

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ABBIE PLATT, ANNE MILLER, CARRI
MICHON, JESSICA SMITH, and SUZANNE
SATTEFIELD,

Plaintiffs,

v.

LOUDOUN COUNTY SCHOOL BOARD;
and MELINDA MANSFIELD, individually
and in her official capacity as Chairwoman of
the Loudoun County School Board,

Defendants.

Case No. 1:24-cv-1873

JURY TRIAL DEMANDED

COMPLAINT

The Loudoun County School Board prevents parents and community members from speaking critically of the Board’s decisions. This viewpoint discrimination violates the First Amendment and undermines the core principle underlying that sacred constitutional right: that citizens be allowed to speak critically of their government, without fear of censorship or repercussions. Worse yet, the Board is doing so to prevent parents from airing concerns related to the most fundamental of rights recognized by the Supreme Court: the right to direct the upbringing and education of their children. This potent one-two punch has been systemically employed by the Board, in knowing and plain violation of clearly established law. This Court’s immediate intervention is needed to restore these Plaintiffs’ right to speak out to their government on matters of core concern.

“The First Amendment reflects ‘a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.’” *Snyder v. Phelps*, 562 U.S. 443, 452 (2011) (quoting *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964)). When parents

speak in a public forum to express concerns about their children’s safety at a public school, that is speech to which full First Amendment protections attach. *Cook v. Gwinnett Cnty. Sch. Dist.*, 414 F.3d 1313, 1319 (11th Cir. 2005) (“[I]t is clear that speech relating to the safety of the public involves a matter of public concern,” so “speech relating to physical safety and well-being of school children [is] a matter of public concern.”); *Reidenbach v. U.S.D. No. 437*, 912 F. Supp. 1445, 1450 (D. Kan. 1996) (“There is no dispute that the safety of school children is a matter of significant public concern.”).

The First Amendment likewise protects parents’ desire to criticize the government without being silenced or facing repercussions. *Rudd v. City of Norton Shores*, 977 F.3d 503, 514 (6th Cir. 2020) (“Criticism of government is at the very center of the constitutionally protected area of free discussion.”); *Bach v. Sch. Bd. of City of Va. Beach*, 139 F. Supp. 2d 738, 743 (E.D. Va. 2001) (“The Supreme Court has repeatedly explained that ‘it is a prized American privilege to speak one’s mind, although not always with perfect good taste, on all public institutions,’ ... includ[ing] the ability to question the fitness of the community leaders, including the administrative leaders in a school system[.]”).

The right of parents to speak to, petition, and even criticize their local school board regarding issues of public concern therefore receives utmost First Amendment protection. A school board cannot silence parents or shut down their speech simply because the board does not like the criticism or disagrees with the viewpoint the parent is expressing. Yet that is exactly what the School Board has done here.

The issues raised in this Complaint came to a head on October 8, 2024, when several concerned parents and community members came to the School Board’s public meeting to discuss news reports about the School Board’s decision to reinstate a student who was arrested for

threatening to kill a classmate and carrying a stolen firearm. When, during the public comment portion of the meeting, these individuals attempted to express concern about the safety of other students, the School Board—led by Chairwoman Melinda Mansfield—cut off the speakers, accused them of violating “decorum” rules and privacy laws, and abruptly ended the public comment period, depriving several speakers who wished to express similar concerns of any opportunity to speak at all.

At no point did these speakers act in a way that breached “decorum.” At no point did they say anything that could be used to identify a specific student. The School Board has allowed speakers in the past to use actual vulgarity and disclose information that actually could identify specific students where those speakers were not being critical of the School Board. The School Board’s decision to silence speakers on October 8, 2024, thus represents intentional viewpoint discrimination and deprivation of First Amendment rights to freely speak and petition the government. And shockingly, the School Board has since defended its actions by claiming that it did so to “comba[t] ... misinformation”—a brazen admission that it engaged in intentional viewpoint discrimination.

Additionally, the School Board’s policies regarding “decorum,” “respect,” “criticism,” and speaking about “individual students” are unconstitutionally vague restrictions of protected speech. These policies fail to precisely inform speakers of what speech will be prohibited and give the School Board unfettered discretion to engage in viewpoint discrimination—discretion that the School Board deployed here to silence speakers critical of its actions.

Plaintiffs Abbie Platt, Anne Miller, Carri Michon, Jessica Smith, and Suzanne Satterfield bring this action under the First and Fourteenth Amendments to the U.S. Constitution, *see* 42 U.S.C. §1983, against all Defendants, and allege as follows:

JURISDICTION AND VENUE

1. This action arises under the First and Fourteenth Amendments to the U.S. Constitution and is brought via 42 U.S.C. §1983 and §1988.

2. The Court has subject-matter jurisdiction under 28 U.S.C. §1331 and §1343.

3. Venue is proper because a substantial part of the events giving rise to the claims occurred in this judicial district. *See* U.S.C. §1391(b)(2).

PARTIES

4. Plaintiff Abbie Platt is a citizen of Virginia and the United States, residing in Loudoun County, Virginia. Platt is the mother of three school-aged children who attend schools operated by Loudoun County Public Schools. Platt regularly speaks at school board meetings to address matters of public concern and intends to continue doing so.

5. Plaintiff Anne Miller is a citizen of Virginia and the United States, residing in Loudoun County, Virginia. Miller is the mother of a school-aged child who attends a school operated by Loudoun County Public Schools. Miller regularly speaks at school board meetings to address matters of public concern and intends to continue doing so.

6. Plaintiff Carri Michon is a citizen of Virginia and the United States, residing in Loudoun County, Virginia. Michon is the grandmother of school-aged children who attend schools operated by Loudoun County Public Schools. Michon regularly speaks at school board meetings to address matters of public concern and intends to continue doing so.

