification is required.<sup>2</sup>

Defendants previously argued that the Assigned Judge’s familial relationship with Ms. Dishman did not support disqualification because, in Defendants’ view, any resulting bias would favor Plaintiffs. That some outside observers might speculate that the relationship at issue would favor the party requesting disqualification is not relevant, however. *See, e.g., Pashaian v. Eccelston Props., Ltd.*, 88 F.3d 77, 83 (2d Cir. 1996) (“[W]e believe that when a party has timely moved for the recusal of a district judge, that party has standing to challenge the judge’s refusal to recuse even if the alleged bias would be in the moving party’s favor. Such a party might legitimately be concerned that the judge will ‘bend over backwards’ to avoid any appearance of partiality, thereby inadvertently favoring the opposing party.”); *Skagit County v. Waldal*, 261 P.3d 164, 166 (Wash. App. 2011) (“When a judge is thought to have a bias in favor of one party, that party may still seek recusal out of concern that the judge, ‘in an effort to avoid any possible appearance of partiality, might bend over backward in favor of the other side.’” (quoting 13D Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 3553 (3d ed.))); *accord, e.g., Centripetal Networks, Inc. v. Cisco Sys., Inc.*, 38 F.4th 1025, 1038 (Fed. Cir.), *cert. denied*, 143 S. Ct. 487 (2022).

Defendants also argued previously that the issue of Ms. Dishman’s service on OKPLAC’s Steering Committee was not presented to the Court in a timely manner. Nothing

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<sup>2</sup> So that there is no confusion, Plaintiffs reiterate that they do not rely on Ms. Dishman’s election on October 8, 2023, to the body that OKPLAC calls a “board of directors” as a basis for disqualification. *See supra* at 7 n.1. In other words, in deciding whether Ms. Dishman’s relationship with the Assigned Judge warrants disqualification, Plaintiffs ask the Court to solely consider Ms. Dishman’s role as a cofounder of OKPLAC and a member of OKPLAC’s Steering Committee since the organization’s creation, without taking into account her recently acquired additional role as a member of OKPLAC’s board of directors.



could be further from the truth. OKPLAC first realized that a member of their Steering Committee had a familial relationship with the Assigned Judge on September 20. (Ex. 6 ¶¶ 11–12.) Ms. Dishman informed the Assigned Judge of her involvement with OKPLAC and that OKPLAC is a party to this case on September 23 or 24. (Ex. 1 at 6:6–6:13; Ex. 7 ¶ 13.) On September 26, the Court notified the parties that it wished to hold a status conference, which was ultimately scheduled for October 13. (Ex. 8 ¶ 2.) On October 9, Plaintiffs sent the Assigned Judge an *in camera* letter that specifically explained that Ms. Dishman is a member of OKPLAC’s Steering Committee and asked the Assigned Judge to disqualify himself. (Ex. 8 ¶ 3.) On October 20, Plaintiffs sent the Assigned Judge a second *in camera* letter that reiterated that Ms. Dishman’s service on the Steering Committee required the Assigned Judge’s disqualification. (Ex. 8 ¶ 5.) Meanwhile, Oklahoma District Court Rule 15(a) requires only that a motion to disqualify be made “not less than ten (10) days before the case is set for trial.” This case is still in its early stages and a trial date has not even been scheduled.

Because Ms. Dishman is married to the Assigned Judge’s brother and a member of the Steering Committee—the controlling body—of the lead plaintiff in this case, the Assigned Judge’s “impartiality might reasonably be questioned” (Rule 2.11(A)), and his disqualification is therefore required.

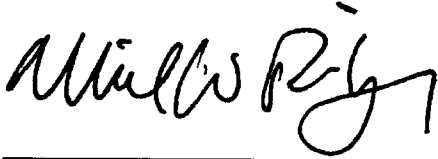
### CONCLUSION

Taken independently, the College of the Ozarks matter and Ms. Dishman’s Steering Committee service each justifies disqualification. And taken together, they put the Assigned Judge in an untenable situation. No matter how the Assigned Judge rules in this case—regardless of whether the ruling favors the same legal position that the College’s ADF

attorneys advanced in the College's lawsuit or it favors a plaintiff on which the Assigned Judge's sister-in-law has long held an active governance role as a member of its Steering Committee—the Assigned Judge's decision will be perceived, rightly or not, as tainted by bias.

For the foregoing reasons, Plaintiffs respectfully ask the Court to grant this motion for disqualification and transfer this matter for reassignment.

Respectfully submitted on December 1, 2023.



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**CERTIFICATE OF SERVICE**

Pursuant to the Stipulation Concerning Electronic Service filed on September 15, 2023, this is to certify that on December 1, 2023, a true and correct copy of the foregoing document has been served via email to the following:

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Respectfully submitted,



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Exhibit 1  
Transcript of October 13, 2023  
status conference in this case

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

OKPLAC, INC., d/b/a Oklahoma )  
Parent Legislative Action )  
Committee, )  
MELISSA ABDO, )  
KRYSTAL BONSALE, )  
LESLIE BRIGGS, )  
BRENDA LENÉ, )  
MICHELE MEDLEY, )  
DR. BRUCE PRESCOTT, )  
REV. DR. MITCH RANDALL, )  
REV. DR. LORI WALKE, and )  
ERIKA WRIGHT, )

PLAINTIFFS, )

vs. )

CASE NO. CV-2023-1857 )

STATEWIDE VIRTUAL CHARTER )  
SCHOOL BOARD, )

MEMBER OF THE STATEWIDE VIRTUAL )  
CHARTER SCHOOL BOARD FOR THE )  
FIRST CONGRESSIONAL DISTRICT )  
currently DR. ROBERT FRANKLIN, )  
in his official capacity, )

MEMBER OF THE STATEWIDE VIRTUAL )  
CHARTER SCHOOL BOARD FOR THE )  
SECOND CONGRESSIONAL DISTRICT )  
currently WILLIAM PEARSON, )  
in his official capacity, )

MEMBER OF THE STATEWIDE VIRTUAL )  
CHARTER SCHOOL BOARD FOR THE )  
THIRD CONGRESSIONAL DISTRICT )  
currently NELLIE TAYLOE SANDERS )  
in her official capacity, )

MEMBER OF THE STATEWIDE VIRTUAL )  
CHARTER SCHOOL BOARD FOR THE )  
FOURTH CONGRESSIONAL DISTRICT )  
currently identified as BRIAN )  
BOBEK, in his official capacity, )

MEMBER OF THE STATEWIDE VIRTUAL )  
 CHARTER SCHOOL BOARD FOR THE )  
 FIFTH CONGRESSIONAL DISTRICT )  
 currently DR. SCOTT STRAWN, )  
 in his official capacity, )  
 )  
 OKLAHOMA STATE DEPARTMENT OF )  
 EDUCATION, )  
 )  
 STATE SUPERINTENDENT OF PUBLIC )  
 INSTRUCTION, currently RYAN )  
 WALTERS, in his official )  
 capacity, and )  
 )  
 SAINT ISIDORE OF SEVILLE, VIRTUAL )  
 CHARTER SCHOOL, INC., )  
 )  
 DEFENDANTS. )

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS  
 HAD ON THE  
 13TH DAY OF OCTOBER, 2023  
 BEFORE THE  
 HONORABLE C. BRENT DISHMAN  
 DISTRICT JUDGE

\* \* \* \* \*

Reported by:  
 Karen L. Martin, CSR  
 Official Court Reporter  
 321 Park Avenue  
 315 Oklahoma County Courthouse  
 Oklahoma City, Oklahoma 73102



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33           and

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1 (The following proceedings transpired in open  
2 court with all parties present:)

3 THE COURT: Good afternoon. We're here on Case  
4 No. CV-2023-8 -- Excuse me -- 1857.

5 First, I want to remind the parties and those in  
6 attendance that recording devices are not allowed in  
7 Oklahoma County courtrooms. That includes voice recorders,  
8 video cameras, et cetera. Today's hearing is an open  
9 hearing, so a transcript will be produced at the Court's  
10 request.

