

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official
capacity as Secretary of Health & Human
Services, *et al.*,

Defendants.

Case No. 5:24-cv-225

UNOPPOSED MOTION FOR EXTENSION OF TIME

Defendants respectfully request that this Court grant a 47-day extension on their deadline to file a consolidated response to plaintiffs' motion for summary judgment and cross-motion for summary judgment, which is currently due on or before July 15, 2026 (*see* Dkt. No. 110). If this extension request is granted, defendants' consolidated brief would be due August 31, 2026. Plaintiffs have indicated that they consent to this request, and ask that the deadline for their consolidated response to defendants' cross-motion and reply be extended to September 22, 2026, to accommodate defendants' request. As previously indicated, defendants will forgo the filing of a reply brief.

Good cause supports this motion, as set forth below:

1. This case is a challenge to a final rule issued by the Department of Health and Human Services under the Administrative Procedure Act. Specifically, plaintiffs assert that this final rule, *Nondiscrimination of the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance*, 89 Fed. Reg. 40,066 (May 9, 2024), exceeds defendants' statutory authority, is arbitrary and capricious, and violates the Spending Clause of the United States Constitution. *See* Dkt. No. 104.

2. Shortly after the change in presidential administrations, this Court granted defendants' unopposed motion for stay of all deadlines. *See* Dkt. No. 44. Defendants sought a stay in light of the Executive Order titled "Defending Women From Gender Ideology Extremism And Restoring Biological Truth To The Federal Government," in order to evaluate their position in this case. *See* Dkt. No. 43. The Court granted the stay on January 25, 2025. *See* Dkt. No. 44.

3. The case remained stayed until March 31, 2026, at which time the Court set a briefing schedule on the parties' planned cross-motions for summary judgment. Dkt. No. 102. Plaintiffs filed their opening brief on May 4, 2026. Dkt. No. 104. Under the original schedule, defendants' consolidated response and cross-motion for summary judgment was due on or before June 15, 2025. *See* Dkt. No. 102.

4. On June 10, this Court granted defendants a 30-day extension of time to file their consolidated response and cross-motion to accommodate a change in the counsel assigned to this case. *See* Dkt. No. 110. That order sets defendants' deadline on July 15, 2026. *Id.*

5. Shortly after the Court granted defendants' requested extension, the Department of Justice's Office of Legal Counsel published a Memorandum Opinion, titled *Application of the Rehabilitation Act and Americans with Disabilities Act to State Institutionalization of Patients with Severe Mental Illness or Disabilities*, 50 Op. O.L.C. __ (June 18, 2026) ("OLC Opinion"), available at <https://www.justice.gov/olc/media/1446701/dl>. Plaintiffs thereafter submitted the OLC Opinion to the Court through a Motion for Leave to Supplement Authorities Under Local Rule 56.7. Dkt. No. 117. This Court granted plaintiffs' motion and accepted the OLC Opinion as supplemental authority. Dkt. No. 118.

6. In the time since the OLC Opinion was issued, the parties have been conferring on its effect on the issues presented in this case. Defendants respectfully request that the deadline to file their response and cross-motion for summary judgment be extended by 47 days to continue conferring

on this recent development and to determine whether the scope of contested issues in this case may be narrowed or eliminated entirely.

7. The requested extension is reasonable and will not prejudice the parties or unduly delay the case. Plaintiffs' counsel is unopposed to the request.

For the foregoing reasons, defendants respectfully request that the deadline for their consolidated response and cross-motion for summary judgment be due on or before August 31, 2026, and the deadline for plaintiffs' consolidated response to defendants' cross-motion and reply be extended to September 22, 2026.

DATED: July 9, 2026

Respectfully submitted,

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/s/ Jacob S. Siler
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Counsel for Defendants

CERTIFICATE OF CONFERENCE

I hereby certify that on July 7, 2026, I conferred with plaintiffs' counsel via videoconference to seek plaintiffs' position on this motion. Kyle Tebo then stated via email that plaintiffs do not oppose the motion.

/s/ Jacob S. Siler
Jacob S. Siler