7. Plaintiff Jessica Smith is a citizen of Virginia and the United States, residing in Loudoun County, Virginia. Smith owns and operates a small business in Loudoun County, and previously had a child who attended a school operated by Loudoun County Public Schools. Smith

regularly speaks at school board meetings to address matters of public concern and intends to continue doing so.

8. Plaintiff Suzanne Satterfield is a citizen of Virginia and the United States, residing in Loudoun County, Virginia. Satterfield's son previously attended a school operated by Loudoun County Public Schools. Satterfield regularly speaks at school board meetings to address matters of public concern and intends to continue doing so.

9. Defendant Loudoun County School Board ("the School Board") is a public body that governs Loudoun County Public Schools ("LCPS"). It is located in Loudoun County, Virginia, with a principal place of business at 21000 Education Court, Ashburn, Virginia, 20148.

10. Defendant Melinda Mansfield is the chair of the Loudoun County School Board. At all relevant times, Mansfield was acting under color of state law. Mansfield is sued in her official and individual capacities.

FACTS

I. The Loudoun County School Board Discriminates Against Disfavored Viewpoints and Speech

11. The Loudoun County School Board holds "general" meetings on the second and fourth Tuesday of every month during the school year.

12. During these general meetings, the School Board sets aside a period of time for public comment.

13. Since at least 2012, the School Board has permitted general public comment without limit on the content of such comments. Commentors therefore are free to speak, or petition, the School Board on any issue relating to the LCPS system.

14. The official policy of the School Board states that "[c]ommunity members are invited and encouraged to attend Loudoun County School Board meetings," and that "[t]he School

Board welcomes comments from the public and believes strong community engagement is important to a successful school system.” LCPS Policy 2520: “Participation by the Public.”

15. Policy 2520 was most recently amended in 2023 and has been in effect, unchanged, during the entire tenure of the current School Board.

16. Under Policy 2520, parents or community members who wish to speak may register to speak electronically—either by following a link or sending an email to an account managed by the School Board—up until 12:00 p.m. on the day of the public comment period in question. The School Board also accepts walk-in registrations until thirty minutes before the beginning of the meeting. *See* Policy 2520(B)(1). When registering, speakers may—but are not required to—list a topic for their remarks.

17. Policy 2520 contains a variety of supposedly neutral procedures that apply to the public comment period of any School Board meeting:

- “Speakers shall maintain the civility, decorum and respect for the functioning and dignity of the School Board at all times.” Policy 2520(A)(1).
- “Speakers should be respectful and observe proper decorum in their statements and shall refrain from vulgarity, obscenities, profanity or other like breaches of respect.” Policy 2520(A)(2).
- “Speaker comments that target, criticize, or attack individual students are not permitted during public meetings.” Policy 2520(A)(3).

18. The School Board does not enforce these policies consistently or uniformly. Instead, the School Board has enforced these policies only against speakers who criticize the School Board for decisions it made or who express viewpoints that the School Board does not wish to hear.

A. The School Board’s History of Speech Discrimination

19. For many years, the School Board has engaged in targeted suppression of criticism and disfavored viewpoints at School Board meetings. As justification for this suppression—which went so far as arresting one attendee and closing public meetings to deprive parents the chance to speak—the School Board often referenced a need to protect student privacy.

20. On June 22, 2021, for example, the School Board held its final business meeting before the summer break. During this meeting, the School Board discussed a policy that would require teachers and students to refer to transgender and “gender-expansive” students by their chosen pronouns and would allow students who identify as transgender and “gender-expansive” to use the restrooms and locker rooms that matched their claimed “gender identity,” even if different from their biological sex.

21. Many parents and community members attended this School Board meeting and signed up to speak during the public comment period.

22. During the public comment period, one speaker chose to criticize the School Board itself, saying: “You are teaching children to hate others because of their skin color. You are forcing them to lie about other kids’ gender. I am disgusted by [the School Board’s] bigotry and depravity.”

23. Immediately after hearing this criticism, the School Board cut off the microphone of the speaker and voted to end the public comment period. In the aftermath of this decision, one of the attendees from that evening—the husband of Plaintiff Smith—was arrested.

24. Because the School Board ended the public comment period before many of the registered speakers could speak, a number of community members were unable to deliver their planned remarks on the proposed policy.

25. At the direction of Virginia Governor Glenn Youngkin, Virginia Attorney General Jason Miyares launched an investigation into the circumstances in which a student was transferred from one Loudoun County School to another after being charged with sexual assault, only to commit a second sexual assault at the second school. A special grand jury convened for the investigation concluded, as relevant to the matters in this case:

- “Throughout our investigation it was evident that a misguided and *way-too-expansive definition of student confidentiality* hampered the communication, cooperation, and coordination necessary to provide a safe and secure environment for students, faculty, and staff.” (emphasis added).
- “To increase transparency and foster better communication, LCPS should include *as much information as reasonably possible* when informing parents, staff, students, and the community about *significant incidents occurring on school property*, on a school bus, or at a school sponsored event.” (emphasis added).
- LCPS should not continue to use “confidentiality” as “shield that impedes transparency, accountability, and openness, especially when it comes to the operations of a public body.”¹

26. The Loudoun County Circuit Court later held that the School Board violated the Virginia Freedom of Information Act by prohibiting the public from attending the remainder of the June 22, 2021, School Board meeting.

27. At the end of 2023, the Loudoun County School District elected a new School Board. This current School Board was sworn into office on January 2, 2024, and elected Defendant Mansfield as its Chairwoman.

