

Subject: Re: Virginia Freedom of Information Act (VA-DOE-22-0510)
Date: Thursday, June 9, 2022 at 3:55:36 PM Eastern Daylight Time
From: FOIA, rr
To: AO Records
Attachments: Request for the Removal of Loudoun County Public Sch.pdf

EXTERNAL SENDER

Good afternoon:

I hope this message finds you well. I am writing in response to the Virginia FOIA request that our office received on May 24, 2022 for the following records dated January 15, 2022 through the date the search was conducted (i.e., May 31, 2022):

“All electronic communications (including email messages, complete email chains, calendar invitations, text messages, and any attachments) between (a) the officials listed in Column A, below (or any person acting on their behalf or at their behest), and (b) the external individuals and organizations listed in Column B, below, including anyone communicating from the listed email address(es) or an email address ending in the listed domain(s).

Column A: Virginia Department of Education Staff

- a) Superintendent of Public Instruction Jillian Balow
- b) Assistant Superintendent of Public Instruction Elizabeth Schultz
- c) Chief of Staff Richard Shanor
- d) Senior Advisor to the Superintendent Jon Russell
- e) Office of Policy Director Dr. Leslie Sale
- f) Chief Diversity, Opportunity and Inclusion Officer Dr. Rosa Atkins

Column B: External Individuals and Organizations

- a) Center for Renewing America (@[americarenewing.com](https://www.americarenewing.com))
- b) Christopher Rufo (ajt@christopherrufo.com, chrisrufo@protonmail.com, or crufu@manhattan-institute.org)
- c) Fight for Schools (@[fightforschools.com](https://www.fightforschools.com))
- d) Free to Learn (@[freetolearn.org](https://www.freetolearn.org))
- e) Foundation Against Intolerance and Racism (@[fairforall.org](https://www.fairforall.org))
- f) Heritage Foundation (@[heritage.org](https://www.heritage.org) or @[heritageaction.com](https://www.heritageaction.com))
- g) Moms for America (@[momsforamerica.net](https://www.momsforamerica.net) or @[mfaaction.com](https://www.mfaaction.com))
- h) Moms for Liberty (@[momsforliberty.org](https://www.momsforliberty.org))
- i) No Left Turn in Education(@[noleftturn.us](https://www.noleftturn.us))
- j) American Enterprise Institute (@[aei.org](https://www.aei.org))
- k) Max Eden (Max.Eden@aei.org or max.c.eden@gmail.com)
- l) Parents Defending Education (@[defendinged.org](https://www.defendinged.org))
- m) PragerU (@[prageruniversity.com](https://www.prageruniversity.com) or @[prageru.com](https://www.prageru.com))

- n) Alliance Defending Freedom (@ADFlegal.org)
- o) Stand Up Virginia (@standupvirginia.com)
- p) Concerned Women for America (@concernedwomen.org)
- q) Independent Women's Forum (@iwf.org)"

Following an extensive search and review of electronic records for the above requested VDOE employees, we identified a total of four (4) responsive email communications from January 15, 2022 through May 31, 2022, the first part of which is attached. Due to the size of the attachments, I will need to send the attachments in several emails, which will follow momentarily. Please be advised that VDOE does not possess any other responsive electronic communications for this request.

I hope you have a good evening.

Best regards,



Rebecca Westfall

FOIA Officer

OFFICE OF POLICY

VIRGINIA DEPARTMENT OF EDUCATION

804.225.2092 | foia@doe.virginia.gov

From: Russell, Jon <jon.russell@doe.virginia.gov>
Sent: 3/21/2022 10:28:52 AM
To: ian@fightforschools.com
Cc:
Subject: Letter to Fight for Schools

Attachments: [Lettertofightforschools.docx \(1\).pdf](#)

Hi Ian, Last week Superintendent Balow sent you a response letter. I am confirming you received it. I have attached a copy for your records. Thank you for all you do for our kids.

--

Sincerely,

Jon Russell
Senior Advisor
OFFICE of SUPERINTENDENT OF PUBLIC INSTRUCTION
VIRGINIA DEPARTMENT ♥F EDUCATION
804.659.3307 | jon.russell@doe.virginia.gov

"Education is the key to unlock the golden door of freedom."
- George Washington Carver



**VIRGINIA
IS FOR
LEARNERS**

Jillian Balow
Superintendent of Public Instruction

March 15, 2022

Fight for Schools
Ian Prior, Executive Director
PO Box 523452
Springfield, VA 22152

Re: Fight for Schools Request

Dear Fight for Schools:

Thank you for the letter and for the information regarding Loudoun County Public Schools Superintendent Dr. Scott Ziegler.