11 The intention of today's hearing is for the Court  
12 to make two disclosures to the parties about the Court's  
13 relationships or associations with the parties. I intend to  
14 give you this information today for you to consider and  
15 discuss with your clients. Then, should you seek recusal or  
16 wish to dispute a requested recusal from another party,  
17 based on the two disclosures I'm about to make or any other  
18 facts known to the parties at this time, I intend to give  
19 the parties one week from today to request recusal. Then,  
20 opposing counsel will have one additional week to respond.  
21 Should a party need more than one week to produce a request  
22 or response, it should ask the Court for more time but must  
23 ask within that one-week window.

24 The Court wants to resolve any issues resolving  
25 these two disclosures before moving on to other matters, to

1 include but not limited to our motions hearing set for  
2 December. Should an in camera hearing be required based  
3 upon a request for recusal, the parties will be notified by  
4 court staff to schedule that in camera hearing.

5           It's the Court's understanding that the parties  
6 are already aware that a relative of mine, within three  
7 degrees of relationship, called me the weekend of 23-24  
8 September and informed me that she was, quote, involved with  
9 OKPLAC, the plaintiff in this case, and that she does some  
10 local work for OKPLAC in the Edmond area. Before her phone  
11 call, I did not know that she was involved in this  
12 organization, and we have never spoken about her involvement  
13 with this organization, other than this phone call.

14           On 26 September, I set this status conference  
15 intending to disclose to the parties what was relayed to me  
16 in the phone call, namely that my relative was involved with  
17 the plaintiff at the local level. At this time, the Court  
18 set this -- Excuse me. At the time the Court set this  
19 status conference, the Court had researched this issue and  
20 determined this relationship, an inlaw of the Court being  
21 involved with a plaintiff organization, without any further  
22 knowledge of her involvement by the Court, likely did not  
23 give rise to a need to recuse. However, due to the  
24 heightened interest -- Excuse me. Due to the heightened  
25 media and public interest in this case, I wanted to let the

1 parties know as soon as possible.

2           The Court was then later informed that, after this  
3 status conference was set and after the Court entered  
4 14 separate rulings in this case, the relative in question  
5 was, on 8 October, quote, elected, unopposed, to a two-year  
6 term on OKPLAC's Board of Directors that started the same  
7 date, close quote.

8           Rule 2.11(a) of the Oklahoma Code of Judicial  
9 Conduct states that a judge shall recuse when a person  
10 within the third degree of relationship to them is an  
11 officer or trustee of a party. However, the Court does not  
12 know and seeks direction from the parties on the issue of  
13 whether a party may successfully create grounds for recusal  
14 and whether such an act of generating grounds for recusal is  
15 akin to forum shopping. The Court is concerned regarding  
16 the timeline of plaintiff's actions in electing a relative  
17 of the Court to their board on 8 October directly followed  
18 by a request for judicial recusal on 9 October, with full  
19 knowledge of the identity of the judge in the case and the  
20 immense amount of work and numerous filings that have  
21 already been made by this -- in and by this Court.

22           That concludes the first disclosure.

23           The second disclosure the Court seeks to make  
24 today also relates to board service but with respect to  
25 defendants. One of the law firms representing a party in

1 this case formerly represented an entity of which I am a  
2 board member. To be specific, I serve on the Board of  
3 Trustees for the College of the Ozarks, which is located  
4 outside of this jurisdiction in the state of Missouri.

5 From March 2021 to July 2022, College of the  
6 Ozarks was represented by Alliance Defending Freedom in a  
7 lawsuit against the Federal Government regarding a Federal  
8 Housing and Urban Development policy document regarding  
9 transgender student housing. As a board member, I was  
10 briefed three times by ADF attorneys during their handling  
11 of this case.

12 To provide an extreme summation of the judicial  
13 opinion in this matter, the case was ultimately deemed not  
14 ripe by the Federal District Court in Missouri. That  
15 decision was upheld on appeal at the Eighth Circuit, and the  
16 US Supreme Court denied Cert. My contact with ADF during  
17 that time was limited to those three group Zoom meetings  
18 with other board members.

19 The Court looks to Oklahoma Judicial Ethics  
20 Opinion 1999-3 as informative. In that opinion, the  
21 Oklahoma Judicial Ethics Advisory Council looked at a case  
22 where an attorney had represented a judge in the judge's  
23 personal capacity and was asked whether that attorney could  
24 later appear before the judge in other matters. That  
25 council cited -- The council cited that there was no current

1 attorney-client relationship and that some time had passed  
2 between the representation and the case in question. The  
3 council advised that the judge did not need to recuse in the  
4 current litigation.

5 The Court recognizes that, in the current matter,  
6 ADF did not represent the judge in my personal capacity and  
7 that over a year has passed since the representation. The  
8 Court has had no further contact with ADF since July 2022,  
9 except for the filings in this case.

10 That concludes the second disclosure I have for  
11 you today.

12 As I stated at the beginning of the hearing, the  
13 Court is disclosing this information to you today for you to  
14 consider and discuss with your clients. Then, should you  
15 seek recusal or wish to dispute a requested recusal from  
16 another party, based on the two disclosures made by the  
17 Court today or any other facts known to the parties at this  
18 time, I am giving the parties one week from today to request  
19 recusal, then an additional one week to respond to any such  
20 request, and if any party should need more time to generate  
21 those requests or responses, they just need to let me know  
22 within that one-week window.

23 The Court will follow the procedure set forth in  
24 12 O.S. Chapter 2, Appendix, Rule 15, for considering  
25 recusal requests. Should the Court recuse after hearing

1 from counsel at an in camera hearing, the case will be  
2 randomly assigned to another Oklahoma County District Judge.  
3 Should the Court not recuse, the party requesting that  
4 recusal may appeal that decision to the Chief Judge for the  
5 month in which the appeal is filed.

6 As I stated before we went on the record, I don't  
7 anticipate answering any substantive questions today, but  
8 does anyone have any questions about what the Court expects  
9 of the parties or any logistical questions going forward?

10 MR. RIDGEWAY: Your Honor, may I ask, do you have  
11 the citation on the case you were referring to, the College  
12 of the Ozarks case?

13 THE COURT: I do not, but I believe College of the  
14 Ozarks was the named -- was the named plaintiff or maybe the  
15 first named plaintiff, so you should be able to search and  
16 find it that way.

17 MR. RIDGEWAY: And which court would that be filed  
18 in?

19 THE COURT: It was in, I believe, the Western  
20 District of Missouri.

21 MR. MANN: Your Honor, I have a question.

22 Under Rule 15, it's my understanding that the  
23 first step is in camera. Then, if you deny the  
24 disqualification request in camera, then a formal motion to  
25 disqualify is to be filed in the case. And then, if you do



1 not disqualify, that's when the appeal goes to the Chief  
2 Judge and then ultimately an original action to the Supreme  
3 Court. What I heard you say, and I may have heard you  
4 incorrectly, is that your ruling -- the next hearing on this  
5 would be in camera and, if you disqualify, that would be it  
6 because, under Rule 15, there's no appeal from the nonmoving  
7 party. If you don't disqualify, then it would then go to  
8 the Chief Judge.

9 THE COURT: Counsel --

10 MR. MANN: It seemed to me that the motion to  
11 disqualify was being skipped over, but I certainly would  
12 like to hear Your Honor in that regard.

13 THE COURT: Counsel, I believe you're correct. I  
14 omitted that step. My apologies. So that is correct. If I  
15 were to not recuse, then, yes, you'd file a formal motion  
16 for hearing before the Court.

17 MR. MANN: All right.

18 THE COURT: Yeah. Thank you.

19 MR. MANN: I assume that the Court would set that  
20 in camera hearing at your convenience after you receive both  
21 sides. You're not going to set a date today; you're going  
22 to wait to hear?

23 THE COURT: That's correct. I'll go ahead and see  
24 what comes in. I don't anticipate any sort of lengthy delay  
25 after this initial two-week window, but I didn't want to set

1 the date now in case someone came along and said, hey, I  
2 need a little more time to work this up. But I expect if  
3 there's a week to respond -- a week to ask for recusal, a  
4 week to respond, and if everyone is fine with that timeline,  
5 that we'd have an in camera hearing within three to four  
6 weeks from today.