28. During one of the School Board’s very first meetings—on February 27, 2024—many concerned parents urged the School Board to repeal the existing “gender identity” policy that permitted children to use whatever bathroom they chose.

¹ *In re Special Grand Jury Proceedings*, No. CL-22-3129 (Dec. 2, 2022), <https://perma.cc/MWU3-V4LF>.

29. After this public scolding by concerned parents, at the School Board's next meeting—on March 12, 2024—the School Board voted to turn off the cameras completely during the public comment periods of all future School Board meetings.

30. Explaining her rationale for the decision, Defendant Mansfield said, "I'm not interested in political grandstanding, which has been happening a lot lately."

31. During the public comment period of this same March 12, 2024, meeting, many concerned parents and other speakers once again urged the School Board to repeal the existing policy that allowed students to pick their preferred bathroom.

32. Plaintiff Satterfield spoke against the bathroom policy and criticized the School Board. At the end of her remarks, while Satterfield was already walking away from the speaking lectern, Defendant Mansfield took the unprecedented action of raising her voice, addressing Satterfield directly, and telling her to "sit down."

33. By singling out Plaintiff Satterfield as she was walking away, Defendant Mansfield demonstrated a willingness to target specific speakers who criticized the School Board or expressed disagreement with the School Board's policies.

34. During the public comment period for the April 9, 2024, School Board meeting, one speaker strongly criticized the School Board, beginning by accusing the School Board of lying and proceeding to say: "I know you're all women, but I need you to try really hard to think critically..." Defendant Mansfield immediately interrupted the speaker and cut off his microphone.

35. Later during the April 9, 2024, school board meeting, Defendant Mansfield interrupted another speaker and said: "Can we have some decorum and respect for the school board right now?" and "If you cannot contain yourself, I will have to declare trespassing and ask you to leave."

36. Plaintiff Platt and Plaintiff Michon attended this meeting and heard Defendant Mansfield threaten legal repercussions over the supposed breach of decorum.

B. The October 8, 2024, Public Meeting

37. In the weeks leading up to the School Board's October 8, 2024, public meeting, multiple news sources began reporting about an unidentified LCPS student with ties to the transnational gang MS-13 who previously had been arrested for threatening the life of a fellow student and charged with possession of a stolen firearm.² These news stories reported that LCPS had permitted this unidentified student to return to school within the LCPS system.

38. Plaintiffs were concerned by this report, particularly the idea that the School Board might have allowed this student to return to school or simply reassigned the student to another school within the LCPS system.

39. This concern was heightened due to Plaintiffs' knowledge that the School Board had taken such an action once before. In 2021, after a student sexually assaulted another student at school, the School Board reassigned the attacker to another school within the LCPS system.

40. Many concerned parents—including all Plaintiffs—attended the School Board's October 8, 2024, public meeting, where the School Board would be voting on a proposal to send firearm safety materials home with every LCPS child.

41. The Plaintiffs attended the meeting and signed up for public comment to express concerns about the safety of their children. All Plaintiffs followed the proper procedure by registering to speak prior to the public comment period.

² Evan Goodenow, *Loudoun Valley parents raise concerns over student who was arrested last year*, LOUDOUN TIMES-MIRROR (Sept. 12, 2024), <https://perma.cc/GDV8-REG7>; Nick Minock, *Loudoun County Public Schools student allegedly has ties to MS-13: Sources*, WJLA (Sept. 24, 2024), <https://perma.cc/UR2Y-MXJ8>.

42. When it came time for public comment, several speakers spoke in favor of the School Board's proposal about firearm safety material. The School Board permitted speakers who supported the proposed policy to speak fully and without interruption.

43. However, Defendant Mansfield interrupted or cut off every speaker who disagreed with the School Board's proposal or who wanted to criticize the School Board over the way it reportedly handled the student reassignment issue.

44. Plaintiff Miller accused the School Board of "continu[ing] to betray the trust of students and parents." When she attempted to talk about "[how] the School Board continues to play Russian roulette daily with our children ... like the reassignment of yet another student who poses a significant threat to the safety of students, a student with violent gang affiliation who was arrested..." Defendant Mansfield immediately interrupted Miller. Mansfield told Miller that her comments violated the "civility and decorum" of the board and told her to "refrain from comments on an individual student that could violate applicable confidentiality requirements" or using "personally identifiable information."

45. After Defendant Mansfield's warning, Plaintiff Miller attempted to continue but was forced to self-censor her remarks in order to avoid being cut off or having the public comment period shut down.

46. Following Plaintiff Miller, it was Plaintiff Michon's turn at the podium. Michon criticized the School Board for caring more about firearm security outside the school than inside the school, saying: "All of your show perimeter security means nothing if within the walls the children aren't safe. Knowing that recently a student was carrying a concealed weapon walking to school..."

47. Defendant Mansfield immediately interrupted Michon, told her to “refrain from disclosing personal identifiable information about a student,” and threatened to end the public comment period.

48. After Defendant Mansfield’s warning, Plaintiff Michon attempted to continue but was forced to self-censor her remarks in order to avoid being cut off or having the public comment period shut down.

49. Plaintiff Platt then spoke to the School Board and attempted to both express her concerns and recount how her daughter feels about attending school, saying: “Where’s the protection and the safety for our children who are in school with other children who have known threats, who have been arrested, and who are back in the school. And my daughter is terrified to go to school with him...” Defendant Mansfield then interrupted Platt and said: “Just by what you’re saying now is personally identifiable information.”

50. Plaintiff Platt attempted to resume her remarks but was forced to self-censor her words in order to avoid being cut off or having the public comment period shut down.