Please know the issues raised in the letter, as with any allegation of misconduct raised against any superintendent, are concerning and are being reviewed in detail.

Thank you for the efforts to advocate on behalf of the parents and children both in Loudoun and throughout the Commonwealth.

Please feel free to reach out to me if my office can be of any assistance while we await the OAG's insights.

Sincerely,

Jillian Balow
Virginia Superintendent of Public Instruction

From: Ian Prior <ian@fightforschools.com>
Sent: 2/18/2022 3:38:47 PM
To: "jillian.balow@doe.virginia.gov" <jillian.balow@doe.virginia.gov>
Cc: "elizabeth.schultz@doe.virginia.gov" <elizabeth.schultz@doe.virginia.gov>
Subject: Request for the Removal of Loudoun County Public Schools Superintendent Scott Ziegler Pursuant to VA Code 22.1-65
Attachments: [LTR to SuperVDOE.pdf](#)

Dear Superintendent Balow,

Please find attached a formal request that you recommend to the Board of Education the removal of Loudoun County Public Schools Superintendent Scott Ziegler.

The original copy that I sent via certified mail has for some reason been returned and I will resend, but I wanted to make sure that you officially received this electronically.

Thank you for your consideration.

Ian Prior
Fight for Schools
Phone: 571-639-6711
Email: ian@fightforschools.com
Twitter: @iandprior
LinkedIn: <https://www.linkedin.com/in/ian-prior-1a7851133/>



FightForSchools.com

February 9, 2022

VIA CERTIFIED MAIL

Jillian Balow
Superintendent of Public Instruction
Virginia Department of Education
James Monroe Building
101 N. 14th Street
Richmond, VA 23219

CC:

Loudoun County Board of Supervisors
Loudoun County Government Center
1 Harrison St. SE #5
Leesburg, VA 20175

Loudoun County School Board
21000 Education Court
Ashburn, VA 20148

Re: Request for the Removal of Loudoun County Public Schools Superintendent Scott Ziegler Pursuant to VA Code §22.1-65

Dear Superintendent Balow:

Congratulations on your appointment as Superintendent of Public Instruction for the Commonwealth of Virginia. The education issue was key to the sweeping change that came to Virginia in 2021, and parents everywhere look forward to the restoration of educational excellence to the Commonwealth's public schools in the years to come.

As you are no doubt aware, nowhere has the spotlight shone brighter on the failures of Virginia's public school administrators than in Loudoun County. From school board members and administrators participating in private social media forums that targeted parents, to suspending a teacher in violation of his and other teachers' First Amendment rights, to willfully defying Governor Youngkin's Executive Order allowing parents the choice of whether their children wear masks in school, Loudoun County Public Schools has been a case study in mismanagement and disrespect to students, parents, and the taxpayers who fund its operations.

While many of the failures fall at the feet of the Loudoun County School Board, it should be clear to all observers that Superintendent Scott Ziegler does not possess the capability, experience, or leadership skills to sit at the helm of a \$1.6 billion taxpayer-funded school division.

Many of those failures will likely be more fully explored in the investigation being conducted by Attorney General Miyares, but Superintendent Ziegler has become such a liability to the safety of Loudoun County children and the trust of the parents that rely on Loudoun County Public Schools to protect those children that, on behalf of Fight For Schools, I request you consider exercising your authority under VA Code §22.1-65 and recommend his removal as Superintendent of Loudoun County Public Schools.

Specifically, Superintendent Ziegler has repeatedly and blatantly misled the public on very serious issues of school safety and has exhibited complete disregard for transparency and accountability.

The following are some of provable examples of Superintendent Ziegler's actions that have not only eroded public confidence in his leadership and in LCPS, but also demonstrate the superintendent's pattern of dishonesty, unprofessional conduct, and willful incompetence.

