

Craig Richards (AK Bar No. 0205017)
LAW OFFICES OF CRAIG RICHARDS
810 N. Street, Ste. 100
Anchorage, Alaska 99501
(907) 306-9878
crichards@alaskaprofessionalservices.com

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

EDWARD ALEXANDER; JOSH
ANDREWS; SHELBY BECK
ANDREWS; and CAREY
CARPENTER

Plaintiffs,

v.

ACTING COMMISSIONER HEIDI
TESHNER, in her official capacity, State
of Alaska, Department of Education and
Early Development,

Defendant,

v.

ANDREA MOCERI, THERESA
BROOKS, and BRANDY
PENNINGTON

Intervenors.

FILED in the Trial Courts
State of Alaska Third District
MAR 17 2023
By _____ Deputy
Clerk of the Trial Courts

CASE NO: 3AN-23-04309CI

INTERVENORS' STATEMENT
OF NON-OPPOSITION TO
DEFENDANT'S MOTION TO
DISMISS

(5)

Intervenors Andrea Mocer, Theresa Brooks, and Brandy Pennington (hereinafter "Parents") respectfully submit this Statement of Non-Opposition to Defendant's Motion to Dismiss. Although Parents do not oppose Defendant's motion to dismiss Plaintiffs' facial challenge under Civil Rule 12(b)(6) and 12(b)(7), they strongly contest Defendant's description of certain uses of allotment funds as "clearly unconstitutional." *See, e.g.,*

Defendant's Motion to Dismiss, 2. Parents currently use allotment funds for tuition payments to the private schools their children attend. If the Court permits Plaintiffs to bring an as-applied challenge to this use of allotment funds, as Defendant suggests in the Motion to Dismiss, Parents are prepared to defend its constitutionality. First, for reasons not considered in the July 2022 Department of Law Opinion mentioned in Defendant's Motion to Dismiss, a family's use of their allotment funds to send a child to a private school does not violate Article VII, Section 1 of the Alaska Constitution. Parents also intend to raise other constitutional arguments in defense of their use of allotment funds that have not yet been addressed by Alaska courts. Notwithstanding the Defendant's Motion to Dismiss, this Court can resolve the question of the constitutionality of using allotment funds for tuition only once it is fully briefed, and the proper parties are before the Court.

Dated this 17th day of March, 2023.

LAW OFFICES OF CRAIG RICHARDS
Counsel for Intervenors

By: /s/ Craig Richards
Craig Richards (AK Bar No. 0205017)

David Hodges* (D.C. Bar No. 1025319)
Kirby Thomas West* (PA Bar No. 321371)
INSTITUTE FOR JUSTICE
901 N. Glebe Road, Suite 900
Arlington, VA 22203
Tel: (703) 682-9320
dhodges@ij.org
kwest@ij.org

Jeff Rowes* (TX Bar No. 24104956)
INSTITUTE FOR JUSTICE
816 Congress Ave., Suite 960