51. Following Plaintiff Platt, another concerned speaker began his remarks with: “Recently, the local media covered a story where a known gang member with a criminal record...”

52. At that point, Defendant Mansfield immediately interrupted the speaker and cut off his microphone. After cutting off the microphone of this speaker, Mansfield declared that the public comment period was finished and that no more speakers would be allowed to comment.

53. Neither Plaintiff Smith nor Plaintiff Satterfield were permitted to express their views due to Defendant Mansfield prematurely ending the public comment period.

54. Both Plaintiff Smith and Plaintiff Satterfield intended to speak about safety in schools and the news reports of a student being transferred to another school within the School District after threatening to kill another student and being arrested with a firearm.

55. There is no policy, regulation, or law that prevents a speaker at a School Board meeting from discussing public reports of a student who poses a threat to the school community.

56. There is no policy, regulation, or law that prevents a speaker at a School Board meeting from discussing specific incidents that happened on LCPS property that pose a possible risk to the safety of students, even if that involves indirect reference to a specific unidentified individual.

57. The School Board did not follow its own rules of procedure when ending the public comment period.

58. Policy 2520 contemplates the Chair “terminating speaking privileges or taking other action to preserve civility, decorum and orderly conduct,” including contemplating that “security staff will be asked to restore order. But Policy 2520 never contemplates ending the entire public comment period early—particularly not when parents who properly registered to speak have not yet spoken.

59. Additionally, LCPS Policy 2440 requires the School Board to follow Robert’s Rules of Order and have publicly available voting records for all major or substantive motions, such as a motion to end the public comment period early. Yet on October 8, 2024, Defendant Mansfield announced that the public comment period was over despite no vote having been taken.

C. Aftermath of the October 8, 2024, Public Meeting

60. The day after the School Board’s meeting, LCPS Superintendent Aaron Spence and Defendant Mansfield issued a joint statement on behalf of LCPS and the School Board. Spence

and Mansfield stated that “federal and state privacy laws” prevented them from allowing any discussion of individuals students.

61. In this October 9, 2024, statement, Spence and Mansfield justified their decision to silence Plaintiffs and other speakers by calling their concerns “misinformation” and “a political agenda,” adding: “Misinformation is on the rise, and school divisions like LCPS must be vigilant in actively combating it.”

62. This statement is an extraordinary admission by LCPS that it engages in viewpoint discrimination.

63. At the October 22, 2024, public meeting, Defendant Mansfield doubled down on her belief that Plaintiffs had violated applicable policy. Before opening public comment, Mansfield addressed the “public comment that was held at the last school board meeting” and stated that “speakers may not criticize, target, or attack individual students” or speak about “individual students” in a way that “could violate applicable confidentiality requirements”—even though Plaintiffs never criticized, targeted, attacked, or spoke in a way that disclosed confidential information about any student.

II. The Inconsistent Application of the School Board’s Public Participation Policy

64. The School Board silenced Plaintiffs and other speakers by claiming their speech violated decorum, disclosed “personal identifiable information,” was “a political agenda,” or was “misinformation.”

65. At no point did Plaintiffs speak in a way that breached decorum or disclosed actual identifiable information.

66. The School Board censored Plaintiffs’ speech and terminated speaking opportunity simply because it sought to prevent criticism on a current, sensitive issue.

67. The School Board has permitted speakers engaging in substantively similar speech to give full remarks without interruption or censoring.

68. This inconsistent application of the School Board's policies demonstrates that the Plaintiffs were silenced here due to viewpoint discrimination.

A. Decorum & Respect Provisions

69. Policy 2520(A)(1) states: "Speakers shall maintain the civility, decorum and respect for the functioning and dignity of the School Board at all times."

70. Policy 2520(A)(2) states: "Speakers should be respectful and observe proper decorum in their statements and shall refrain from vulgarity, obscenities, profanity or other like breaches of respect."

71. The School Board and Defendant Mansfield apply this policy in a way that silences speech critical of the School Board and viewpoints with which the School Board disagrees, while simultaneously allowing speech that is supportive of the School Board or agrees with the views of the School Board to continue.

72. Policy 2520(A)(1) & (A)(2) lack objective criteria to guide their application or warn what type of speech will be deemed unacceptable, other than the definite reference to "vulgarity, obscenities, [and] profanity."

73. Plaintiffs did not use vulgarity, obscenity, or profanity during their October 8, 2024, remarks, or any other time they addressed the School Board. Nevertheless, Defendant Mansfield interrupted their speech and warned that they were violating decorum.

74. Conversely, other speakers have been permitted to use disrespectful language and euphemistic vulgarity in their public comments, so long as those comments were critical of individuals or views and not critical of the School Board.

75. For example, at the February 27, 2024, public meeting, a pro-LGBT commentator criticized parents she disagreed with by stating: “I call B.S.” Defendant Mansfield did not interrupt this speaker or call for decorum, and instead allowed the speaker to finish her remarks.

76. During the October 22, 2024, public meeting, a commentator accused the Plaintiffs of “say[ing] something bat-bleep crazy during public comment.” Defendant Mansfield did not interrupt the speaker or call for decorum, and instead allowed the speaker to finish her remarks.

77. The School Board has selectively applied the decorum and respect provisions against Plaintiffs in a way that prohibits them from criticizing the School Board or its decision to allow potentially dangerous students back on school property.

78. As frequent participants at School Board meetings, the Plaintiffs remain unclear on what Defendant Mansfield and the School Board will decide qualifies as a breach of decorum or respect. In their experience, Defendant Mansfield applies an unequal standard where vulgarity and insults against anyone other than the School Board is *not* a breach of decorum or respect but civil disagreement and criticism of the School Board *is* a breach of decorum or respect.