7 MR. MANN: Okay. And of course, the motion to  
8 disqualify does have some time constraints where, obviously,  
9 the in camera doesn't, as does any appeal to the Chief Judge  
10 and then on to the Supremes.

11 THE COURT: That's correct. We'll just follow  
12 whatever timelines are set forth in the statute.

13 MR. MANN: Very good. Thank you, sir.

14 THE COURT: But for these initial ones, there's  
15 not -- Well, these initial disclosures, I believe the Rule  
16 said that they have to be filed before the first motions  
17 hearing which, for us, would be out in December, and I  
18 didn't want us to have to wait that long to address this  
19 issue.

20 MR. MANN: I think it's -- I thought -- have  
21 always thought that it was not any closer than 10 days to  
22 trial, but I could be wrong on that.

23 THE COURT: Well, of course, I didn't bring the  
24 statute with me, but we're going to handle it on the front  
25 end, so this entire case isn't delayed unnecessarily.

1 MR. MANN: Thank you.

2 THE COURT: Okay, yeah.

3 Anything from the defense?

4 MR. FERATE: Yeah. Just real quick, Your Honor.  
5 I just wanted to clarify.

6 Obviously a letter's been provided already by  
7 plaintiffs and all three defendants have provided responses  
8 to that. Are you seeking additional comment on that  
9 specific issue?

10 THE COURT: I'll leave it to the parties. If  
11 there's anything additional you want to provide, you may.  
12 If you don't feel that's necessary, you don't have to.

13 I didn't know -- Since I had an additional  
14 disclosure to make today, I thought we would just handle  
15 them together, even though you've already done some work on  
16 the first one.

17 MR. FERATE: Yeah. As far as the Department of  
18 Ed, I can just tell Your Honor that we have no objection to  
19 your continuing, consistent with our letter and consistent  
20 with your latest disclosure that you provided today, but  
21 we'll see what comes in and we'll provide an appropriate  
22 response if necessary.

23 THE COURT: Okay. Thank you.

24 I'll ask too -- I noticed last week or the week  
25 before, I signed off on an order for consolidated briefing,

1 I think amongst the defendants. So, even on this issue, if  
2 you're going to correspond for a group of defendants, if  
3 you'd just put that in the letter somewhere -- I'm kind of  
4 checking off and waiting to hear who I've heard from or who  
5 I haven't -- that would be helpful.

6 MR. MANN: Actually, I think, Your Honor, that,  
7 if I remember correctly, you signed off on that we, the  
8 plaintiffs, in our response brief to the motions to dismiss,  
9 don't have to file 30, 30, and 20, that we can file one  
10 brief of 60 pages in response to all three of them, and that  
11 was agreed to between the parties. And I think our brief is  
12 due the 23rd.

13 THE COURT: Okay. That's acceptable to me.

14 MR. MANN: Okay. Thank you.

15 THE COURT: I've signed that order.

16 If, during these -- this recusal discussion, if  
17 there's any consolidation that's going to be done, please  
18 just annotate that within your writing.

19 Okay. Anything else? Any other questions I can  
20 answer?

21 (No response)

22 THE COURT: No? Okay. Thank you.

23 Court is closed. You can be excused.

24 (End of proceedings)

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IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

OKPLAC, INC., d/b/a Oklahoma )  
Parent Legislative Action )  
Committee, )  
MELISSA ABDO, )  
KRYSTAL BONSALE, )  
LESLIE BRIGGS, )  
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DR. BRUCE PRESCOTT, )  
REV. DR. MITCH RANDALL, )  
REV. DR. LORI WALKE, and )  
ERIKA WRIGHT, )

PLAINTIFFS, )

vs. )

CASE NO. CV-2023-1857

STATEWIDE VIRTUAL CHARTER )  
SCHOOL BOARD, )  
MEMBER OF THE STATEWIDE VIRTUAL )  
CHARTER SCHOOL BOARD FOR THE )  
FIRST CONGRESSIONAL DISTRICT )  
currently DR. ROBERT FRANKLIN, )  
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MEMBER OF THE STATEWIDE VIRTUAL )  
CHARTER SCHOOL BOARD FOR THE )  
SECOND CONGRESSIONAL DISTRICT )  
currently WILLIAM PEARSON, )  
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MEMBER OF THE STATEWIDE VIRTUAL )  
CHARTER SCHOOL BOARD FOR THE )  
THIRD CONGRESSIONAL DISTRICT )  
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currently identified as BRIAN )  
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1 MEMBER OF THE STATEWIDE VIRTUAL )  
 2 CHARTER SCHOOL BOARD FOR THE )  
 3 FIFTH CONGRESSIONAL DISTRICT )  
 4 currently DR. SCOTT STRAWN, )  
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 6 OKLAHOMA STATE DEPARTMENT OF )  
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 8 STATE SUPERINTENDENT OF PUBLIC )  
 9 INSTRUCTION, currently RYAN )  
 10 WALTERS, in his official )  
 11 capacity, and )  
 12 SAINT ISIDORE OF SEVILLE, VIRTUAL )  
 13 CHARTER SCHOOL, INC., )  
 14 DEFENDANTS. )

CERTIFICATE OF THE COURT REPORTER

15 I, Karen L. Martin, Certified Shorthand Reporter  
 16 and Official Court Reporter for Oklahoma County, do hereby  
 17 certify that the foregoing transcript in the above-styled  
 18 case is a true, correct, and complete transcript of my  
 19 shorthand notes of the proceedings in said cause.

Dated this 16th day of October, 2023.

20 \_\_\_\_\_  
 21 Karen L. Martin, CSR and  
 22 Official Court Reporter in  
 23 and for the State of Oklahoma  
 24  
 25



Exhibit 2

College of the Ozarks press release,  
“College of the Ozarks Challenges Biden  
Order That Opens Dorms, Showers  
to Opposite Sex”  
(April 15, 2021)




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 APPLY


 III

## COLLEGE OF THE OZARKS CHALLENGES BIDEN ORDER THAT OPENS DORMS, SHOWERS TO OPPOSITE SEX

 April 15, 2021

### *Alliance Defending Freedom attorneys represent College of the Ozarks*

POINT LOOKOUT, MO. — College of the Ozarks filed suit in federal court today, April 15, against the Biden administration.

The [lawsuit](#) challenges a directive from the U.S. Department of Housing and Urban Development (HUD), which forces religious schools to violate their beliefs by opening their dormitories, including dorm rooms and shared shower spaces, to members of the opposite sex. The [directive](#) accomplishes this by requiring entities covered by the Fair Housing Act to not “discriminate” based on sexual orientation or gender identity.

The administration’s rule change forces religious schools to violate their beliefs by opening up female dorms to biological males and vice-versa, or face fines of up to six figures, punitive damages, and attorneys’ fees. The reinterpretation of “sex” in the Fair Housing Act comes in light of President Joe Biden’s [executive order](#) titled, “Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation,” signed in January 2021.

Attorneys from Alliance Defending Freedom will represent the College.

“The government cannot and should not force schools to open girls’ dorms to males based on its politically motivated and inappropriate redefinition of ‘sex,’” said ADF Senior Counsel Julie Marie Blake. “Women shouldn’t be forced to share private spaces—including showers and dorm rooms—with males, and religious schools shouldn’t be punished simply because of their beliefs about marriage and biological sex. Government overreach by the Biden administration continues to victimize women, girls, and people of faith by gutting their legal protections, and it must be stopped.”

College of the Ozarks holds to the Christian belief that biological sex is not changeable, and it operates its dorms accordingly. The College’s sincerely held religious beliefs influence their policies, including dormitory policies, which prohibit male students from living in female residence halls, and vice versa.

“Religious freedom is under attack in America, and we won’t stand on the sidelines and watch,” said College of the Ozarks President, Dr. Jerry C. Davis. “To threaten religious freedom is to threaten America itself. College of the Ozarks will not allow politicians to erode this essential American right or the ideals that shaped America’s founding.”