1. **Superintendent Ziegler's Blatant Misrepresentation to the Public During a June 22, 2021 School Board Meeting**

On May 28, 2021, a young girl was sexually assaulted by a boy in a girls' bathroom at Stone Bridge High School. On the very same day, Superintendent Ziegler sent an email to the full school board informing them of that fact. [See Exhibit A.](#)

At the June 22, 2021 school board meeting where Policy 8040 was discussed (a policy which would allow students to use whichever bathroom and locker room that corresponds to the gender with which they identify), school board member Beth Barts asked Superintendent Ziegler the following: *"Do we have assaults in our bathrooms or locker rooms regularly? I would hope not, but I would like clarification."*

Superintendent Ziegler answered definitively: *“To my knowledge we don’t have any records of assaults occurring in our restrooms.”*¹

Not only did Ziegler flat out lie about an issue of school safety, but he did so in the context of a debate over the safety of implementing Policy 8040. Such information would be extremely relevant to the public in that debate.

Moreover, at no point in time did Ziegler ever attempt to correct the record.

Worst of all, his failure to honestly state the facts put into motion a chain of events that directly led to the sexual assault of a second girl by the same assailant at a different school and is now the subject of an investigation by the Virginia Attorney General.

In this case, Superintendent Ziegler’s knowing misrepresentation arguably would make him both civilly and criminally liable.

In Virginia, a civil cause of action for actual fraud requires a “plaintiff to prove (1) a false representation, (2) of a material fact, (3) made intentionally and knowingly, (4) reliance by the party misled, and (5) resulting damage to the party misled.” Cohn v. Knowledge Connections, Inc., 266 Va. 362, 367 (2003).

Superintendent Ziegler falsely and knowingly stated that he was “unaware of any records of assaults occurring in our restrooms,” despite sending a May 28, 2021 email to the school board informing them of the sexual assault in the Stone Bridge High School restroom. This was certainly a material fact, especially considering a public debate over bathroom safety policy. As a result, members of the public relied on his statement and were damaged by not receiving accurate information with which to provide input on a policy impacting their children’s schools.

Superintendent Ziegler’s failure to correct his misstatement also makes him potentially liable for concealment, which under Virginia law is defined as “[c]oncealment of a material fact by one who knows the other party is acting upon the assumption that the fact does not exist ***.” Allen Realty Corp. v. Holbert, 227 Va. 441, 450 (1984).

Lastly, all school board meetings are broadcast “live on Comcast channel 18 and Verizon FIOS channel 43” as well as via simultaneous webcast. Pursuant to VA Code §18.2-209, entitled False publications, “[a]ny person who knowingly and willfully states, delivers or transmits by any means whatever to *** any radio station, television station, news service or cable service, any false and untrue statement, knowing the same to be false or untrue, concerning any person or corporation, with intent that the same shall be published, broadcast or otherwise disseminated, shall be guilty of a Class 3 misdemeanor.”

¹ Publicly accessible video of June 2, 2021, school board meeting: <https://vimeo.com/566103405>

By making a knowingly false statement at a Loudoun County School Board meeting that was transmitted by cable news and a webcast, Superintendent Ziegler may have also violated the criminal prohibition against false publications.

2. **Superintendent Ziegler’s Misrepresentation to the Public in a November 5, 2021 Press Release Concerning “Independent Review” of Sexual Assaults**

On November 4, 2021, following his election as Attorney General of the Commonwealth of Virginia, Jason Miyares announced that he would be investigating Loudoun County Public Schools’ handling of two sexual assaults at two different schools by the same assailant.²

The next day, Superintendent Scott Ziegler issued a press release entitled “LCPS Announces Independent Review of Assault Allegations.” The press release read, in relevant part, as follows:

“We believe we have followed all mandatory reporting protocols and aided law enforcement to the fullest extent allowed in all investigations regarding these matters. We acknowledge that these matters need to be fully reviewed. Consequently, and with full support of the School Board, Loudoun County Public Schools hired Blankingship & Keith, P.C. on October 28, 2021 to conduct an independent review of these incidents.” (emphasis added)³

On January 3, 2022, on behalf of Fight for Schools, I sent a Freedom of Information Act Request to LCPS requesting the following:

“Any report or documents prepared by Blankingship & Keith, P.C. in conjunction with the independent investigation (hired on October 28, 2021 and announced on November 5, 2021) into LCPS’s handling of allegations of student sexual misconduct at Stone Bridge and Broad Run high schools.” See Exhibit B.

The LCPS Public Information Officer responded on January 10, 2022, as follows:

“There is one record responsive to your request, which is being withheld from disclosure in its entirety under Va. Code § 2.2-3705.1(2) relating to materials protected under the attorney client privilege. Furthermore, portions of the record are being withheld from disclosure under Code § 2.2-3705.4(A)(1) relating to scholastic information and Va. Code § 2.2-3705.1(1) relating to personnel information concerning identifiable individuals.” See Exhibit C.

