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Brown County, WI
2021CV001166

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 3

BROWN COUNTY

STEPHANIE MCMANUS, on behalf of
R.M. and M.M.,

Plaintiff,

v.

Case No.: 2021CV001166

UNIFIED SCHOOL DISTRICT OF DE PERE,
BOARD OF EDUCATION OF THE UNIFIED
SCHOOL DISTRICT OF DE PERE, and
BENJAMIN VILLARRUEL, in his official capacity,

Case Codes: 30701
30704

Defendants.

**DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFF'S
MOTION FOR TEMPORARY INJUNCTIVE RELIEF**

Defendants, Unified School District of De Pere, Board of Education of the Unified School District of De Pere, and Benjamin Villarruel, in his official capacity (collectively "Defendants") hereby submit the following Brief in Opposition to Plaintiff's Motion for Temporary Injunctive Relief:

INTRODUCTION

COVID-19 has affected nearly every aspect of our daily lives, and our public school system is among the hardest hit. Public schools have faced significant challenges to educate students in a safe environment. This has required nearly every public school to put in place reasonable measures to minimize the risk of students and staff transmitting COVID-19 to others. In this respect, the Unified School District of De Pere ("USDD") is no different than nearly every public school in Wisconsin. Since USDD first re-opened for in-person instruction after the Governor ordered all schools to be closed in the spring of 2020, USDD has adopted and implemented COVID-19

mitigation measures to try to keep students and staff safe while at school. Most recently, USDD enacted the following quarantine policy for students and staff who are determined to be close contacts with someone diagnosed with COVID-19:

Starting October 20, all 7-12 students/staff who are identified as a close contact at school will need to quarantine for 7 to 10 calendar days. However, if the close contact student/staff is symptom free, the close contact student/staff can remain in the school building for academic and extracurricular activities on the condition that the close contact student/staff wears a mask in the school building for 7 to 10 calendar days.

(Dkt. 21 at p. 8). Under the above policy (hereinafter the “Quarantine Policy”), students and staff who are deemed close contacts can return to school if they are symptom free and wear a mask while in school for the 7 to 10 day quarantine period. If students are unable to wear a mask, they are provided with virtual instruction by the USDD while they remain in quarantine for the 7 to 10 day period.

Plaintiff’s motion to enjoin the USDD from enforcing the Quarantine Policy is premised on a fundamental misunderstanding of the powers and duties of school districts under Wisconsin law. The Wisconsin Legislature has granted school districts with broad authority to take action to protect the health of students and staff as long as such action is “not prohibited by the laws of the federal government or of this state.” Wis. Stat. § 118.001. The enactment of the Quarantine Policy is clearly within the recognized duties and powers of the USDD to protect the health and safety of its students and staff from COVID-19. None of the Department of Health Services (“DHS”) statutes and administrative code provisions cited by Plaintiff prohibit school districts from enacting the Quarantine Policy. Given the broad authority of school districts to enact measures to protect the health of students, and the lack of any state or federal law preventing schools from taking such action, the Quarantine Policy lawful.

The Court should deny Plaintiff's request for temporary injunctive relief for a number of reasons. First, Plaintiff has failed to properly serve each of the Defendants with the Summons and Complaint as required by Wis. Stat. § 801.11. Second, Plaintiff has failed provide Defendants with a written notice of claim at least 120 days prior to filing suit as required by Wis. Stat. § 893.80. Third, Plaintiff does not have a reasonable probability of success on the merits because Defendants have the statutory and constitutional authority to enact the Quarantine Policy. Fourth, Plaintiff's request for a temporary injunction will disrupt, not preserve, the status quo. Fifth, Plaintiff will not suffer irreparable harm if the injunction is not granted because quarantined students are provided with a number of measures to ensure they are provided with virtual instruction and educational materials. Sixth, Plaintiff has an adequate remedy at law and can return to school if they wear a mask for the 7-10 day period or, in the alternative, participate in virtual learning provided by the USDD.

FACTS

The USDD is a Wisconsin school district comprised of the City of De Pere east of the Fox River, and parts of the towns of Bellevue, Glenmore, Ledgeview, Morrison, Rockland and Wrightstown. (Villarruel Aff., ¶ 2). The total district enrollment is approximately 4,259 students. *Id.* Students in the USDD are educated at Altmayer, Dickinson and Heritage elementary schools (grades K-4); Foxview Intermediate School (grades 5-6); De Pere Middle School (grades 7-8); and De Pere High School (grades 9-12). *Id.* at ¶ 3. Plaintiff has brought this lawsuit on behalf of her two children who attend De Pere High School. (Affidavit of Stephanie McManus, Dkt. 7, ¶¶ 8, 14).