The lawsuit opposes the HUD directive and the executive order requiring it. The order, issued to all federal agencies, requires them to modify their policies on sex discrimination to include sexual orientation and gender identity. The lawsuit explains that the HUD directive contradicts the historical judicial interpretation of the Fair Housing Act, which confirms that “sex” means biological sex. The suit also argues that the directive exceeds the administration’s authority and violates the constitutionally protected freedom of College of the Ozarks and similar religious institutions to operate consistently with their religious beliefs.

[College of the Ozarks](#) is a private, Christian, liberal arts college in Point Lookout, Missouri. To achieve its vision, the college pursues academic, vocational, Christian, patriotic, and cultural goals that are mirrored in School of the Ozarks, a laboratory school that completes the K-college model.

ADF attorneys filed the lawsuit *The School of the Ozarks, Inc. d/b/a College of the Ozarks v. Biden* in the U.S. District Court for the Western District of Missouri, Southern Division.

To read the lawsuit, visit <https://adfmedialegalfiles.blob.core.windows.net/files/CollegeoftheOzarksComplaint.pdf>

To view the Housing and Urban Development directive, visit [https://www.hud.gov/sites/dfiles/PA/documents/HUD\\_Memo\\_EQ13988.pdf](https://www.hud.gov/sites/dfiles/PA/documents/HUD_Memo_EQ13988.pdf)



For additional information, contact the Public Relations Office at (417) 690-2212.



# COLLEGE *of the* OZARKS™

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### Exhibit 3

Alliance Defending Freedom webpage,  
“Christian College Still Affirms  
Biological Reality Despite  
Biden Administration Threat.”

(revised November 13, 2023)

(<https://adflegal.org/article/christian-college-still-affirms-biological-reality-despite-biden-administration-threat>)



# Christian College Still Affirms Biological Reality Despite Biden Administration Threat

College of the Ozarks filed a lawsuit against the Biden administration over an order to redefine 'sex' to include 'sexual orientation' and 'gender identity.'



Written by *Alliance Defending Freedom*

Published May 19, 2021

Revised November 13, 2023



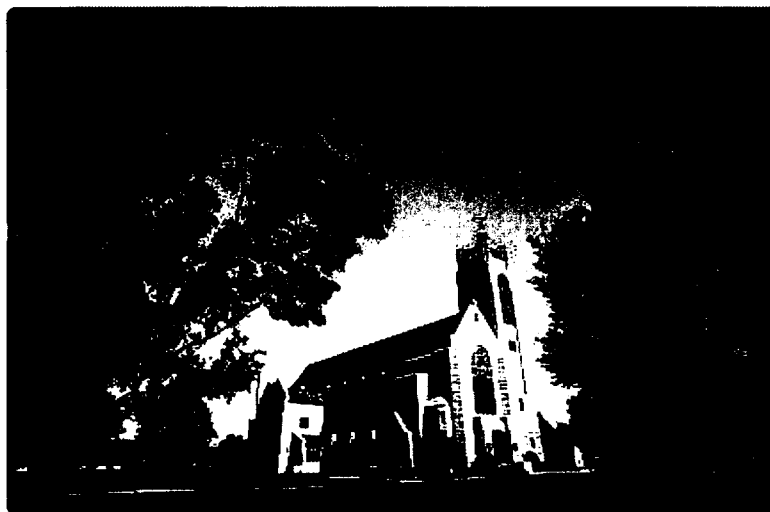
When President Joe Biden took office in 2021, he didn't waste any time before implementing policies that threaten our most basic freedoms.

Case in point: on his very first day in office, President Biden issued an executive order redefining "sex" to include "sexual orientation" and "gender identity"—a sweeping mandate with a whole host of implications.

One of those implications became reality three weeks later, when the U.S. Department of Housing and Urban Development (HUD) issued a rule change. Under the new rules, religious schools are forced to open their sex-specific dormitories, including dorm rooms and showers, to members of the opposite sex.

As you can probably imagine, this didn't sit well with many faith-based institutions. That included College of the Ozarks, so its administration decided to file a lawsuit against President Biden and his administration.

Read on to learn more about College of the Ozarks' case.



*HUD's rule change would force College of the Ozarks to place males in girls' dorms as roommates.*

## What is College of the Ozarks?

Founded in 1906, College of the Ozarks is a religious school in Missouri that aims to provide its students a Christian education. The college's vision is to develop citizens of Christ-like character who are well-educated, hardworking, and patriotic.

No students pay tuition at College of the Ozarks. Instead, they work on campus to help pay their way through school. The remainder of the costs are covered by donations.

Because of this unique arrangement, in 1973 a *Wall Street Journal* article referred to the college as "Hard Work U."—a label that College of the Ozarks has since embraced.

### *College of the Ozarks v. Biden*

At College of the Ozarks, the Christian faith is at the center of everything. For example, the college holds to a Christian belief that biological sex is not changeable, and it operates its dorms accordingly.

But according to HUD's rule change, colleges and universities nationwide—including faith-based institutions—would be forced to open girls' dorms to male students.

And the rule change wouldn't just force these schools to open up residence halls by floor; it would also force them to place males in girls' dorms as roommates and to allow them to use communal bathrooms and showers.

That was something that College of the Ozarks couldn't—and shouldn't have to—accept, so with the help of Alliance Defending Freedom, it filed a lawsuit against the Biden administration.

The lawsuit explained that the HUD directive contradicts the clear wording, meaning, and historical interpretation of the Fair Housing Act, which confirms that "sex" means biological sex.

In addition, the lawsuit argued that the agency violated procedural requirements by not allowing public notice and comment, and that the directive violates the constitutional right of College of the Ozarks

and similar religious institutions to operate consistently with their religious beliefs.

## Outcome

When federal agencies overstep their authority and threaten a college's religious freedom, that college has the right to defend its God-given liberties in court. Unfortunately, the U.S. Court of Appeals for the 8th Circuit incorrectly ruled that College of the Ozarks must wait to file a lawsuit until the Biden administration levies punishments against it.

ADF attorneys asked the Supreme Court to review the 8th Circuit's decision and protect the college from the threat of unjust punishment, but the Court declined to hear the case. The government's directive thus remains in place and unchanged, and courts have yet to rule on the directive's lawfulness.

"The U.S. Supreme Court left this issue unresolved," said ADF Senior Counsel Julie Marie Blake. "The Biden administration must be held accountable, and Alliance Defending Freedom will continue to confront government overreach. College of the Ozarks brought this challenge for one reason: the Biden administration was attempting to force them to open their dormitories to members of the opposite sex.

"Though the high court chose not to review this case, we are hopeful it will soon take up related cases—both challenges to the broad overreach of the Biden administration and the government's repeated attempts to remove from law any real distinctions between males and females. It is wrong to force schools to open girls' dorms, bedrooms, and shared showers to males, and ADF will do everything in its power to ensure that religious colleges remain free to protect the young women who attend their institutions. No matter what happens next: College of the Ozarks will continue to follow its beliefs."

## Case timeline

- **April 2021:** Alliance Defending Freedom filed a lawsuit on behalf of College of the Ozarks.
- **May 2021:** ADF attorneys represented the college in federal court.



- **June 2021:** The district court dismissed the college's complaint, not ruling on the legality of the mandate but holding that the college cannot yet bring its lawsuit.
- **June 2021:** ADF attorneys asked the U.S. Court of Appeals for the 8th Circuit to halt the Biden administration's directive. The request for the injunction while the case proceeded came after the district court had declined to issue one and dismissed the case. The 8th Circuit granted ADF's request to expedite the case.
- **November 2021:** Oral arguments took place in the college's lawsuit.
- **July 2022:** The 8th Circuit affirmed the dismissal of the college's complaint.
- **September 2022:** ADF attorneys filed a petition with the 8th Circuit that asked the full court to hear the college's lawsuit against the Biden administration after a three-judge panel dismissed the college's religious freedom concerns. This petition was denied.
- **February 2023:** ADF attorneys representing College of the Ozarks asked the Supreme Court to review the 8th Circuit's decision in the college's lawsuit.
- **June 2023:** The Supreme Court declined to hear College of the Ozarks' case, leaving the issue unresolved.