² “Virginia Attorney General-elect Miyares plans to investigate school assault cases in Loudoun; chief prosecutor welcomes involvement,” Loudoun Times-Mirror, November 4, 2021: https://www.loudountimes.com/news/virginia-attorney-general-elect-miyares-plans-to-investigate-school-assault-cases-in-loudoun-chief-prosecutor/article_51ed0f00-3dd6-11ec-a6c7-339513c0a478.html

³ LCPS Announces Independent Review of Assault Allegations, November 5, 2021: <https://www.lcps.org/site/default.aspx?PageType=3&DomainID=1&ModuleInstanceID=274904&ViewID=6446EE88-D30C-497E-9316-3F8874B3E108&RenderLoc=0&FlexDataID=416934&PageID=1>

Only after it became public knowledge that LCPS would not release the report did Loudoun County Public Schools communicate with the community about the existence of the report.

On January 14, 2022, the Loudoun County School Board issued a statement stating that it would not publicly release the report provided by Blankingship & Keith, P.C. due to attorney-client privilege. The release further detailed actions LCPS would be taking on matters that were the subject of the report.⁴

Section 2.2-3705.8 of the Virginia Freedom of Information Act, entitled “Limitations on record exclusions,” provides as follows:

“Nothing in this chapter shall be construed as denying public access to the nonexempt portions of a report of a consultant hired by or at the request of a local public body or the mayor or chief executive or administrative officer of such public body if (i) the contents of such report have been distributed or disclosed to members of the local public body or (ii) the local public body has scheduled any action on a matter that is the subject of the consultant's report.”

Superintendent Ziegler made it very clear in his November 5, 2021, release that Blankingship & Keith would be conducting an “independent review.” The resulting report was provided to the Loudoun County School Board and LCPS announced actions it would be taking on the matter that was the subject of the report. Therefore, pursuant to §2.2-3705.8, public access should not be denied to non-exempt portions of the report.

However, LCPS has claimed that the report is exempt due to §2.2-3705.1(2), which subsection exempts the following from production to the public:

“Written advice of legal counsel to state, regional or local public bodies or the officers or employees of such public bodies, and any other information protected by the attorney-client privilege.”

By claiming this exemption, Loudoun County Public Schools has now made it clear that Blankingship & Keith provided it with legal counsel as opposed to the “independent review” that Superintendent Ziegler sold to the public.

Furthermore, Loudoun County Public Schools did not “hire” Blankingship & Keith on October 28, 2021, as Superintendent Ziegler claims. In response to a FOIA sent to LCPS on January 15, 2022, requesting the retainer agreement between LCPS and Blankingship & Keith signed “on or around October 28, 2021,” LCPS stated that no such documents exist. See Exhibits D and E.

⁴ Statement from the Loudoun County School Board, January 14, 2022:
<https://www.lcps.org/site/default.aspx?PageType=3&ModuleInstanceId=335527&ViewID=7b97f7ed-8e5e-4120-848f-a8b4987d588f&RenderLoc=0&FlexDataID=420880&PageID=241236>

Instead, Loudoun County Public Schools actually hired Blankingship & Keith on June 15, 2021, to work for the division on an ongoing basis beginning in July of 2021, with the expectation that firm lawyers would be “on-site at LCPS central administration, say, twice per week on some scheduled basis for that purpose.” See Exhibit F.

Superintendent Ziegler thus misled the public into believing that Blankingship & Keith was hired on October 28, 2021 to conduct an “independent review” of the division’s handling of the sexual assaults at issue, when in fact this was nothing more than an internal investigation and legal advice from a law firm that had been on retainer since the summer.

To reiterate, Superintendent Ziegler misrepresented the nature of an investigation into an incident in which Ziegler misled the community about a sexual assault in a bathroom of which he had full knowledge, and his actions directly contributed to a second sexual assault of a second girl in a second high school by the same assailant, all of which generated the need for Blankingship & Keith to become involved.

Once more, the two false statements by Superintendent Ziegler make a *prima facie* case for fraud. He made a knowingly false statement about a material fact – the independence of the report and the date that Blankingship and Keith was hired – to gain the public’s trust in the “independence” of a taxpayer-funded review.

Further, because this statement was released to the media, it may also violate VA Code §18.2-209’s prohibition on false statements to publishers.