On October 18, 2021, the Board of Education for the USDD held a meeting and approved the 2021-2022 school year COVID-19 Mitigation Plan (the "COVID-19 Mitigation Plan").

(Villarruel Aff., ¶ 5). The USDD's express goals in enacting the COVID-19 Mitigation Plan was to: (1) maintain face-to-face instruction; (2) minimize the spread of COVID-19; and (3) minimize the quarantine of students and staff. (Villarruel Aff., Ex. 2 at p. 2). On October 25, The Quarantine Policy is included in the COVID-19 Mitigation Plan and provides as follows:

1. Starting October 20, all 7-12 students/staff who are identified as a close contact at school will need to quarantine for 7 to 10 calendar days. However, if the close contact student/staff is symptom free, the close contact student/staff can remain in the school building for academic and extracurricular activities on the condition that the close contact student/staff wears a mask in the school building for 7 to 10 calendar days.
2. Close contact students/staff who have a valid mask exemption can choose to wear a mask in the school building for the 7-10 day quarantine period or remain home for the 7-10 day quarantine period.
3. Unvaccinated Students/Staff will be quarantined for household contacts.

(Villarruel Aff., Ex. 2 at p. 8).

When students at De Pere High School are unable to wear a mask and quarantine for the 7-10 day period, they are provided with a number of measures so they can meaningfully obtain and participate in the curriculum in which they are enrolled. (Joseph Aff., ¶ 4). For instance, each teacher live streams their classes using a tablet or computer and students can view the lesson virtually. *Id.* The students are able to hear and see the teacher at the front of the classroom where the educational content/lessons are delivered. *Id.* All assignments and materials are also posted on Google Classroom, which is an electronic learning platform that allows teachers and studies to create and distribute educational materials. *Id.* at ¶ 5. With Google Classroom, students in quarantine have access to the same educational materials and curriculum that is available to students appearing in person. *Id.*

Additionally, teachers often work with virtual students who are quarantined before and after each school day to make sure they are caught up to speed and have adequate access to

educational materials. *Id.* at ¶ 6. Throughout the day, a math teacher is available to meet with any virtual student to assist them with any math content and provide assistance to students having difficulty with math assignments. *Id.* at ¶ 7. A student receiving special education services is contacted daily by a staff member to assist them while they are quarantined and school counselors are available to meet virtually with students to provide any needed emotional support or counseling. *Id.* at ¶¶ 8-9. These measures are intended to provide students in quarantine with the resources to ensure they receive the same instruction and learning opportunities as those students attending in person. *Id.* at ¶ 10.

THE LEGAL STANDARD FOR A TEMPORARY INJUNCTION

The standard for issuance of a temporary injunction is set forth in Wis. Stat. § 813.02 and provides as follows:

When it appears from a party's pleading that the party is entitled to judgment and any part thereof consists in restraining some act, the commission or continuance of which during the litigation would injure the party, or when during the litigation it shall appear that a party is doing or threatens or is about to do, or is procuring or suffering some act to be done in violation of the rights of another party and tending to render the judgment ineffectual, a temporary injunction may be granted to restrain such act.

Wis. Stat. § 813.02(1)(a).

Plaintiff's request for a temporary injunction must be denied because she cannot meet any of the following four-factors.

1. Plaintiff does not have a reasonable probability of success on the merits;
2. The temporary injunction would not preserve the status quo;
3. Plaintiff will not suffer irreparable injury if the Court does not provide temporary relief;
4. Plaintiff has other adequate remedies at law.

Werner v. A.L. Grootemaat & Sons, Inc. 80 Wis. 2d 513, 519-20, 259 N.W.2d 310 (1970).

ARGUMENT

I. Plaintiff's Request for an Injunction Must Be Denied Because She Has Not Properly Served Defendants With the Summons and Complaint in Accordance With Wis. Stat. § 801.11.