## The bottom line

The government cannot force schools to open girls' dorm rooms to males.

Learn more:

## College of the Ozarks Stands Up to Biden Administration



## Biden Admin Wants to Force Colleges to Put Men in Women's Dorms

Related Article



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## No Room in Washington for Christian Homeless Ministry?

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## What Is Freedom?

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ADF is the world's largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights.

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Exhibit 4  
Alliance Defending Freedom webpage,  
“College of the Ozarks Lawsuit.”  
(as of November 29, 2023)  
([https://adflegal.org/client/college-ozarks-  
lawsuit](https://adflegal.org/client/college-ozarks-lawsuit))



## College of the Ozarks Lawsuit

The Biden administration wants to force Christian colleges to put males in female dorms.

Case: College of the Ozarks v. Biden



College of the Ozarks, a Christian institution of education in Point Lookout, Missouri, is no stranger to difficulties. Since its founding in 1906, it has endured three devastating fires, two World Wars, the Great Depression, and much more.

Throughout it all, the institution never wavered in its commitment to raising up students who are prepared to work diligently and serve the Lord in all they do. And the Lord blessed that commitment.



Since its opening as a high school called School of the Ozarks, the institution has grown into a four-year college with over 1,500 students and more than 50 degree programs. Today, its Christian faith remains integral to all its operations.

But the Biden administration tried to force religious colleges to violate their Christian beliefs regarding what it means to be male and female. That's something College of the Ozarks simply cannot do—nor should it have to.

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## Humble beginnings

Presbyterian minister Rev. James Forsythe founded the School of the Ozarks in 1906. His goal was to provide a quality education for children in southwest Missouri who could not otherwise afford one. With the help of the church, the School of the Ozarks opened in September 1907 for its inaugural school year.

While the school's students were always hard workers, their dedication became clear during the depths of the Great Depression. Dr. Robert M. Goode served as school president at the time, and he called on the home economic students to help raise money to continue operations. Some students made fruitcakes to raise funds, and Dr. Goode secured \$1,000 from donors with just the first six fruitcakes he sent out.

School of the Ozarks eventually began a transition to a four-year college, and it graduated its first class earning four-year degrees in 1967. It phased out its high school program that same year because public schools in the area had greatly improved.

The commitment to hard work that has been present since School of the Ozarks opened has come to be synonymous with the institution. In 1973, the *Wall Street Journal* wrote a piece referring to the school as "Hard Work U," and the moniker has stuck to this day.

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## A new era

School of the Ozarks hired Dr. Jerry C. Davis as its president in 1988. President Davis instituted changes allowing students to work on campus instead of paying tuition. The school changed its name to College of the Ozarks in 1990, and it has become known around the country for providing a quality, Christian education without putting students in debt.

College of the Ozarks also re-opened School of the Ozarks as a classical laboratory high school in 2012, and in 2015, it implemented a full lower school. Today, students can attend the institution from kindergarten all the way through college.



*College of the Ozarks students participate in the on-campus work program in lieu of paying tuition.*

All full-time college students at College of the Ozarks participate in the on-campus work program. Between credits earned from work, any federal aid awarded, and donations from supporters, College of the Ozarks is able to offer its students a quality education without charging tuition fees. Students can also work during the summer to pay for their room and board.

All told, these factors provide an opportunity for students unlike any other in higher education. And according to graduate MiKaela Wardlaw Lemmon, who served as the vice president of merchandising

at Sam's Club and hired fellow College of the Ozarks graduates, the work pays off.

"The preparedness some of these students have separates them from others in their generation," MiKaela said. "It's far outpacing what you'd expect from a tiny school."

Dr. Davis retired in 2022, and College of the Ozarks hired Dr. Brad Johnson as its 17th president. Dr. Johnson said he knows the Lord directed him to College of the Ozarks, and he has continued to lead it toward the ultimate goal of glorifying Christ.

CONTINUE TO

## Biden administration threatens colleges

One would think that the government would want to encourage a quality education like College of the Ozarks provides. The college raises up hard workers without student debt who can immediately contribute to the workforce, and that is a good thing for society as a whole.

Sadly, the Biden administration is putting its own political ideology above the good the college is doing, and disrespecting College of the Ozarks' First Amendment rights.

As a Christian institution, College of the Ozarks seeks to glorify God in everything it does. It looks to the Bible for guidance in all areas of its operations. The college holds to the time-honored Christian belief that sex is unchangeable, and it operates its dorms accordingly.

But on his very first day in office, President Joe Biden issued an executive order redefining "sex" to include "sexual orientation" and "gender identity." This change carried with it many potential consequences, one of which became a reality three weeks later.

The U.S. Department of Housing and Urban Development issued a rule change requiring housing providers, including religious schools, to open their sex-specific dorms, showers, and individual rooms, to members of the opposite sex, such as if a male identifies as female.

This would force College of the Ozarks to violate its Christian beliefs, and it is a blatant breach of the First Amendment.

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## College of the Ozarks takes a stand

There are two major legal problems with the Biden administration's attempt to change the term "sex" in federal law to include "sexual orientation" and "gender identity."

First, Biden's executive order changes the meaning of longstanding federal laws, and failed to seek any public input. The Fair Housing Act has never been interpreted to prohibit a college from limiting female dorms to actual females and vice versa. And the law requires the federal agency to submit any rule changes to the public before it imposes a drastic change like this.

With this sweeping mandate, Biden is effectively trying to change the entire meaning of the law without going through Congress or even letting affected colleges object in advance. This is a clear example of government overreach, and it cannot be allowed to stand.

Second, the First Amendment protects the freedom of religion for institutions like College of the Ozarks. Government officials cannot force religious colleges to violate their beliefs.

**"The college simply wants a safe place for women. We think women are entitled to have a safe dormitory of their own."**

—  
- College of the Ozarks Chancellor Jerry C. Davis

Under the Biden administration's rule change, religious colleges could face fines up to six figures, punitive damages, attorneys' fees, and (in some circumstances) even jail time for school officials if they continue operating dorms in accordance with their faith. That's why Alliance Defending Freedom attorneys sued the Biden administration on

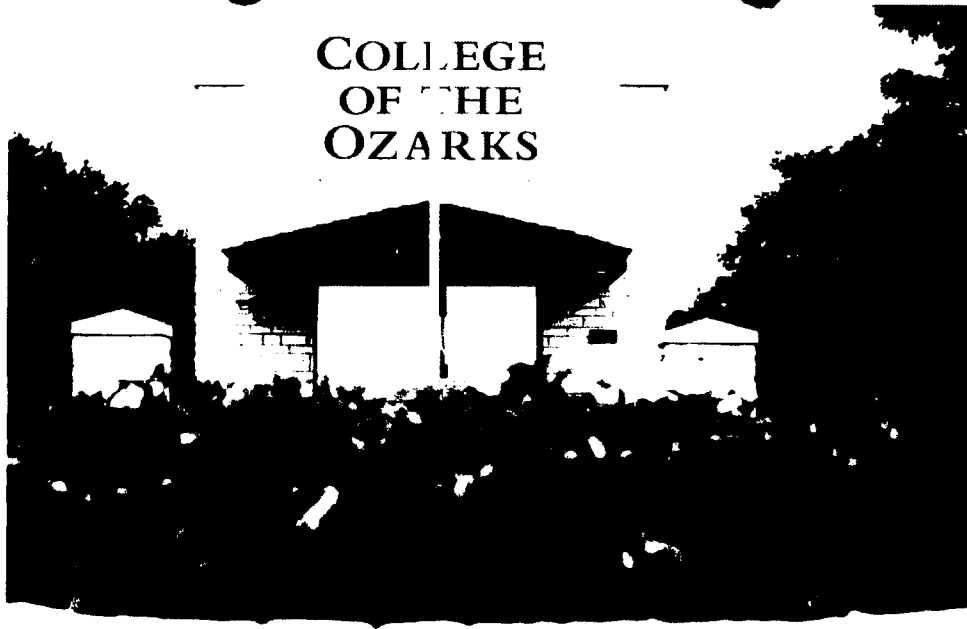
behalf of College of the Ozarks—to protect religious institutions from these illegal actions.

