

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**COPE (a.k.a. CITIZENS FOR OBJECTIVE,  
PUBLIC EDUCATION, INC.), *et al.*,** )  
 )  
 )  
 **Plaintiffs,** )  
 )  
 **v.** )  
 )  
 **KANSAS STATE BOARD OF** )  
 **EDUCATION, *et al.*,** )  
 )  
 **Defendants.** )  
 \_\_\_\_\_ )

**Case. No. 13-CV-4119-KHV-JPO**

**DEFENDANTS' MOTION TO DISMISS**

**COMES NOW**, all Defendants, by and through counsel, and pursuant to Fed. R. Civ. P. 12(b)(1) and (6), move this Court to dismiss Plaintiffs' claims. This Court lacks jurisdiction over all claims asserted in Plaintiffs' Complaint (Doc. #1), and the Complaint fails to state a claim against Defendants.

Pursuant to D. Kan. R. 7.1(a), Defendants simultaneously file a memorandum in support of this motion.

Respectfully submitted,

**OFFICE OF THE ATTORNEY GENERAL  
DEREK SCHMIDT**

s/Jeffrey A. Chanay  
Jeffrey A. Chanay, KS Sup. Ct. No. 12056  
Deputy Attorney General, Civil Litigation Division  
Stephen O. Phillips, KS Sup. Ct. No. 14130  
Assistant Attorney General  
Memorial Bldg.  
120 SW 10th, 2nd Floor  
Topeka, Kansas 66612  
Phone: 785-296-2215  
Fax: 785-291-3767  
E-mail: jeff.chanay@ksag.org  
steve.phillips@ksag.org

Cheryl L. Whelan, KS Sup. Ct. No. 14612  
General Counsel  
Kansas State Department of Education  
Office of General Counsel  
Landon State Office Building  
900 SW Jackson St., Suite 102  
Topeka, KS 66612  
E-mail: cwhelan@ksde.org

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

This is to certify that on this 5th day of December, 2013, the above and foregoing **DEFENDANTS' MOTION TO DISMISS** was electronically filed with the Clerk of the Court by using the CM/ECF system with notice electronically sent to:

Douglas J. Patterson [doug@propertylawfirm.com](mailto:doug@propertylawfirm.com)  
Kellie K. Warren [kellie@propertylawfirm.com](mailto:kellie@propertylawfirm.com)  
Michelle W. Burns [michelle@propertylawfirm.com](mailto:michelle@propertylawfirm.com)  
John H. Calvert [jcalvert@att.net](mailto:jcalvert@att.net)  
Kevin T. Snider [ksnider@pji.org](mailto:ksnider@pji.org)

*Attorneys for Plaintiffs*

s/Jeffrey A. Chanay \_\_\_\_\_  
Jeffrey A. Chanay