As a threshold matter, Plaintiff cannot maintain her request for a temporary injunction because she has not accomplished proper service on Defendants. Pursuant to Wis. Stat. § 801.11(4)(a)6, service of process of a school district or school board must be accomplished by personal service of the “president or clerk” thereof. Here, Plaintiff served the Summons and Complaint for all three Defendants on Dawn Foeller, the Director of Business Services for the USDD. (*See* Affidavits of Service, Dkt. 23-25). Ms. Foeller is not the president or clerk of the USDD or Board of Education for the USDD. The president and clerk of the Board of Education for the USDD are David Younquist and Dan Van Straten, respectively. (Villarruel Aff., ¶ 4). Plaintiff also failed to properly serve Defendant Benjamin Villarruel, the Superintendent of the USDD. As a natural person, Mr. Villarruel, must be personally served or served by leaving a copy of the summons and complaint at his usual place of abode with someone of his family at least 14 years of age. Wis. Stat. § 801.11(1). The failure to comply with the statutory requirements for service of process is a fundamental error depriving the court of jurisdiction regardless of prejudice to defendant. *Am. Fam. Mut. Ins. Co. v. Royal Ins. Co. of Am.*, 167 Wis. 2d 524, 534, 481 N.W.2d 629, 633 (1992). As such, the Court does not have jurisdiction to enjoin Defendants from enforcing the Quarantine Policy.

II. Plaintiff's Request for an Injunction Must Be Denied Because She Has Failed to Comply with the Requirements of the Notice of Claim Statute.

Plaintiff's motion should also be denied because she has failed to comply with the notice of claim statute that applies to lawsuits against governmental bodies set forth in Wis. Stat. § 893.80(1d). There is no doubt the notice of claim statute applies to school districts as Wis. Stat.

§ 118.26 provides that “[n]o action may be brought or maintained against a school district upon a claim or cause of action unless the claimant complies with s. 893.80.”

Section 893.80(1d), Wis. Stats., requires two forms of notice before a lawsuit is filed against the government or its employees: (1) a notice of injury; and (2) a notice of claim. *Vanstone v. Town of Delafield*, 191 Wis. 2d 586, 593, 530 N.W.2d 16 (Ct. App. 1995) (citations omitted). Both notices are required. Wis. Stat. 893.80(1d). The statute provides as follows:

(1d) Except as provided in subs. (1g), (1m), (1p) and (8), no action may be brought or maintained against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency thereof nor against any officer, official, agent or employee of the corporation, subdivision or agency for acts done in their official capacity or in the course of their agency or employment upon a claim or cause of action unless:

Within 120 days after the happening of the event giving rise to the claim, written notice of the circumstances of the claim signed by the party, agent or attorney is served on the volunteer fire company, political corporation, governmental subdivision or agency and on the officer, official, agent or employee under s. 801.11. Failure to give the requisite notice shall not bar action on the claim if the fire company, corporation, subdivision or agency had actual notice of the claim and the claimant shows to the satisfaction of the court that the delay or failure to give the requisite notice has not been prejudicial to the defendant fire company, corporation, subdivision or agency or to the defendant officer, official, agent or employee; and

A claim containing the address of the claimant and an itemized statement of the relief sought is presented to the appropriate clerk or person who performs the duties of a clerk or secretary for the defendant fire company, corporation, subdivision or agency and the claim is disallowed.

Wis. Stat. § 893.80(1d).

One statutory exception exists for the notice of injury requirement. A claimant does not need to provide a notice of injury if she can demonstrate (1) that “the governmental entity ‘had actual notice of the claim’”; and (2) that the entity “has not been prejudiced by the delay or failure to give notice.” *E-Z Roll Off, LLC v. County of Oneida*, 2011 WI 71, ¶ 48, 335 Wis. 2d 720, 800 N.W.2d 421; Wis. Stat. § 893.80(1d)(a). However, unlike the notice of injury, the notice of claim

requirements have no exception for actual notice and lack of prejudice. *Gutter v. Seamandel*, 103 Wis. 2d 1, 12-13, 308 N.W.2d 403 (1981)

The Supreme Court has concluded that the notice of claim statute “applies to all causes of action, not just those in tort and not just those for money damages.” *DNR v. City of Waukesha*, 184 Wis. 2d 178, 191, 515 N.W.2d 888 (1994).¹ Courts have also held that actions seeking declaratory relief against governmental bodies are subject to the notice of claim statute. *See Ecker Bros. v. Calumet County*, 2009 WI App 112, ¶ 5, 321 Wis. 2d 51, 58, 772 N.W.2d 240 (“We agree with the County, therefore, that the [notice of claim] statute applies to this declaratory judgment action.”); *City of Racine v. Waste Facility Siting Board*, 216 Wis. 2d 616, 575 N.W.2d 712 (1998) (holding that counterclaim for declaratory relief against governmental body was subject to requirements to notice of claim statute).