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## Continuing to stand for religious liberty

In July 2022, a three-judge panel from the U.S. Court of Appeals for the 8th Circuit ruled against College of the Ozarks in a split decision. They did not say religious colleges must let men into women’s dorms. But two judges claimed the college could not sue over the rule change. Instead, the judges claimed College of the Ozarks must wait until the government specifically opens investigations against it or other similar religious colleges. They relied on statements the government made in response to ADF’s lawsuit contradicting the original mandate and claiming that religious colleges might not be at risk from it. Religious colleges could never have obtained even that weak disclaimer from the government without the courage of College of the Ozarks to bring this lawsuit in the first place.

ADF attorneys appealed the decision to the U.S. Supreme Court, but the Court unfortunately decided not to hear the case. This means, for now, that religious colleges might continue living out their biblical beliefs about male and female dorms, but that the Biden administration could decide at any moment to start enforcing this rule against religious schools. If that happens, this case or others could be refiled and eventually get back to the Supreme Court.



*College of the Ozarks will continue to stand firm in its Christian beliefs.*

As a result, ADF remains vigilant. Even though the Court declined to hear College of the Ozarks' case for now, ADF stands ready to sue again if the Biden administration starts enforcing this rule change on religious college dorms. And ADF is continuing to represent other organizations standing for their religious freedom, including Yakima Union Gospel Mission, Church of Compassion, and many more. But we need your help.

Will you give now to support ADF's pursuit of religious liberty for all?

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## About Alliance Defending Freedom

Alliance Defending Freedom is an alliance-building, nonprofit legal organization that advocates for the right of people to freely live out their faith.

ADF was launched in 1994 by 35 ministry leaders, including Dr. James Dobson, Dr. D. James Kennedy, Dr. Bill Bright, and Larry Burkett.

With God’s blessing, ADF has grown from the prayers of those godly leaders to become a major force in the legal battle for religious freedom, winning nearly 80% of our cases, including **15 victories at the U.S. Supreme Court since 2011.**

### Related Articles



June 13th, 2023  
Government Overreach Finds Its Way into Girls' Dorms, Showers



May 9th, 2022  
How the Biden Administration Is Using Regulations to Erode Religious Freedom



May 19th, 2021  
Christian College Still Affirms Biological Reality Despite Biden Administration Threat





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Exhibit 5

College of the Ozarks press release,  
“Supreme Court Declines to Hear College  
of the Ozarks’ Case on Housing, Leaving  
Issue Unresolved”  
(June 26, 2023)



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APPLY

## SUPREME COURT DECLINES TO HEAR COLLEGE OF THE OZARKS' CASE ON HOUSING, LEAVING ISSUE UNRESOLVED

□ June 26, 2023

**POINT LOOKOUT, MO.** — The Supreme Court declined to hear the case of College of the Ozarks against the Biden administration this week, on June 20.

The case challenges a Biden administration rule that requires the College to open its dormitories, including dorm rooms and shared shower spaces, to members of the opposite sex or face fines of up to six figures, punitive damages, and attorneys' fees.

Alliance Defending Freedom attorneys representing College of the Ozarks asked the high court to review a decision by the U.S. Court of Appeals for the 8th Circuit that concluded the Christian college cannot sue the Biden administration to challenge this rule. Yesterday, the Supreme Court denied the College's petition for review, so the 8th circuit decision and the Biden administration's coercive rule remain in place.

"The Supreme Court left this issue unresolved," said ADF Senior Counsel Julie Marie Blake. "The Biden admin must be held accountable, and we will continue to confront government overreach. College of the Ozarks brought this challenge for one reason: The Biden administration was attempting to force them to open their dormitories to members of the opposite sex. Though the high court chose not to review this case, we are hopeful it will soon take up related cases—both challenges to the broad overreach of the Biden administration and the government's repeated attempts to remove from law any real distinctions between males and females. It is wrong to force schools to open girls' dorms, bedrooms, and shared showers to males, and ADF will do everything in its power to ensure that religious colleges remain free to protect the young women who attend their institutions. No matter what happens next: College of the Ozarks will continue to follow its beliefs."

The current ruling could jeopardize the College's ability to function, cause emotional harm to students who rely on the College's housing policies, and dissuade Christian students from attending the College, the [petition](#) filed with the U.S. Supreme Court explains.

"We are committed to defending our religious liberty as a Christian college," said College of the Ozarks President Brad Johnson. "This was not the outcome we were hoping for, but we do believe that our willingness to push back caused a reaffirmation and solidification of our Title IX exemption as a religious institution. Our willingness to push back on the Biden administration helped trigger a retreat by the federal government from aggressively enforcing a policy that would clearly violate our Christian values and our religious liberties."

"We do not intend to change our course in offering housing for our students. We offer men's dorms and women's dorms, and those will remain separate. We will not allow men in women's private dorm rooms or shower spaces. We will protect our female students. Most importantly, we will continue to stand for religious liberty in this country and will lead that charge. In the long run, we believe our commitment to stand for religious liberty will be to the benefit of all religious colleges and universities. The contest for religious liberty is not over, and we must remain vigilant. The College will continue to stand for its biblical values and for the religious liberties upon which this nation was founded."

In March of 2023, nineteen states, multiple Christian colleges, and numerous advocacy groups submitted friend-of-the-court briefs to the U.S. Supreme Court asking it to take the case of College of the Ozarks.

The link to the original petition made by ADF may be accessed here: [25306 ADF COVER Petition.pdf \(windows.net\)](#)

The petition notes that, "The [HUD] Directive forces the College to choose immediately between three injuries: (1) obey the government and abandon the College's religious policies and speech; (2) refuse the government and risk crippling investigations and penalties; or (3) cease providing student housing."

The lawsuit, *College of the Ozarks v. Biden*, opposes the HUD directive and the executive order requiring it. The order, issued to all federal agencies, requires them to redefine sex discrimination in all federal statutes to include sexual orientation and gender identity. The lawsuit explains that the HUD directive contradicts the clear wording, meaning, and historical interpretation of the Fair Housing Act, which confirms that "sex" means biological sex. The suit also argues that the agency violated procedural requirements by not allowing public notice and comment, and that the directive violates the constitutional right of College of the Ozarks and similar religious institutions to operate consistently with their religious beliefs.

*Alliance Defending Freedom is an alliance-building, non-profit legal organization committed to protecting religious freedom, free speech, parental rights, and the sanctity of life.*

1. The first part of the document  
describes the general situation  
of the company.

2. The second part of the document

describes the  
financial situation  
of the company  
and the  
results of the  
operations.



Exhibit 6  
Declaration of Misty Bradley  
(November 30, 2023)



## DECLARATION OF MISTY BRADLEY

1. My name is Misty Bradley. I am a resident of Edmond in Oklahoma County, Oklahoma. I am of lawful age and competent to testify as to the statements in this declaration.

2. I am the current State Chair for OKPLAC, Inc., an Oklahoma not-for-profit corporation. OKPLAC is the lead named plaintiff in *OKPLAC, Inc. v. Statewide Virtual Charter School Board*, No. CV-2023-1857, which I refer to below as the “St. Isidore case.” OKPLAC is also known as Oklahoma Parent Legislative Advocacy Coalition. OKPLAC is a nonpartisan, statewide organization of volunteer advocates committed to promoting policies that protect, support, and strengthen Oklahoma’s public-school system. OKPLAC serves as an umbrella organization for many local parent legislative action committees (known as “PLACs”) that actively represent more than 200,000 Oklahoma public-school students and their parents. The membership of OKPLAC includes the local PLACs and their individual members.

3. Together with other public-education advocates, Jennifer Dishman cofounded OKPLAC in December 2018. In early fall of 2018, I, along with Jennifer Dishman, Larra Willis, Sarah Lucas, and Toni Weinmeister—all Edmond Public Schools parents—founded Edmond PLAC. Jennifer Dishman then connected Edmond PLAC to other Oklahoma PLACs and participated in various meetings and discussions aimed at uniting

multiple Oklahoma PLACs in a statewide organization. Those discussions culminated in the formation of OKPLAC in December 2018.