3. **Superintendent Ziegler’s Misleading February 5, 2022 Press Release on Loudoun County Public School’s Directive to Press Trespass Charges Against Students Suspended for Not Wearing Masks**

On February 5, 2022 Superintendent Ziegler sent out a press release entitled “Media Rumors Concerning LCPS.”⁵ The release stated, in relevant part:

“Loudoun County Public Schools (LCPS) would like to address a rumor that has been circulating in our community and in the media. The rumor, which is inaccurate, involves claims that LCPS has taken legal action against students who choose not to follow COVID mitigation measures in our school buildings. LCPS does not have the authority to arrest or charge any suspended students or their parents for trespassing. Furthermore, LCPS has not requested that local law enforcement charge any student with trespassing in connection with recent suspensions.

“Any student who is suspended from school and returns to school property, without administrative permission, may be issued a trespass notice. This is standard practice and a

⁵ LCPS Press Release, Media Rumors Concerning LCPS, February 5, 2022: <https://www.lcps.org/site/default.aspx?PageType=3&ModuleInstanceID=336264&ViewID=7b97f7ed-8e5e-4120-848f-a8b4987d588f&RenderLoc=0&FlexDataID=421796&PageID=241480>

warning that appears on all suspension notices. Again, students suspended for defiance of COVID mitigation protocols will not be charged with trespassing.

“I want to emphasize that, despite some unverified reports in the media, no students have been arrested for trespassing. Media accounts stating that LCPS is arresting students are not accurate, and create fear and potential harm for our students. We want to assure the community that our primary goal is to keep students in school, learning, and safe.”

As of this date, it does not appear that there are any media reports that LCPS students had been arrested. Rather, Daily Caller reporter Chrissy Clark tweeted a video⁶ of a Loudoun County assistant principal stating that it would be “considered trespassing” for any student to return to school who had been suspended for not wearing a mask. There have been several follow up stories based on that video, but upon information and belief, none have claimed that any student was arrested.

Thus, Superintendent Ziegler’s press release was a textbook straw man argument to dispute rumors that did not exist, while failing to alleviate the concerns of parents about the actual statement made by the assistant principal.

Even worse, the assistant principal was not merely a rogue staffer – she was following orders. On February 2, 2022, the same day as Ms. Clark tweeted that video, Loudoun County Public Schools Director of Safety and Security John Clark sent an email to division principals outlining the steps for taking out a trespass summons/warrant from a magistrate to be served on students who entered school property after being suspended for not complying with the mask mandate.⁷

In other words, Loudoun County Public Schools provided detailed guidance on how to charge students with trespass, an assistant principal was caught on tape saying so, and Superintendent Ziegler said rumors of arrests were not true, even though there were not actual media rumors of “arrests,” but it was true that LCPS was instructing staff on how to press charges for trespass.

Again, this another example of the stunning dishonesty and duplicity of an individual who heads up a school system that is responsible for educating more than 81,000 children.

⁶ Chriss Clark Tweet, February 2, 2022:

https://twitter.com/chrissyclark_/status/1488955682640601088?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetemb%7Ctwterm%5E1488955682640601088%7Ctwgr%5E%7Ctwcon%5Es1_%ref_url=https%3A%2F%2Fstoplcpsrt.com%2F2022%2F02%2F02%2Fassistant-principal-of-a-loudoun-county-elementary-school-informing-parents-that-children-who-come-back-to-school-maskless-will-be-charged-with-trespassing%2F

⁷ “Loudoun official coached principals on getting warrants for unmasked students,” Washington Examiner, February 7, 2022: <https://www.washingtonexaminer.com/policy/loudoun-official-coached-principals-on-getting-warrants-for-unmasked-students>

4. **Superintendent Ziegler’s Illegal Declaration of an Unlawful Assembly at the June 22, 2021 School Board Meeting**

Also at the June 22, 2021 school board meeting, former Senator Dick Black gave a public comment which was greeted with applause. After the applause subsided, then Vice-Chairwoman Atoosa Reaser moved to end public comment and the school board voted 9-0 to do so.

After the premature termination of the public comment session, several attendees remained in the building, continued to make public comments to the audience, and sang the national anthem. Superintendent Ziegler eventually declared the gathering an unlawful assembly, which resulted in attendee Jon Tigges being cited and charged with trespass.