79. Plaintiffs have been singled out and admonished for their speech, forced to preemptively and reactively self-censor to avoid being cut off by Defendants, and have sometimes been precluded from speaking entirely.

80. The School Board and Defendant Mansfield have therefore applied the decorum and respect provisions in a way that silences the Plaintiffs’ civil, if strongly worded, criticism of the School Board while allowing other commentators to express actual vulgarity and profanity.

B. Personal Identifiable Information

81. Policy 2520(A)(3) states: “Speaker comments that target, criticize, or attack individual students are not permitted during public meetings.”

82. Plaintiffs' speech on October 8, 2024, did not criticize or attack any individual student. The Plaintiffs' criticisms were all directed at *the School Board*. Nor did the Plaintiffs' speech identify any individual student. Yet after silencing the Plaintiffs on October 8, 2024, the School Board justified its decision to silence speakers and end public comment by claiming that the Plaintiffs' speech was prohibited by "federal and state privacy laws."

83. Federal law does prohibit sharing the personal identifiable information of students, but the law applies to information maintained in education records and not information held by private citizens. *See Owasso Ind. Sch. Dist. No. I-011 v. Falvo*, 534 U.S. 426, 428-29 (2022).

84. Nothing said by the Plaintiffs came from the education records of any student—indeed, the School Board did not "release [] education records" at all. 20 U.S.C. §1232g(b)(1).

85. Nor did what Plaintiffs say come close to constituting "personal information" or "personally identifiable information" as those terms are defined under federal law:

86. The Family Educational Rights & Privacy Act ("FERPA") defines "personal information" as "individually identifiable information including—(i) a student or parent's first and last name; (ii) a home or other physical address (including street name and the name of the city or town); (iii) a telephone number; or (iv) a Social Security identification number." 20 U.S.C. §1232h(c)(6)(E).

87. FERPA's implementing regulations added two more categories to the definition of "personal identifiable information" that are relevant here—(1) "[o]ther indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name," and (2) "[o]ther information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, *who does not have personal knowledge of the relevant*

circumstances, to identify the student with reasonable certainty[.]” 34 C.F.R. §99.3 (emphasis added).

88. Virginia’s statutes instruct the Virginia Department of Education to ensure state and local compliance with FERPA, again applying the law to the Department of Education and local school divisions and not private citizens. *See* Va. Code Ann. §22.1-287.02. Virginia state regulations define “personally identifiable information” as: (1) the “student’s name, the child’s parent, or other family member,” (2) the “address of the child,” (3) “[a] personal identifier, such as the child’s social security number or student number,” or (4) “[a] list of personal characteristics that would make the student’s identity easily traceable[.]” 8 Va. Admin. Code 20-671-10.

89. On October 8, 2024, Plaintiff Miller said only: “[T]he reassignment of yet another student who poses a significant threat to the safety of students, a student with violent gang affiliation who was arrested...” before she was cut off.

90. On October 8, 2024, Plaintiff Michon said only: “Knowing that recently a student was carrying a concealed weapon walking to school...” before she was cut off.

91. On October 8, 2024, Plaintiff Platt said only: “Where’s the protection and the safety for our children who are in school with other children who have known threats, who have been arrested, and who are back in the school. And my daughter is terrified to go to school with him...” before she was cut off.

92. Plaintiff Smith and Plaintiff Satterfield were denied the opportunity to speak at all.

93. At no point did any Plaintiff reference any individual student’s first or last name.

94. At no point did any Plaintiff reference any individual student’s parent or other family member.

95. At no point did any Plaintiff reference any individual student's home or physical address.

96. At no point did any Plaintiff reference any individual student's telephone number.

97. At no point did any Plaintiff reference any individual student's Social Security number or student number.

98. At no point did any Plaintiff reference personal characteristics that would make identifiable any individual student.

99. At no point did any Plaintiff reference any individual student's birth date, place of birth, or mother's maiden name.

100. At no point did any Plaintiff discuss information that would allow a third party "who did not [already] have personal knowledge of the relevant circumstances" to identify any individual student. 34 C.F.R. §99.3.

101. At no point did any Plaintiff reference any information that had come from any education record.

102. Rather, at all times, Plaintiffs' comments, at most, discussed references to news stories already a part of the public record.

103. Only individuals who already knew the identity of the student involved in those relevant circumstances could have determined which student they were referring to.

104. Since no reasonable individual who was not *already* familiar with the relevant student, circumstances, and news stories could have identified which student Plaintiffs were referring to, Plaintiffs' discussion of what was reported in news reports is not the type of information protected by 34 C.F.R. §99.3.

105. Plaintiffs' speech on October 8, 2024, did not violate any federal, state, or local law or policy regarding personal identifiable information.

106. Furthermore, the School Board does not uniformly enforce any policy of not permitting commentors to discuss individual students. Many public commentors have discussed their children or other students by name. Defendant Mansfield did not interrupt these speakers or cut off their speaking time.

107. In addition, many commentors have used their speaking time to discuss individual students in the context of very specific situations, including situations that are sensitive or serious:

108. At the January 30, 2024, public meeting, a commentor discussing the mental health difficulties faced by her son referenced "one of his seventh-grade peers [who] tragically took his own life." Despite this very specific reference to an individual LCPS student, Defendant Mansfield did not interrupt, admonish, or cut off the speaker.

109. At the January 30, 2024, public meeting, a commentor discussing cafeteria policies spoke about medical emergencies and how "we've had at least one [student] this year that required EMS in our cafeteria." Despite this very specific reference to an individual LCPS student, Defendant Mansfield did not interrupt, admonish, or cut off the speaker.