4. One day that month, Edmond PLAC gathered with the leadership of local PLAC chapters and other public education advocacy groups from across the state in Stroud, Oklahoma. That afternoon, the groups decided to create a grassroots statewide organization that would bring their public education advocacy efforts together under one umbrella OKPLAC. Jennifer Dishman intended to attend this meeting of public education advocates in person, and when she became unable to do so due to work commitments, she communicated that she would participate in whatever way was helpful in the statewide group that was being formed.

5. A Steering Committee was formed from that group of advocates to oversee the organization. The Steering Committee's members included Jennifer Dishman and the leadership of multiple local PLAC chapters. The Steering Committee served as the sole governing entity of OKPLAC for the first few months of OKPLAC's existence. It was later decided that OKPLAC needed to craft bylaws and form a Board of Directors from the Steering Committee members to carry out OKPLAC's day-to-day functions. While the Board of Directors performs some of the tasks that the Steering Committee initially performed itself, the Steering Committee still functions as OKPLAC's controlling body.

6. Since the formation of the Board of Directors, the Steering Committee has had, continues to have, and has regularly exercised the authority to elect the members of OKPLAC's Board of Directors (including OKPLAC's executive officers and chairs of OKPLAC standing committees, who are members of the Board), amend OKPLAC's bylaws, set OKPLAC's legislative goals, and decide other high-level OKPLAC policy matters. For example, the Steering Committee approved OKPLAC's mission statement and statement of beliefs, approved OKPLAC becoming a 501(c)(3) non-profit organization, authorized trademarking the "OKPLAC" name, and recently approved changing the longer name used by OKPLAC from "Oklahoma Parent Legislative Action Committee" to "Oklahoma Parent Legislative Advocacy Coalition." The Steering Committee also serves as a communications hub for OKPLAC.

7. The Steering Committee is comprised of members who serve as leadership of local PLAC chapters. The Steering Committee's members are selected by the local PLACs and their members. The Steering Committee typically meets at least three times per year, and has met five times over the past year.

8. Unlike "top-down" entities, OKPLAC is a grassroots membership organization whose governance is ultimately reserved to its members. The leaders from each of the local chapters across the state comprise the Steering Committee, which has about 48 total members. Unlike

organizations with self-perpetuating (self-electing) boards that determine the organizations' priorities and can amend the organizations' bylaws, OKPLAC's Board is selected by and voted on by the Steering Committee. The Steering Committee directs the Board's priorities with input from the local chapters. OKPLAC has no paid staff, so the members of OKPLAC's Board are the people principally responsible for carrying out OKPLAC's day-to-day functions. The members of OKPLAC's Board regularly report to the Steering Committee on OKPLAC's activities, including on the spending of OKPLAC funds.

9. Since 2018, Jennifer Dishman has continuously served on the OKPLAC Steering Committee and as a founding leader of Edmond PLAC. Jennifer has hosted events, candidate forums, and advocacy meetings locally and assisted with hosting them at the state level. As an OKPLAC leader she has also regularly attended and engaged in policy advocacy on behalf of OKPLAC at OKPLAC Capitol Days, Public Schools Week, and other events at the Oklahoma Capitol since 2018.

10. In summer 2023, the Steering Committee commissioned a nominating committee to find interested individuals to create the nomination slate for the OKPLAC Board of Directors, which would be voted upon at the next business meeting of OKPLAC, which ultimately was scheduled for October 8, 2023. Jennifer's possible service on the OKPLAC

Board was discussed several times by members of the nominating committee over the summer.

11. On the evening of September 20, after reading the Defendants' motions to dismiss the St. Isidore case, Larra Willis, a founding member of Edmond PLAC, texted me that the judge assigned to the case—the Honorable C. Brent Dishman—is the brother-in-law of Jennifer Dishman. Before Larra had learned of this, Jennifer Dishman had agreed to be on the nomination slate for the OKPLAC Board of Directors. Larra stated that she thought that Jennifer was unaware that her brother-in-law was the judge in the St. Isidore case and asked if it would be an issue.

12. To my knowledge, prior to September 20, 2023, no OKPLAC officer or member knew that Ms. Dishman had a familial relationship with the judge assigned to the St. Isidore case. In other words, to my knowledge, no OKPLAC officer or member was aware prior to that date of *both* of the following facts: (1) that C. Brent Dishman was the judge assigned to the St. Isidore case; and (2) that Steering Committee member Jennifer Dishman was Judge Dishman's sister-in-law.

13. I brought the issue to the attention of some OKPLAC Board members during a September 22 weekly meeting and then contacted Jennifer the same day to explain to her that her brother-in-law was the judge assigned to the St. Isidore case. She was surprised and indicated that she had no idea that her brother-in-law was the assigned judge in the St.

Isidore case. Jennifer indicated that she would alert her brother-in-law that her organization was a party in the case and would do so over the weekend of September 23–24.

14. At the time I learned of Jennifer's relationship with Judge Dishman, she had already agreed to be on a slate of candidates for positions on the OKPLAC Board of Directors that would be voted on on Sunday, October 8. Jennifer in fact was elected to the OKPLAC Board, unopposed, on October 8. Her term started October 8 and is for two years.

15. Jennifer Dishman's relationship to Judge Dishman was not a factor in OKPLAC's decisions to select her for the Board nomination slate and to elect Jennifer to the OKPLAC Board. OKPLAC would have selected Jennifer for the nomination slate and elected her to the OKPLAC Board regardless of whether Judge Dishman was the judge assigned to the St. Isidore case.

16. OKPLAC is a volunteer organization that does not pay its board. Finding members who are committed to investing the time as a director for a two-year term is challenging, and the work can be tiring. It is rare that we find someone like Jennifer Dishman—a career teacher with ten years of experience in Oklahoma—who is willing to make that commitment. Coupled with her deep commitment to OKPLAC and the depth of her experience as a founder of the organization and a member of the Steering Committee since

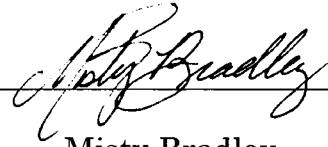
its inception, we would not have passed up the opportunity to accept her offer to serve.

17. I have reviewed the October 9, 2023, correspondence from Michael W. Ridgeway of Odom & Sparks to the Honorable C. Brent Dishman concerning an *in camera* request for disqualification in the St. Isidore case. The statements in the second, third, and fourth paragraphs of that letter are all accurate, to the best of my knowledge and belief.

I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct.

Date: November 30, 2023

By: \_\_\_\_\_



Place: Edmond, Oklahoma

Misty Bradley





Exhibit 7  
Declaration of Jennifer Dishman  
(November 30, 2023)

## DECLARATION OF JENNIFER DISHMAN

1. My name is Jennifer Dishman. I am a resident of Edmond in Oklahoma County, Oklahoma. I am of lawful age and competent to testify as to the statements in this declaration.

2. I have been a teacher for about 25 years. For the past ten years, I have served as a Title I tutor for grades K through 5, contracted to the Edmond Public Schools.

3. I currently am a member of the Steering Committee, a member of the Board of Directors, and the Chair of the Chapter Resources Committee of OKPLAC. OKPLAC is also known as Oklahoma Parent Legislative Advocacy Coalition. OKPLAC is a nonpartisan, statewide organization of volunteer advocates committed to promoting policies that protect, support, and strengthen Oklahoma's public-school system. OKPLAC serves as an umbrella organization for many local parent legislative action committees (known as "PLACs") that actively represent more than 200,000 Oklahoma public-school students and their parents. The membership of OKPLAC includes the local PLACs and their individual members.

4. Together with other public-education advocates, I cofounded OKPLAC in December 2018. In early fall of 2018, I, along with Larra Willis, Sarah Lucas, Toni Weinmeister, and Misty Bradley—all Edmond Public Schools parents—founded Edmond PLAC. I then connected Edmond PLAC

to other Oklahoma PLACs and participated in various meetings and discussions aimed at uniting multiple Oklahoma PLACs in a statewide organization. Those discussions culminated in the formation of OKPLAC in December 2018.