Pursuant to VA Code §18.2-406, the following constitutes an unlawful assembly:

“Whenever three or more persons assembled share the common intent to advance some lawful or unlawful purpose by the commission of an act or acts of unlawful force or violence likely to jeopardize seriously public safety, peace or order, and the assembly actually tends to inspire persons of ordinary courage with well-grounded fear of serious and immediate breaches of public safety, peace or order, then such assembly is an unlawful assembly. Every person who participates in any unlawful assembly shall be guilty of a Class 1 misdemeanor.”

At Mr. Tigges’s trial, Superintendent Ziegler admitted that, despite declaring an unlawful assembly, he had no legal authority to do so. He said under oath:

“Upon reflection, we did an after action debrief with my staff and we agreed that, after reviewing the code that counsel cited at the beginning of trial that my words were incorrect.”
See Exhibit G, at 68-69.

Once again, Superintendent Ziegler engaged in inappropriate action at a school board meeting and did so based on information that he did not bother to reference before taking the drastic action that led to a parent being charged with trespass.

5. **Superintendent Ziegler’s Misrepresentation of Loudoun County Sheriff’s Deputy in Letter to Loudoun County Sheriff Mike Chapman**

In a November 5, 2021 letter to Loudoun County Sheriff Mike Chapman, Superintendent Scott Ziegler stated as follows:

“During the quarterly update to the Loudoun County Board of Supervisors on November 3, Col. Mark J. Poland of the Loudoun County Sheriff’s Office suggested that your offices notified the Loudoun County Public Schools of charges in the Stone Bridge High School sexual assault case. The question-and-answer with the Board of Supervisors and Sheriff’s Office went as follows:

Dulles District Supervisor Matthew Letourneau asked Col. Poland of the Loudoun County Sheriff's Office:

"I'm just gonna ask, straight up, could you tell us if the Sheriff's Office did, in fact, notify Loudoun County Public School when the individual was charged?"

Col. Poland answered: "To answer your question, they were notified. They were absolutely notified." See Exhibit H.

Superintendent Ziegler's claim that Col. Poland said that the Loudoun County Sheriff's Office told the Board of Supervisors that he notified Loudoun County Public Schools about the charges is not accurate – Col. Poland simply said that "they were notified," but did not specify who notified LCPS.

As outlined by Sheriff Chapman in his response letter of November 10, 2021, because the arrest did not occur on school grounds, VA Code §16.1-260 Section G requires the juvenile intake officer to notify the school superintendent of any juvenile student charged with a crime. See Exhibit I. Further, according to Sheriff Chapman, following the arrest, Jason Bickmore of the Loudoun County Juvenile Court Services Unit (JCSU) confirmed to the Loudoun County Sheriff's Office that the JCSU had sent a letter to Loudoun County Public Schools informing it of the arrest.

This is yet another example of a pattern and practice of Superintendent Ziegler misleading and misstating the facts to blame others and distract from his failed leadership.

6. Superintendent Ziegler's Misrepresentation to the Public at the June 1, 2021 School Board Work Session Regarding Equity

At the June 1, 2021 School Board Work Session Regarding Equity, in an effort to discredit the parent movement against CRT and to assert that Fight For Schools recognized his claim that there was no critical race theory taught in Loudoun County Public Schools, Superintendent Ziegler intentionally manipulated a quote I gave to ABC7 as Executive Director of Fight for Schools.

Superintendent Ziegler stated: *"Mr. Ian Prior stated on May 19th on WJLA-TV quote, nobody is saying that Loudoun County Public Schools or other schools are teaching critical race theory 101 like they would teach physics or chemistry. End quote."*⁸

The actual quote to WJLA-TV on May 19th carried quite a different meaning than Superintendent Ziegler's manipulation and was as follows: *"Nobody is saying that Loudoun County Public Schools or other schools are teaching critical race theory 101 like they would*

⁸ Publicly accessible video of June 1, 2021 School Board Work Session Regarding Equity:
<https://vimeo.com/557614738>

teach physics or chemistry, but is a broad lens that's implemented through how teachers are trained and how those trained teachers teach our children; which is to view America, to view our institutions, to view our culture, tradition, and language all based on systemic racism.”⁹

This is yet another clear example of Superintendent Ziegler misleading the public on an issue of public concern to the community.

7. Superintendent Ziegler’s Misrepresentation to the Public During an October 3, 2021 Interview with Sharyl Attkisson on “Full Measure”

During an interview with Sharyl Attkisson,¹⁰ Superintendent Ziegler was asked about the private Facebook group “The Anti-Racist Parents of Loudoun County” that plotted to cancel parents that opposed LCPS policies and included, as members, six school board members and dozens of LCPS administrator and teachers: *“There were school board members and teachers on this Facebook group that were pressing the notion of Critical Race Theory for the schools,”* Attkisson said.

