

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Kyle Fellers, Anthony Foote,
Nicole Foote, and Eldon Rash,
Plaintiffs

v.

Case No. 24-cv-311-SM-AJ

Marcy Kelley, Superintendent
of SAU 67; Michael Desilets,
Athletic Director of Bow High
School; Matt Fisk, Principal
of Bow High School; Bow School
District; and Steve Rossetti,
Defendants

O R D E R

The court previously combined the plaintiffs' motion for a preliminary injunction with their request for a permanent injunction, and scheduled a hearing for November 21 and 22. The plaintiffs then filed a motion with an expedited request to set scheduling deadlines for that hearing. Doc. no. 26. Five days later, the plaintiffs filed a 40-page amended complaint that adds claims that would significantly broaden the scope of this case. Doc. no. 35.

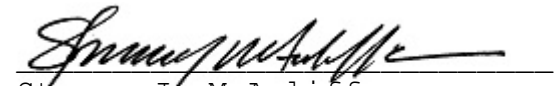
The defendants object to the scheduling deadlines proposed by the plaintiffs, and also move to limit the hearing to the request for a preliminary injunction, in order to preserve their right to a jury trial on the plaintiffs' damages claims. Doc. no. 46.

The hearing to be held on November 21 and 22 is limited to the requested preliminary injunction relief, as sought in the plaintiffs' motion, document no. 14, to the extent those matters are not now moot. Factual determinations necessary to support a permanent injunction would undermine defendants' jury trial right.

Counsel will be heard, first, on whether preliminary injunctive relief is even available now, under the current factual circumstances. Should an evidentiary hearing prove necessary, presentation of evidence will be in the usual order - plaintiffs then defendants (though the parties are of course free to consent to proffers in lieu of live testimony).

The schedule for prehearing and post hearing filings is as follows: Parties shall exchange witness and exhibit lists by November 14; parties shall file prehearing briefs by November 18 with a 20-page limit; parties shall file post hearing briefs by December 13 with a 20-page limit, if briefs are necessary, and parties shall file post hearing replies by December 16 with a 10-page limit, if necessary.

SO ORDERED.



Steven J. McAuliffe
United States District Judge

November 6, 2024

cc: Counsel of Record