Here, Plaintiff’s lawsuit seeking declaratory and injunctive relief against Defendants clearly falls within the requirements of the notice of claim statute. The Complaints seeks a declaration that the Quarantine Policy is beyond Defendants’ statutory authority (Count I) and violates the Wisconsin Constitution (Count II). Defendants never received a written notice of claim or notice describing the circumstances of the event giving rise to the claim signed by Plaintiff or her attorney. (Villarruel Aff., ¶ 8). Plaintiff’s brief and affidavit are also devoid of any facts showing they complied with the requirements of Wis. Stat. § 893.80. Having failed to abide by the requirements of Wis. Stat. § 893.80, Plaintiff cannot maintain this lawsuit and their request for a temporary injunction must be denied.

¹ Since the decision in *City of Waukesha*, the Supreme Court created an exception to the “all actions” language for lawsuits involving open records and open meetings laws. *See Auchinleck v. Town of LaGrange*, 200 Wis. 2d 585, 597, 547 N.W.2d 587 (1996). In rare circumstances, a claim may be exempt from the notice of claim statute where there is a statutory scheme for which plaintiff seeks exemption and enforcement of the notice of claim statute would hinder a legislative preference for prompt resolution of the type of claim under consideration. *Town of Burke v. City of Madison*, 225 Wis. 2d 615, 625, 593 N.W.2d 822 (Ct. Appl. 1999). None of those circumstances is present here and there is no statutory scheme that would allow Plaintiff to bypass the requirements of the notice of claim statute.

III. Plaintiff's Motion for a Temporary Injunction Must Be Denied Because Plaintiff Does Not Have a Reasonable Probability of Success on the Merits.

To prevail on her motion for a temporary injunction, Plaintiff must establish that she has a reasonable probability of success in proving the Quarantine Policy is unlawful. Plaintiff cannot meet her burden because the Quarantine Policy was enacted within the USDD's broad authority to protect the health, safety and welfare of its students and staff. The powers and duties of a school district are "broadly construed" and will be upheld as long as the "action is not prohibited by the laws of the federal government or of this state." Wis. Stat. § 118.001. Plaintiff argues that the USDD cannot enact COVID-19 measures such as the Quarantine Policy because the Wisconsin Legislature delegated its authority to the DHS to prevent and suppress diseases. Plaintiff is wrong because the Legislature did not delegate *exclusive* authority to the DHS to prevent the spread of diseases among students or enact any laws that restrict a school district's ability to prevent the spread of a highly contagious disease such as COVID-19. While the Wisconsin legislature has authorized DHS to prevent the spread of diseases, this grant of authority does not prohibit school districts from enacting reasonable measures such as the Quarantine Policy to prevent the spread of COVID-19. Moreover, there are no state or federal laws precluding school districts from enacting quarantine policies to try to prevent the spread of diseases, such as COVID-19. Accordingly, Plaintiff has no likelihood of success in proving the Quarantine Policy is unlawful.

A. School Districts Have Broad Authority to Enact Policies to Protect the Health, Safety and Welfare of its Students and Staff.

The powers and duties of school districts are broadly construed under Wis. Stat. § 118.001:

118.001 Duties and powers of school boards; construction of statutes. The statutory duties and powers of school boards shall be broadly construed to authorize any school board action that is within the comprehensive meaning of the terms of the duties and powers, if the action is not prohibited by the laws of the federal government or of this state.

In turn, the duties and powers of school boards are set forth in several different statutes, including Wis. Stat. Chapters 118 through 121. Under Wis. Stat. § 120.12(1), the school board is charged with the “possession, care, control and management of the property and affairs of the school district.” School boards are expressly granted the duty “to do all things reasonable to promote the cause of education, including establishing, providing, and improving school district programs, funds, and activities for the benefit of pupils....” Wis. Stat. § 120.13. As recognized by the courts, “the enactment of Wis. Stat. §§ 118.001 and 120.13 (intro) expresses the legislature’s intent to give school boards broader powers and wide discretion in exercising those powers.” *Madison Metro. Sch. Dist. v. Burmaster*, 2006 WI App 17, ¶ 18, 288 Wis. 2d 771, 785–86, 709 N.W.2d 73, 80.