110. At the June 25, 2024, public meeting, a commentor discussed students "wearing stoles bearing the Palestinian flag" at "the Stonebridge High School graduation." Despite this very specific reference to specific LCPS students, Defendant Mansfield did not interrupt, admonish, or cut off the speaker.

111. At the September 24, 2024, public meeting, a commentor speaking in favor of the School Board's gun safety proposal referred to "a Virginia Beach student [who] was shot and killed

at a school bus stop.” Despite this very specific reference to an individual Virginia student, Defendant Mansfield did not interrupt, admonish, or cut off the speaker.

112. In sum, no legal policy prohibits the vague discussion of an ongoing security concern that Plaintiffs attempted to discuss on October 8, 2024. The School Board inconsistently applies its supposed prohibition on references to individual students to silence only Plaintiffs when they criticize how the School Board handled this security concern.

C. Allegations of Political Grandstanding & Political Agenda

113. After the first public meeting where the School Board received significant public criticism, the School Board voted to turn off the cameras during the public comment period to avoid “political grandstanding.”

114. After silencing the Plaintiffs on October 8, 2024, the School Board justified its decision to silence speakers and end public comment by calling Plaintiffs’ well-founded safety concerns part of a “political agenda.”

115. But the School Board regularly permits overt political speech and outright campaigning—that it agrees with—whenever it is offered. For example:

116. At the January 30, 2024, public meeting, a commentator castigated Virginia Governor Glenn Youngkin, stating: “Governor Youngkin’s Model Policy 2023 is only a model of fear and othering. It is not a model that ensures respect for all students.”

117. At the October 8, 2024, public meeting, a commentator stated that “Project 2025 intends to destroy public schools,” and called the public criticism of the School Board during the 2021 incident “performative attacks” and “a high-profile prosecution through blind ruthless political ambition.” Defendant Mansfield did not interrupt this speaker or call for decorum, and instead allowed the speaker to finish her remarks.

118. At the October 22, 2024, public meeting, a commentator accused other speakers of projecting “fear and loathing of other people’s children” and asked them to “reject Project 2025.” Defendant Mansfield did not interrupt this speaker or call for decorum, and instead allowed the speaker to finish her remarks.

119. The School Board has used its “political agenda” criteria to silence speech critical of its decisions while simultaneously permitting favored speech dealing with a substantively identical issue—safety in schools.

120. For example, the School Board has decided that strongly worded comments about the potential danger of LGBT-bullying in schools is *not* a political agenda, but comments about the potential danger of a bully carrying a gun in schools *is* a political agenda.

121. The School Board has therefore silenced Plaintiffs’ speech using a definition of “political agenda” that discriminates on the basis of viewpoint.

122. Plaintiffs have a right to express their speech the same as any other commentator, even if the speech touches on political topics.

COUNT ONE
As-Applied Violation of the First and Fourteenth Amendments:
Free Speech
42 U.S.C. §1983
(Against All Defendants)

123. Plaintiffs repeat and reallege each of the prior allegations in this complaint.

124. The First Amendment to the U.S. Constitution protects Plaintiffs’ right to speak freely on matters of public concern.

125. The First Amendment’s protections apply to public speech at school board meetings, by operation of the Fourteenth Amendment to the U.S. Constitution.

126. A school board meeting that has been opened to the public is a designated public forum. *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 45 & n.7 (1983). When

that meeting permits public comment from interested residents and parents, the meeting becomes a limited public forum for the discussion of matters of public concern relating to the school district. *Child Evangelism Fellowship of S.C. v. Anderson Sch. Dist. Five*, 470 F.3d 1062, 1067-68 (4th Cir. 2006).

127. Although the School Board need not permit “every type of speech” and may implement “reasonable” restrictions when in its limited public forum, any such “restriction must not discriminate against speech on the basis of viewpoint.” *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 106-07 (2001); *see also Child Evangelism Fellowship*, 470 F.3d at 1067-68. “It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys.” *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 828 (1995).

128. “Viewpoint-based discrimination occurs when a government official ‘targets not subject matter, but particular views taken by speakers on a subject.’” *Robertson v. Anderson Mill Elementary Sch.*, 989 F.3d 282, 290 (4th Cir. 2021) (quoting *Rosenberger*, 515 U.S. at 829). Viewpoint discrimination can be proved through “disparate treatment towards people or things sharing the characteristic that was the nominal justification for the action,” “departures from normal procedures,” and “post hoc rationalization” for the discrimination. *St. Michael’s Media, Inc. v. Mayor & City Council of Baltimore*, 566 F. Supp. 3d 327, 367 (D. Md. 2021), *aff’d*, 2021 WL 6502219 (4th Cir. Nov. 3, 2021).

129. All of Plaintiffs’ public speech at the School Board meeting is fully protected against viewpoint-based discrimination by the Free Speech Clause of the First Amendment to the U.S. Constitution.

130. As applied against the Plaintiffs, the School Board’s formal and informal policies on “decorum” and “personal identifiable information” and post hoc rationalizations about

“political agenda” and “misinformation” violated, and continue to violate, Plaintiffs’ First Amendment right to free speech by impermissibly discriminating against their speech on the basis of viewpoint.

131. By not enforcing the same policies against other speakers engaged in substantively identical speech, the School Board and Defendant Mansfield have demonstrated blatant viewpoint discrimination against Plaintiffs. This deprived and continues to deprive Plaintiffs’ right to free speech in violation of the First and Fourteenth Amendments to the U.S. Constitution.

