

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WISCONSIN COALITION FOR
ADVOCACY, INC.,

Plaintiff,

v.

STATE OF WISCONSIN
DEPARTMENT OF PUBLIC
INSTRUCTION and ELIZABETH
BURMASTER, in her official
capacity as State Superintendent
of Public Instruction,

Defendants.

OPINION AND ORDER

05-C-0295-C

This is a suit for injunctive relief and monetary damages in which plaintiff is seeking preliminary injunctive relief that is identical to the permanent injunctive relief sought in its complaint. The motion for preliminary relief was heard on June 17, 2005; the matter was taken under advisement. Plaintiff appeared by Jeffrey Spitzer-Resnick; defendants were represented by Thomas Bellavia and Sandra Tarver.

Among other matters, defendants questioned whether it was appropriate for plaintiff to be moving for preliminary relief that, if granted, would moot its claim for permanent

injunctive relief. After reviewing the parties' arguments at more leisure, I have the same question. Why treat this question as one for preliminary relief when the matter could be resolved completely if the motion were converted to one for permanent injunctive relief? There appears to be no need for any additional factual development of the issue of plaintiff's right to production of certain documents defendants have withheld under the Individuals with Disabilities Act, 20 U.S.C. §§ 1400-1406, and the Family Educational and Privacy Rights Act, 20 U.S.C. § 1232g and the parties have provided comprehensive briefs on the subject. Indeed, it is hard to imagine what more they could argue on the subject. It may be, however, that they have additional arguments they wish to make.

Therefore, I will give the parties two weeks in which to expand upon their arguments, if they wish, after which I will decide the motion as one for permanent injunctive relief. If counsel object to this proposal, they should advise the court in writing immediately, setting forth the reasons for their objection. If they do not object, I will assume they agree to it and will expect them to file briefs *electronically* no later than Friday, July 8, 2005.

Entered this 23rd day of June, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge

