

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 26 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

REBECCA ROE, by and through her
parents and next friends, et al.

Plaintiffs - Appellants,

v.

DEBBIE CRITCHFIELD, in her official
capacity as Idaho State Superintendent of
Public Instruction, et al.

Defendants - Appellees.

No. 23-2807

D.C. No.

1:23-cv-00315-DCN

District of Idaho, Boise

ORDER

Before: W. FLETCHER, CALLAHAN, and BENNETT, Circuit Judges.

Order by Judges W. FLETCHER and BENNETT; Dissent by Judge CALLAHAN.

The motion for injunctive relief (Docket Entry No. 4) is granted. *See Feldman v. Ariz. Sec’y of State*, 843 F.3d 366, 367 (9th Cir. 2016) (“The standard for evaluating an injunction pending appeal is similar to that employed by district courts in deciding whether to grant a preliminary injunction.”); *see also Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (defining standard for preliminary injunction in district court).

Enforcement of Idaho’s Senate Bill 1100 is stayed pending resolution of this appeal.

The existing briefing schedule remains in effect.

CALLAHAN, Circuit Judge, dissenting:

I would deny the emergency motion for an injunction pending appeal because, in my view, appellants have not demonstrated a sufficient likelihood of success on the merits of their appeal.