5. One day that month, Edmond PLAC gathered with the leadership of local PLAC chapters and other public education advocacy groups from across the state in Stroud, Oklahoma. That afternoon, the groups decided to create a grassroots statewide organization that would bring their public education advocacy efforts together under one umbrella OKPLAC. I intended to attend this meeting of public education advocates in person, and when I became unable to do so due to work commitments, I communicated that I would participate in whatever way was helpful in the statewide group that was being formed.

6. We formed a Steering Committee from that group of advocates to oversee the organization. The Steering Committee's members included me and the leadership of multiple local PLAC chapters. The Steering Committee served as the sole governing entity of OKPLAC for the first few months of OKPLAC's existence. We later decided to craft bylaws and form a Board of Directors from the Steering Committee members to carry out OKPLAC's day-to-day functions. While the Board of Directors performs some of the tasks that the Steering Committee initially performed itself, the Steering Committee still functions as OKPLAC's controlling body.

7. Since the formation of the Board of Directors, the Steering Committee has had, continues to have, and has regularly exercised the authority to elect the members of OKPLAC's Board of Directors (including OKPLAC's executive officers and chairs of OKPLAC standing committees, who are members of the Board), amend OKPLAC's bylaws, set OKPLAC's legislative goals, and decide other high-level OKPLAC policy matters. For example, the Steering Committee approved OKPLAC's mission statement and statement of beliefs, approved OKPLAC becoming a 501(c)(3) non-profit organization, authorized trademarking the "OKPLAC" name, and recently approved changing the longer name used by OKPLAC from "Oklahoma Parent Legislative Action Committee" to "Oklahoma Parent Legislative Advocacy Coalition." The Steering Committee also serves as a communications hub for OKPLAC.

8. The Steering Committee is comprised of members who serve as leadership of local PLAC chapters. The Steering Committee's members are selected by the local PLACs and their members. The Steering Committee typically meets at least three times per year, and has met five times over the past year. The Steering Committee has about 48 total members.

9. OKPLAC has no paid staff, so the members of OKPLAC's Board are the people principally responsible for carrying out OKPLAC's day-to-day functions. The members of OKPLAC's Board regularly report to the Steering Committee on OKPLAC's activities, including on the spending of OKPLAC

funds. The Steering Committee directs the Board's priorities with input from the local chapters.

10. Since 2018, I have continuously served on the OKPLAC Steering Committee and as a founding leader of Edmond PLAC. I have hosted events, candidate forums, and advocacy meetings locally and assisted with hosting them at the state level. As an OKPLAC leader I have also attended and engaged in policy advocacy on behalf of OKPLAC at OKPLAC Capitol Days, Public Schools Week, and other events at the Oklahoma Capitol since 2018.

11. In early summer 2023, a nominating committee was commissioned to find interested individuals to include in the nomination slate for the OKPLAC Board of Directors, which would be voted upon at the next business meeting of OKPLAC. On September 18, 2023, I met with the OKPLAC nominating committee, and I agreed to serve on the OKPLAC Board of Directors for a two-year term.

12. On Friday, September 22, 2023, OKPLAC Chair Misty Bradley contacted me and explained that my brother-in-law (my husband's brother), the Honorable C. Brent Dishman, was the judge assigned to OKPLAC's lawsuit challenging the approval of St. Isidore of Seville Catholic Virtual School as a charter school. Prior to that conversation, I was unaware that my brother-in-law was assigned to the St. Isidore case. I suspected that he likewise might have been unaware of my longstanding, deep involvement

with OKPLAC as a co-founder, a leader, and a policy advocate, as we rarely spoke of my OKPLAC work.

13. I called my brother-in-law that weekend and informed him that my organization had litigation that was before him. He said that he would consider that information and meet with the attorneys in the case. We did not discuss anything about the case itself, and I have not spoken about it with him since that brief conversation.

14. I was officially elected, unopposed, to the OKPLAC Board of Directors—specifically to the position of chair of the OKPLAC Chapter Resources Committee—on Sunday, October 8, 2023, for a two-year term that started the same day. I also remain an active member of the OKPLAC Steering Committee.

15. My decision to join the OKPLAC Board of Directors was made before I learned that my brother-in-law was assigned to the St. Isidore case. My brother-in-law's connection to the case played no role in the making or maintenance of my decision to join OKPLAC's Board. I would have made and maintained my decision to join OKPLAC's Board regardless of whether my brother-in-law was assigned to the St. Isidore case.

16. I have reviewed the October 9, 2023, correspondence from Michael W. Ridgeway of Odom & Sparks to the Honorable C. Brent Dishman concerning an *in camera* request for disqualification in the St.

Isidore case. The factual statements in that letter concerning or relating to me are all accurate to the best of my knowledge and belief.

I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct.

Date: November 30, 2023

Place: Edmond, OK

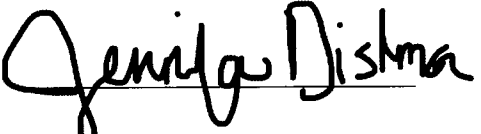
  
Jennifer Dishman





Exhibit 8  
Declaration of Kenneth D. Upton, Jr.  
(November 29, 2023)

**DECLARATION OF KENNETH D. UPTON, JR.**

1. My name is Kenneth D. Upton, Jr. I am one of the attorneys for Plaintiffs in this case, *OKPLAC, Inc. v. Statewide Virtual Charter School Board*, No. CV-2023-1857.

2. On September 26, 2023, the Court notified the parties that it wished to hold a status conference in this case, which was ultimately scheduled for October 13.

3. On October 9, 2023, Plaintiffs' counsel sent the judge assigned to this case—the Honorable C. Brent Dishman—an *in camera* letter that explained that his sister-in-law Jennifer Dishman is a member of the Steering Committee of plaintiff OKPLAC, Inc. and asked Judge Dishman to disqualify himself from this case.

4. A true and correct copy of the transcript of the October 13 status conference is submitted herewith as Exhibit 1.

5. On October 20, 2023, Plaintiffs' counsel sent Judge Dishman a second *in camera* letter asking him to disqualify himself based both on (1) the fact that Alliance Defending Freedom, counsel for six of the defendants in this case, recently represented in a lawsuit College of the Ozarks, on whose board of directors Judge Dishman sits; and (2) Ms. Dishman's role as a member of OKPLAC's Steering Committee.

6. At an *in camera* hearing held on November 2, 2023, Judge Dishman announced that he had concluded that disqualification was not required and declined to voluntarily recuse himself.

7. Submitted herewith as Exhibit 2 is a true and correct copy of a press release issued by College of the Ozarks that is dated April 15, 2021, is entitled “College of the Ozarks Challenges Biden Order That Opens Dorms, Showers to Opposite Sex,” and is posted on the College’s website at <https://www.cofo.edu/News/moduleId/765/articleId/146/controller/Article/action/View>.

8. Submitted herewith as Exhibit 3 is a true and correct copy of an Alliance Defending Freedom webpage, <https://adflegal.org/article/christian-college-still-affirms-biological-reality-despite-biden-administration-threat>, that is identified as “revised: November 13, 2023” and is entitled “Christian College Still Affirms Biological Reality Despite Biden Administration Threat.”

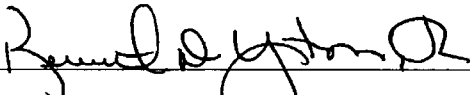
9. Submitted herewith as Exhibit 4 is a true and correct copy of an Alliance Defending Freedom webpage, <https://adflegal.org/client/college-ozarks-lawsuit>, as it existed on November 29, 2023, that is entitled “College of the Ozarks Lawsuit.”

10. Submitted herewith as Exhibit 5 is a true and correct copy of a press release issued by College of the Ozarks that is dated June 26, 2023, is entitled “Supreme Court Declines to Hear College of the Ozarks’ Case on

Housing, Leaving Issue Unresolved,” and is posted on the College’s website at <https://www.cofo.edu/News/moduleId/765/articleId/372/controller/Article/action/View>.

I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct.

Date: November 29, 2023.

By: 

Place: Chicago, Cook County, Illinois

Kenneth D. Upton, Jr.