The Wisconsin Legislature recognizes the authority of school districts to take action to further the health of their students and prevent the spread of communicable diseases. As a general requirement, school districts are obligated by Wis. Stat. § 121.02(1)(i) to “[p]rovide safe and healthful facilities.” More specifically, under Wis. Stat. § 120.12(16), school districts must develop and implement an immunization plan in cooperation with local health departments and require each student to present evidence of completed basic and booster immunizations unless the student or guardian obtains a waiver from the school board. Notably, this provision recognizes that school districts work in “cooperation” with health departments and does not provide that school districts must cede their duty to protect the health of students and staff to health departments.

B. There Are No Federal or State Laws That Prohibit the USDD From Enacting the Quarantine Policy.

As set forth above, school districts have broad authority to take action for the safety and health of their students and staff as long as the action is not prohibited by federal or state law. Here, there are no federal or state laws that prohibit the USDD from enacting the Quarantine

Policy. It is clear from these laws that the USDD retains the authority to enact the Quarantine Policy.

Plaintiff cites to several statutes and administrative code provisions relating to the DHS but none of these laws *prevents* a school district from quarantining students or taking other reasonable measures to prevent the spread of diseases, such as COVID-19. Notably, Plaintiff does not cite to any federal laws that preclude the USDD from enacting the Quarantine Policy. A review of the following statutes and administrative code provisions cited by Plaintiff shows that Defendants have the authority to enact the Quarantine Policy.

- Wis. Stat. § 15.19: provides for the creation of “a department of health services under the direction and supervision of the secretary of health services.” There is no reference in the statute to school districts or language giving the DHS exclusive authority to order students and staff to quarantine.
- Wis. Stat. § 252.03: sets forth the duties of local health officers in investigating and reporting to the DHS communicable diseases in their territories. There is no reference in the statute to school districts or language giving the DHS exclusive authority to order students and staff to quarantine.
- Wis. Stat. § 252.041: provides that the DHS may order any individual to receive a vaccination to address a public health emergency unless the vaccination is reasonably likely to lead to serious harm or the individual refuses due to religious reasons. There is no reference in the statute to school districts or language giving the DHS exclusive authority to order students and staff to quarantine.
- Wis. Stat. § 252.06: provides that the DHS or local health officer “may require” isolation or quarantine of a patient. There is no reference in the statute to school districts or language giving the DHS or local health departments the exclusive authority to order students and school staff to quarantine.
- DHS § 145.06: subsection (4) provides the authority of a health official to direct a person with a contagious medical condition to “reside part-time or full-time in an isolated or segregated setting which decreases the danger of transmission of the communicable disease.” There is no reference in the statute to school districts or language giving the DHS or local health departments the exclusive authority to order students and staff to quarantine.

- DHS § 145.07: subsection (1) provides that “[a]ny teacher, principal, director or nurse serving a school or day care center may send home, for the purpose of diagnosis and treatment, any pupil suspected of having a communicable disease or of having any other disease or condition having the potential to affect the health of other students and staff including but not limited to pediculosis and scabies.” There is nothing in this provision prohibiting schools from also taking action and quarantining students and staff.

While the above provisions set forth the general powers and duties of the DHS, there is no language barring schools from also taking action to prevent the spread of diseases and requiring students and staff to quarantine when they may have a communicable disease. To the contrary, there are a number of statutory provisions recognizing that schools play an important role in fighting the spread of diseases, such as DHS §145.07(1) which allows schools to send students home that are suspected of having a communicable disease. The fact that DHS § 145.07(1) or other provisions do not expressly state that schools have the authority to also quarantine students does not mean schools lack the authority to do so. Under Plaintiff’s theory, school districts cannot take any action to ensure the health of their students and staff because the DHS has been granted authority to protect the health of citizens in Wisconsin. That is an absurd result and one clearly not intended by the Legislature. Given the broad authority of school districts to enact measures to protect the health of students, and the lack of any state or federal law preventing schools from taking such action, Plaintiff does not have a reasonable probability of showing the Quarantine Policy is unlawful.

IV. Plaintiff’s Motion for a Temporary Injunction Must Be Denied Because The Repeal of the Quarantine Policy Would Disrupt, Not Preserve, the Status Quo.

