

## **UPDATE ON COMPLAINT AGAINST THE KANSAS STATE BOARD OF EDUCATION *et al.***

On September 26, 2013 COPE *et al.* and fifteen parents, twenty-one children enrolled or to be enrolled in Kansas public schools, and two resident taxpayers filed a [Complaint](#) against the Kansas State Board of Education *et al.* The Complaint alleges that the Board's June 11, 2013 adoption and implementation of a *Framework for K-12 Science Education* and related *Next Generation Science Standards* (the "Policy") seek to establish a non-theistic religious worldview in the Children in violation of Plaintiffs' First and Fourteenth Amendment rights. The Complaint seeks to enjoin the Policy or to have it modified so that those provisions that address religious issues are taught objectively and in a manner that will yield a religiously neutral effect.

On December 5, 2013 attorneys for the Defendants filed a [Motion to Dismiss](#) the case and supporting Memorandum on the grounds that Plaintiffs (a) lack "standing" to complain and (b) fail to state a claim upon which relief might be granted.

On April 3, 2014 Plaintiffs filed a [Response](#) to Defendants' Motion to Dismiss.

On April 17, 2014 Defendants filed a [Reply](#) to Plaintiffs' [Response](#).

On May 6, 2014 Plaintiffs moved the Court for leave to file a [Surreply](#) to Defendants' Reply in support of their Motion to Dismiss. The Surreply alleges that the Defendants (a) have mischaracterized the Complaint and the Plaintiffs' Response and (b) have not shown the allegations of fact in the Complaint to be implausible.

On May 13, 2014 the case was reassigned to District Judge Daniel D. Crabtree, who had just been appointed (effective May 1, 2014) to the U.S. District Court for the District of Kansas.

On December 2, 2014 the [Court dismissed](#) the Complaint on the jurisdictional ground that the injuries to the Plaintiffs are only abstract stigmatic injuries and not particularized and concrete. As it dismissed on the grounds of standing, the Court did not rule on whether or not the Complaint states a claim upon which relief may be granted.

On December 30, 2014, COPE and the other Plaintiffs filed a notice of appeal with the U.S. Court of Appeals for the Tenth Circuit.

On March 20, 2015 the Plaintiffs filed the [Opening Brief](#) in their Appeal to the Tenth Circuit. The Brief argues, among other things, that the District Court erred in its decision to dismiss

the case by (a) failing to consider the injuries to the Parents and Students alleged in the Complaint, (b) mischaracterizing Plaintiffs' injuries as abstract when they are actually particularized and concrete due to the fact that the Parents and Children are the objects of the Policy and have a very distinct personal stake in it, (c) incorrectly concluding that the Policy is not required to be implemented by Kansas public schools, and (d) not following existing Supreme Court and Tenth Circuit precedents that necessitate a different result.

On June 8, 2015 the Defendants filed their [Response Brief](#).

On June 25, 2015 the Plaintiffs filed their [Reply Brief](#).

On April 19, 2016, a three judge panel of the U.S. Tenth Circuit Court of Appeals affirmed the lower court's dismissal of the Complaint. The Panel [Decision](#) mischaracterized and otherwise ignored key allegations of the Complaint as a means of distinguishing two key Tenth Circuit cases which require a finding of standing. It also omitted any mention of the controlling case: *Bell v. Little Axe School District*.

On May 6, 2016, a [Petition](#) was filed with the Tenth Circuit for an en banc review of the April 19 decision, because it cites no supporting judicial authority for its holding and is inconsistent with a number of other Tenth Circuit cases, U.S. Supreme Court cases, and cases from other Federal circuit courts regarding the Standing of Parents and Children to complain about the establishment of a religious preference in the public schools.

On May 20, 2016, the [Court denied](#) the Petition for Hearing en banc.

On August 16, 2016 [Plaintiffs' filed a Petition to the Supreme Court of the United States seeking review of the Tenth Circuit Decision](#). We believe the issue presented by the Petition – whether K-12 Public Schools may seek to replace Christian and other Theistic beliefs through the promotion of a Materialistic/Atheistic religious worldview – is perhaps the most important issue presented to the Court in recent history. For a brief summary of the Petition go to the bottom of the COPE v. Board of Education page at <http://copeinc.org/legal-complaint.html>.

On August 24, 2016, [the Defendants waived their right to respond to the Plaintiffs' Petition](#). Notwithstanding the waiver, [the Court directed that a Response be filed on or before October 12, 2016. That Response was filed on October 11, 2016. Plaintiffs Reply to the Response was filed on October 24, 2016.](#) The Reply is briefly described at the bottom of the [COPE vs. Board of Education page](#). The Petition is now ready for discussion and action by the Court.