132. The Defendants have violated and damaged the Plaintiffs’ constitutional rights in violation of 42 U.S.C. §1983.

133. The harm suffered by Plaintiffs occurred due to the written provisions of Policy 2520—“an express policy such as a written ordinance or regulation”—and due to the manner in which the Chairwoman of the School Board chose to apply the School Board’s existing policies—“through the decisions of a person with final policymaking authority.” *Starbuck v. Williamsburg James Cnty. Sch. Bd.*, 28 F.4th 529, 533 (4th Cir. 2022) (citing *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 690 (1978)).

134. Plaintiffs are entitled to declaratory relief, preliminary and permanent injunctive relief against Defendants’ unconstitutional policies and practices, compensatory damages, punitive damages, nominal damages, and attorney fees and expenses pursuant to 42 U.S.C. §1988.

COUNT TWO
As-Applied Violation of the First and Fourteenth Amendment:
Right to Petition
42 U.S.C. §1983
(Against All Defendants)

135. Plaintiffs repeat and reallege each of the prior allegations in this complaint.

136. The Supreme Court has recognized “the right to petition as one of the most precious of the liberties safeguarded by the Bill of Rights” and that it “is high in the hierarchy of First Amendment values.” *Lozman v. Riviera Beach*, 585 U.S. 87, 101 (2018) (cleaned up).

137. “A petition enjoys constitutional protection whether it is addressed, as here, to a local government, or to a state or national government.” *Mirabella v. Villard*, 853 F.3d 641, 654 (3d Cir. 2017). “A petition may consist of a “personal grievance addressed to the government” and may be presented as an oral grievance. *Borough of Duryea, Pa. v. Guarnieri*, 564 U.S. 379, 394 (2011).

138. The public comment period at the School Board meetings is a forum that enables Loudoun County residents and parents to exercise their fundamental First Amendment right to petition their elected government officials to take action on matters of public concern—such as the safety of their children and community.

139. Plaintiffs’ public speech at the School Board’s meeting is fully protected by the First Amendment right to petition the government for a redress of grievances.

140. By interrupting Plaintiff Platt, Plaintiff Miller, and Plaintiff Michon, and forcing them to adjust what they planned to say, the Defendants violated their right to petition the government. By depriving Plaintiff Smith and Plaintiff Satterfield any chance to petition at all, the Defendants violated their right to petition the government.

141. As applied against the Plaintiffs, the School Board’s formal and informal policies on “decorum” and “personal identifiable information” and post hoc rationalizations about

“political agenda” and “misinformation” violated and continue to violate Plaintiffs’ First Amendment right to petition the government by impermissibly discriminating against their petitions on the basis of viewpoint.

142. By not enforcing the same policies against other speakers engaged in substantively identical speech, the School Board and Defendant Mansfield have demonstrated blatant viewpoint discrimination against Plaintiffs. This deprived and continues to deprive Plaintiffs’ right to petition the government in violation of the First and Fourteenth Amendments to the U.S. Constitution.

143. The Defendants actions have violated and damaged the Plaintiffs constitutional rights in violation of 42 U.S.C. §1983.

144. The harm suffered by Plaintiffs occurred due to the written provisions of Policy 2520—“an express policy such as a written ordinance or regulation”—and due to the manner in which the Chairwoman of the School Board chose to apply the School Board’s existing policies—“through the decisions of a person with final policymaking authority.” *Starbuck*, 28 F.4th at 533 (citing *Monell*, 436 U.S. at 690).

145. Plaintiffs are entitled to declaratory relief, preliminary and permanent injunctive relief against Defendants’ unconstitutional policies and practices, compensatory damages, punitive damages, nominal damages, and attorney fees and expenses pursuant to 42 U.S.C. §1988.

COUNT THREE
Facial Violation of the First and Fourteenth Amendments:
Void for Vagueness
42 U.S.C. §1983
(Against All Defendants)

146. Plaintiffs repeat and reallege each of the prior allegations in this complaint.

147. “It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined.” *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972). “[T]he vagueness doctrine has two primary goals: (1) to ensure fair notice to the citizenry and (2) to provide standards for enforcement [by officials].” *Ass’n of Cleveland Fire Fighters v. City of Cleveland*, 502 F.3d 545, 551 (6th Cir. 2007); see *Hardwick ex rel. Hardwick v. Heyward*, 711 F.3d 426, 442 (4th Cir. 2013) (“A law is unconstitutionally vague if it fails to establish standards for the government and public that are sufficient to guard against the arbitrary deprivation of liberty interests.”).

148. “With respect to the first goal,” “[a] statute which either forbids or requires the doing of an act in terms so vague that [individuals] of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law.” *Cleveland Fire Fighters*, 502 F.3d at 551 (quoting *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1925)); see also *Manning v. Caldwell for City of Roanoke*, 930 F.3d 264, 274 (4th Cir. 2019) (“The purpose of the fair notice requirement is to enable citizens to conform their conduct to the proscriptions of the law.”). “With respect to the second goal,” “if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to [officials] for resolution on an ad hoc and subjective basis.” *Cleveland Fire Fighters*, 502 F.3d at 551 (quoting *Grayned*, 408 U.S. at 108-09).

149. This principle of clarity is especially demanding when First Amendment freedoms

are at stake. If the challenged law “interferes with the right of free speech or of association, a more stringent vagueness test should apply.” *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 499 (1982). “Certainty is all the more essential when vagueness might induce individuals to forego their rights of speech, press, and association for fear of violating an unclear law.” *Scull v. Va. ex rel. Comm. on Law Reform & Racial Activities*, 359 U.S. 344, 353 (1959).

150. Section 2520(A)(1), (A)(2), and (A)(3) are all unconstitutionally vague.³ Each provision fails to provide clearly defined prohibitions and lacks both fair notice regarding what type of speech will trigger repercussions and adequate standards of application.