Temporary injunctions “are to be issued only when necessary to preserve the status quo.” *Werner*, 80 Wis. 2d at 520. Plaintiff incorrectly states that the status quo is for “students to remain in school.” (Plaintiff brief at p. 8). To the contrary, USDD has maintained at least some form of a quarantine policy for well over one year in order to prevent the spread of COVID-19 among

students and staff. (Joseph Aff., ¶ 3). The Quarantine Policy requires students and staff who have been in close contact with others diagnosed with COVID-19 to wear a mask upon their return to school or quarantine and receive virtual instruction. If Plaintiff's motion for temporary injunction is granted, the status quo will be disrupted and all students and staff who have been close contacts to someone diagnosed with COVID-19 will be allowed to return to school without any mask requirement or other measures to prevent the spread of COVID-19. Plaintiff's requested relief would greatly upset the status quo and prevent the USDD from taking reasonable measures to prevent the spread of COVID-19. Therefore, this factor heavily weighs in favor of denying Plaintiff's motion for temporary injunctive relief.

V. Plaintiff's Motion for a Temporary Injunction Must Be Denied Because Plaintiff Will Not Suffer Irreparable Injury if the Quarantine Policy Remains In Place.

Temporary injunctions shall not be issued unless the movant has shown irreparable harm. *Werner*, 80 Wis. 2d at 520. At the temporary injunction stage, the requirement of irreparable injury "is met by a showing that, without it, to preserve the status quo pendent lit, the permanent injunction sought would be rendered futile." *Id.* For asymptomatic students who have been in close contact with someone diagnosed with COVID-19, the Quarantine Policy simply requires them to wear a mask while in school for 7-10 days. Students who chose to wear a mask will be able to fully participate in all classes and extracurricular activities at school even though they have been in close contact with someone diagnosed with COVID-19. These students will be able to participate in sporting events and in person instruction at school. There is no basis to find these students will an irreparable injury by being required to wear masks for 7-10 days while they attend all regular classes and activities.

Students who are unable to wear masks because of a mask exemption or otherwise will not suffer an irreparable injury if the Quarantine Policy remains in effect because the USDD provides

quarantined students with a number of measures to ensure they are provided with virtual instruction and educational materials. (Joseph Aff., ¶¶ 4-8). For instance, quarantined students are able to live stream all classes from their computer or tablet and all classroom materials are posted to Google Classroom where teachers can distribute and grade assignments. *Id.* at ¶ 4. Teachers are also available to meet virtually with students before and after each school day to ensure the students are caught up to speed and can seek further assistance as necessary. *Id.* ¶ 5. Given these measures, students that stay home to quarantine for 7-10 days rather than wear a mask will not be significantly deprived of their educational experience and suffer an irreparable injury.

VI. Plaintiff's Motion for Temporary Injunction Must Be Denied Because Plaintiff Has an Adequate Remedy At Law.

Plaintiff argues that students will “miss days of school, social events, sporting events and practices, and club meetings” if a temporary injunction is not granted preventing Defendants from enforcing the Quarantine Policy. (Plaintiff's brief at p. 8). This argument ignores the language of the Quarantine Policy. In reality, asymptomatic students and staff who have been in close contact with someone diagnosed with COVID-19 can return to all school and extra-curricular activities if they take the simple step of wearing a mask for 7-10 days. Plaintiff's motion is devoid of any explanation as to why the remedy of wearing a mask for 7-10 days is inadequate for her children. If Plaintiff's children or other students do not wish to wear a mask, or are unable to do so because of an exemption, they can participate in virtual learning provided by the USDD during the 7-10 day quarantine period. Through the virtual learning measures, quarantined students can still engage in the learning process and have access to educational content. As such, Plaintiff does not lack an adequate remedy at law and the motion for temporary injunction must be denied.

CONCLUSION

The Court does not have jurisdiction to enter a temporary injunction because Plaintiff has not properly served any of the Defendants with the Summons and Complaint. Even if service is accomplished, Plaintiff's motion for a temporary injunction must be denied because Plaintiff has failed to comply with the notice of claim requirements set forth in Wis. Stat. § 893.80. Plaintiff's motion also fails on the merits because she cannot meet any of the required elements necessary to obtain a temporary injunction. Plaintiff does not have a reasonable likelihood of success on the merits, the requested injunction will not preserve the status quo or prevent irreparable injury, and Plaintiff has an adequate remedy at law. Therefore, the Court should deny Plaintiff's motion for a temporary injunction.

Dated this 29th day of October, 2021.

AXLEY BRYNELSON, LLP

Electronically signed by Justin H. Lessner

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