

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

EYVINE HEARN, et al.)	
Plaintiffs,)	
)	
and)	
)	
UNITED STATES OF AMERICA,)	C.A. No. CIV 03 598-S
Plaintiff Intervenor,)	
)	
v.)	
)	
MUSKOGEE PUBLIC SCHOOL)	
DISTRICT 020, et al.,)	
Defendants.)	

**UNITED STATES' MOTION TO INTERVENE
AS PLAINTIFF-INTERVENOR**

For the reasons set forth below and in the accompanying Memorandum, the United States hereby moves to intervene in the above-captioned case as a party-plaintiff, pursuant to Rule 24 of the Federal Rules of Civil Procedure, and to 42 U.S.C. § 2000h-2; and to file the attached Complaint-in-Intervention.

In support of this motion, the United States states:

1.1 Plaintiffs, pursuant to a scheduling order entered on March 3, 2004, filed their first amended complaint on March 15, 2004. The amended complaint asserts claims for, inter alia, denial of the equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution. Specifically, plaintiffs allege that Defendants discriminated on the

1.2 Rule 24(a) of the Federal Rules of Civil Procedure provides for intervention as of right when a statute of the United States confers an unconditional right to intervene or when the applicant claims an interest in the subject matter of the action which may be affected.

1.3 The United States meets the requirements of Rule 24(a) because, inter alia, there is a statute conferring an unconditional right to intervene, and, in addition, the United States has a strong interest in the proper and effective interpretation and application of the Fourteenth Amendment, which may be affected by this litigation.

1.4 Under 42 U.S.C. § 2000h-2, the United States may intervene upon a timely application in any action in any court of the United States in which relief is sought from a denial, on account of religion, of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States, upon appropriate certification that the case is of general public importance. In such cases, the United States is “entitled to the same relief as if it had instituted the action.” 42 U.S.C. § 2000h-2.

1.5 Both Plaintiffs and the United States claim violations of the Equal Protection Clause of the Fourteenth Amendment on the basis of religion, and these claims are based on substantially the same facts.

1.6 The Assistant Attorney General has certified that this case is of general public importance, and the certificate is attached to the Complaint-in-Intervention.

1.7 The United States’ proposed intervention is timely. The amended complaint raising

depose witnesses whose depositions have already been taken, or to duplicate the discovery requests that have been made during the course of this lawsuit. The United States, may, however, seek to depose additional witnesses and conduct other discovery within the deadlines of the case scheduling order.

WHEREFORE, the United States respectfully requests that the Court grant the Motion to Intervene and direct the Clerk of the Court to file the attached Complaint-in-Intervention. A proposed Order is attached hereto.

Respectfully submitted,

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ORDER

Upon good cause shown, the United States' Motion to Intervene is hereby GRANTED.

The Clerk of the Court is directed to file the United States' Complaint-in-Intervention.

HON. FRANK H. SEAY
UNITED STATES DISTRICT JUDGE