

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
FOR NEW CASTLE COUNTY**

---

AMERICAN CIVIL LIBERTIES UNION OF  
DELAWARE;

*Plaintiff*

v.

LOUANN HUDSON et al.

*Defendants.*

---

Civil Action No.  
N25C-12-567 SPL

**PLAINTIFF’S MOTION FOR LEAVE TO AMEND VERIFIED**

**COMPLAINT**

Plaintiff ACLU of Delaware respectfully moves for leave to amend the Verified Complaint pursuant to Super. Ct. Civ. R. 15. A copy of the proposed First Amended Complaint is attached as Exhibit A, with plain indication in the amended pleading in what respect the amendment differs from the pleading which it amends. Super. Ct. Civ. R. 15. (aa).

**BACKGROUND**

On December 22, 2025, ACLU of Delaware filed a Verified Complaint, challenging the fees charged by three Delaware school districts in response to FOIA requests sent to them by the ACLU. In response to the Verified Complaint, Christina, Woodbridge, and Cape Henlopen School Districts (“Defendants”) filed a

Rule 12(b)(6) Motion to Dismiss this action on February 2, 2026. Defendants' Motion to Dismiss does not concern the propriety of the parties in interest.

In the Defendants' Motion to Dismiss, footnotes 1 and 2 claim that no such entities as "Cape Henlopen School District" or "Woodbridge School District" exist for the purposes of litigation. They add that "The Board of Education of the Cape Henlopen School District" and "The Board of Education of the Woodbridge School District" are the legal entities that have the power to sue and be sued.

Counsel for Defendants stated in email correspondence that they "moved to dismiss on grounds unrelated to naming the correct defendant" and thus did not object to Plaintiff's amending the complaint to accord with their contentions regarding the real parties in interest.

### **LEGAL STANDARD**

Under Super. Ct. Civ. R. 15, "a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires."

"In the absence of prejudice to another party, the trial court is required to exercise its discretion in favor of granting leave to amend." *Mullen v. Alarmguard of Delmarva, Inc.*, 625 A.2d 258, 263 (Del. 1993).

## ARGUMENT

Plaintiffs move to amend to substitute the entities that Defendants have identified as the real parties in interest for the Defendants named in the Verified Complaint. Plaintiff has good cause for the amendment, and there are no grounds for the court to deny leave to amend.

### **1. Good Cause Exists for Amendment.**

Defendant has made representations that the proper parties in interest in this case are the respective school boards of the Defendant districts. To ensure the merits of the case are addressed without issue, it is essential that the proper parties in interest participate in the suit. Super. Ct. Civ. R. 17(a). Thus, there is good cause to amend the complaint. *See Webber v. Anderson Homes, LLC*, 908 A.2d 616, 618 n. 11 (Del. Super. Ct. 2006) (mentioning that the current plaintiff amended the complaint to substitute proper plaintiff as proper party in interest).

### **2. There are no grounds for the court to deny leave to amend.**

None of the traditional grounds for denying amendment are present here. Plaintiffs have not delayed requesting leave. The Verified Complaint was first filed on December 22, 2025. Plaintiffs file this Motion for Leave shortly after learning through the footnotes in Defendants' Motion to Dismiss (filed on February 2, 2026) that the named Defendants may not be the real parties in interest. There is therefore no, "inexcusable delay" or "repeated attempts at amendment" to justify

denial of leave to amend. *Mullen v. Alarmguard of Delmarva, Inc.*, 625 A.2d 258, 263 (Del. 1993) (cleaned up).

Nor is there any evidence of bad faith or dilatory motive on part of the movant, repeated failure to cure deficiencies, or prejudice. *CNH Indus. Am. LLC v. Am. Cas. Co. of Reading*, 149 A.3d 242, 246 (Del. Super. Ct. 2016).

### CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grants leave to file the First Amended Complaint.

Dated: February 23, 2025

**The American Civil Liberties Union  
of Delaware**

/s/ Andrew Bernstein  
Andrew Bernstein (#7161)  
100 W. 10<sup>th</sup> St. #706  
Wilmington, DE 19801  
Phone: (302) 551-6809 Ext. 119  
Email: [abernstein@aclu-de.org](mailto:abernstein@aclu-de.org)

/s/ Oluwatobi O. Omotoso  
(pro hac vice forthcoming)  
ACLU of Delaware  
100 W. 10th St. #706  
Wilmington, DE 19801  
Phone: (302) 551-6809 Ext. 119  
Email: [oomotoso@aclu-de.org](mailto:oomotoso@aclu-de.org)