151. Each of the three provisions—(A)(1), (A)(2), and (A)(3)—gives speakers little guidance about what speech is permitted at a public comment period and what speech isn’t.

152. In addition, or alternatively, each of the three provisions lacks definitive standards and permits the enforcing officials to apply it in an ad hoc and arbitrary manner.

153. For example, the only objective aspect of the two decorum and respect provisions—(A)(1) and (A)(2)—is the prohibition on “vulgarity, obscenities, [and] profanity.” But the School Board has permitted other speakers to use euphemistic vulgarity, including euphemistic vulgarity directed at Plaintiffs, while simultaneously shutting down Plaintiffs’ attempt at civil, good-faith criticism of the School Board’s decision regarding school safety.

154. When the only objective piece of the decorum and respect provisions goes unenforced, but the vague portions of the provisions result in silenced speakers, the provisions lack adequate guidance and are susceptible to arbitrary and discriminatory application.

³ To be clear, Plaintiffs allege that all of 2520(A)(1) and (A)(3) are unconstitutionally vague, and that the language in (A)(2) stating that “Speakers should be respectful and observe proper decorum in their statements and shall refrain from ... other like breaches of respect” is unconstitutionally vague. Plaintiffs do not argue that the middle clause of (A)(2)—“shall refrain from vulgarity, obscenities, [and] profanity”—is unconstitutionally vague.

155. As demonstrated by the School Board’s repeated invocation of the decorum and respect provisions in different contexts, the language of “civility, decorum and respect,” “should be respectful and observe proper decorum,” and “shall refrain from ... other like breaches of respect” lacks sufficient definition, detail, context, or notice to potential speakers about what the School Board will find to be a breach of decorum.

156. Similarly, the language of provision (A)(3) indicates that speakers cannot “target, criticize, or attack” individual students. The School Board has applied this provision to silence speech that makes vague passing references to an unidentified student or any speech by the Plaintiffs that mentions an individual student. The School Board also applied this provision to prohibit speakers from discussing personal identifiable information, even though no such limitation appears in the text of (A)(3)—and even though Plaintiffs never identified any individual student.

157. As demonstrated by the School Board’s repeated invocation of the “individual student” provision in a variety of scenarios that did not include targeting, criticizing, or attacking any individual student, this provision also lacks definitive standards about what the School Board will find to be a breach of decorum.

158. In sum, these three provisions fail to give prospective speakers “fair notice” of what will be enforced and prohibited so that they can reasonably “conform their conduct to the proscriptions of the law.” *Manning*, 930 F.3d at 274.

159. Plaintiffs have had their speech chilled due to the unconstitutional vagueness of this provision. In light of the 2021 arrest of one speaker and the 2024 threat of trespass against other speakers, and in light of the School Board’s willingness to shut down the public comment period in a way that prevents waiting commentators from speaking at all, Plaintiffs have felt compelled to

self-censor the subject and tone of what they wish to discuss in order to not trigger the vague decorum provision.

160. The Defendants actions have violated and damaged the Plaintiffs constitutional rights in violation of 42 U.S.C. §1983.

161. Defendants adopted these unconstitutional policies under color of state law.

162. The harm suffered by Plaintiffs occurred due to the written provisions of Policy 2520—“an express policy such as a written ordinance or regulation.” *Starbuck*, 28 F.4th at 533 (citing *Monell*, 436 U.S. at 690).

163. In light of this harm, Plaintiffs are entitled to declaratory relief, preliminary and permanent injunctive relief against Defendants’ unconstitutional policies and practices, compensatory damages, punitive damages, nominal damages, and attorney fees and expenses pursuant to 42 U.S.C. §1988.

PRAYER FOR RELIEF

Wherefore, the Plaintiffs respectfully request that this Court enter judgment in favor of Plaintiffs and against Defendants and provide the following relief:

A. A declaratory judgment that the Defendants’ current and past application of its policies and practices violates the Plaintiffs’ right to free speech under the First and Fourteenth Amendments;

B. A declaratory judgment that the Defendants’ current and past application of its policies and practices violates the Plaintiffs’ right to petition the government under the First and Fourteenth Amendments;

C. A declaratory judgment that Policy 2520(A)(1), (A)(2), and (A)(3) are unconstitutionally vague and violate the Plaintiffs' right to free speech under the First and Fourteenth Amendments;

D. A permanent injunction barring Defendants from enforcing its public participation policies and practices against Plaintiffs in a way that discriminates on the basis of Plaintiffs' viewpoints;

E. A permanent injunction barring Defendants from enforcing the unconstitutionally vague provisions of Policy 2520—specifically, (A)(1), (A)(2), and (A)(3);

F. A preliminary injunction granting the relief specified above during the pendency of this action;

G. An order holding Defendants jointly and severally liable for compensatory damages, in an amount to be determined;

H. An order holding Defendants jointly and severally liable for punitive damages, in an amount to be determined;

I. An order holding Defendants jointly and severally liable for nominal damages, in an amount to be determined;

J. Plaintiffs' reasonable costs and expenses of this action, including attorneys' fees, per 42 U.S.C. §1988 and all other applicable laws; and

K. All other relief to which Plaintiffs are entitled.

JURY TRIAL DEMAND

Plaintiffs demand a jury trial for each claim alleged and all issues so triable.

DATED: October 25, 2024

/s/ Andrew Block

Andrew Block

(VA Bar No. 91537)

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** Pro hac vice motions forthcoming*

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CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2024, I served the foregoing document with the Clerk of Court using the Court's ECF system, thereby serving all counsel who have appeared in this case.

/s/ Andrew Block

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