Ziegler responded: *“I’m not familiar with the group, so I wouldn’t comment on it.”*

Once more, Ziegler knowingly misrepresented himself to the public. The private Facebook group “The Anti-Racist Parents of Loudoun County” gave rise to a Loudoun County Sheriff’s Office Investigation and a massive eight-month effort to collect signatures to remove the six school board members who were in the Facebook group. In fact, at the time that Superintendent Ziegler made this statement, the removal case against a former school board member was pending in court with a hearing date for motions scheduled for that week.

Further, Ziegler was informed of the activities of “The Anti-Racist Parents of Loudoun County” Facebook group in an email on March 12, 2021 – the very day that the group was plotting to cancel dozens of parents for their views. See Exhibit I.

Additionally, following the exposure of “The Anti-Racist Parents of Loudoun County” by the Daily Wire on March 16, 2021, then-Interim Superintendent Ziegler stated the following in his “Update on Equity Work,” which was released to the public via email and the LCPS website:

“It has come to my attention that individuals, including some identifying themselves as LCPS employees, have made statements across social media about parents and their thoughts about

⁹ “Critical Race Theory in Disguise? Equity plan has Loudoun County parents at odds,” WJLA-TV, May 19: <https://wjla.com/features/i-team/critical-race-theory-in-disguise-equity-plan-has-loudoun-county-parents-at-odds>

¹⁰ “Sharyl Attkisson: Inside The Battle Over “Critical Race Theory” In Loudoun County, VA Public Schools, Real Clear Politics, October 3, 2021: https://www.realclearpolitics.com/video/2021/10/03/sharyl_attkisson_inside_the_battle_over_critical_race_theory_in_loudoun_county_va_public_schools.html

the school division's equity work. LCPS recognizes the right of its employees to free speech, but does not condone anyone targeting members of the community for their viewpoint."¹¹

At the March 23, 2021 school board meeting where Superintendent Ziegler was present, numerous speakers brought up the group's activities as did school board member John Beatty.¹²

Similarly, at the August 10, 2021 school board meeting, school board member Jeff Morse brought up the group's actions and the failure of several school board members to condemn its activities.¹³

This is a seventh example, on a matter of immense public concern to Loudoun County, where Superintendent Ziegler knowingly made a false statement to the community.

8. Superintendent Ziegler's False Statement to the Public at the September 22, 2020 School Board Meeting

At the September 22, 2020, the Loudoun County School Board took up Draft Policy 7560 as an information item. See Exhibit J.

The policy was to be a new Professional Conduct Policy which required all LCPS employees to *"support the school division's commitment to action-oriented equity practices through the performance of the job duties, as the Division engages in the disruption and dismantling of white supremacy, systemic racism, and language motivated by race, religion, country of origin, gender identity, sexual orientation, and/or ability."*

The policy further stated that the following would be a violation of the policy: *"Any comments or actions that are not in alignment with the school division's commitment to action-oriented equity practices and which impact an individual's ability to perform their job responsibilities or create a breach in trust bestowed upon them as an employee of the school division. This includes on-campus and off-campus speech, social media posts, and any other telephonic or electronic communications."*

The policy also stated that an employee's First Amendment rights may be outweighed *"[a]chieving consistent application of the Board's and Superintendent's state mission, goals, policies and directives, including protected class equity, racial equity, and the goal to root out systemic racism."*

Finally, the policy encouraged staff to report such speech violations, and prohibited retaliation against an individual for making false reports if they were made with subjective good faith.

¹¹ Office of the Superintendent: March 19, 2021 - Update on Equity Work: <https://www.lcps.org/Page/240170>

¹² Publicly accessible video of March 23, 2021 school board meeting: <https://vimeo.com/527781745>

¹³ Publicly accessible video of August 10, 2021 school board meeting: <https://vimeo.com/585378140>

This policy represented a drastic and unconstitutional assault of the First Amendment rights of teachers and staff. School board member Denise Corbo asked then-Assistant Superintendent Ziegler if LCPS had reached out to the Loudoun Education Association for input. Ziegler replied:

“This was given to LEA prior to consideration by the committee. They had the opportunity to comment on it. After the committee adopted it, I did hear from one of the LEA UniServ directors with favorable feedback. She thanked me for putting in place a policy for the division that made it clearer to employees what expected behavior was.”¹⁴

In response, Christy Sullivan, the UniServ director for the LEA, emailed Ziegler on September 24, 2020. See Exhibit K. She stated the following:

*“I am responding to the statements you made about LEA during the School Board meeting on Tuesday. LEA did not receive proposed policy 7560 ahead of time. LEA has always received all proposed [p]olicies the same day immediately after they are sent to the SB HRTD committee. That has not been happening lately. You Jeff Morse, and I even had an email conversation about making sure that happened. Kelly was at the virtual SB HRTD meeting: the Policy was not discussed prior to public comments. You and I **briefly** talked about the policy during a conversation about an HRTD employee issue. I stated LEA has seen cases in many of the areas cited in the policy and that I hoped it would help. I don’t believe Kelly or I said the policy was favorable. When a proposed policy comes out, Kelly, Sandy, and I review the Policy and get feedback from members. Sandy brought that feedback to the School Board meeting on Tuesday. At no time did LEA provide feedback and state this Policy was fine.*

“The way this is written looks like LCPS is trying to limit what employees can talk about, even on matters of public concern. This section needs much clarification for employees to believe LCPS is not attempting to remove their Constitutional Right to free speech.”

Based on the response of the LEA, not only did then-Assistant Superintendent Ziegler mislead school board member Denise Corbo, but he also knowingly misrepresented facts to the public about a proposed code of conduct that was a blatant violation of LCPS employees’ Constitutional rights.

While that policy was eventually pulled, Superintendent Ziegler later did exactly what was feared from this policy when LCPS suspended teacher Tanner Cross for exercising his First Amendment rights, off-campus, on a matter of public concern.

¹⁴ Publicly accessible video of September 22, 2020 school board meeting: <https://vimeo.com/460575112>

Superintendent Scott Ziegler Should Be Removed as Superintendent of Loudoun County Public Schools

Chapter 390, Section 10 of the Administrative Code of the Commonwealth of Virginia details the qualifications required for division superintendents. Under “Personal qualities,” it states that “[e]ligibility shall be limited to individuals whose records attest to good character and demonstrated ability as an educational administrator.”

Further, as set forth in the Virginia Department of Education’s “Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Administrators, and Superintendents,” a division superintendent is to be evaluated on several criteria, including (1) Communication and Community Relations, and (2) Professionalism. See Exhibit L, at 45-47.

As part of an evaluation of a superintendent’s “Communication and Community Relations,” sample performance indicators include the following: “[promoting] a climate of trust and teamwork within the division,” “models professionally appropriate communication skills, interpersonal relations, and conflict resolution,” “establishes, maintains, and evaluates a planned two-way system of communication with community constituencies,” “is politically astute and demonstrates the skills necessary to build community support to division goals and priorities,” “uses acceptable written and oral language,” and “treats people with respect.”

Similarly, as part of an evaluation of a superintendent’s “Professionalism,” division superintendents “models professional, moral, and ethical standards as well as personal integrity in all interactions,” “relates to board members, staff, and others in an ethical and professional manner,” “serves as an articulate spokesperson for the school division and represents the division favorably at the local, state, and national levels,” “resolves concerns and problems in an appropriate manner,” “respects and maintains confidentiality and assumes responsibility for personal actions and those of subordinates,” and “works in a collegial and collaborative manner with *** the community to promote and support the mission and goals of the school division.”

At every turn, Superintendent Scott Ziegler has demonstrated a complete and utter failure to adhere to his moral, ethical, and professional obligations as a division superintendent. He has created a climate of distrust at Loudoun County Public Schools with his repeated misrepresentations and false statements. His actions have engendered conflicts rather than resolved them. Superintendent Ziegler shows no sensitivity for his constituency, has lost the support and trust of the Loudoun community, and continues to disrespect that community with unethical and misleading spin and rhetoric. This is not the conduct of a leader who exemplifies the professional and personal integrity required to oversee the education of more than 81,000 children.

While there are likely more examples of this than the incidents cited in this letter, on major issues of public concern to the community, Superintendent Ziegler’s dishonest actions have

significantly contributed to the credibility gap that plagues Loudoun County Public Schools and has made a once great school system a national punch line.

I therefore request that, pursuant to your powers under the laws and regulations of the Commonwealth of Virginia, you recommend the removal Scott Ziegler as Superintendent of Loudoun County Public Schools.

Thank you for your consideration.

Sincerely,

Ian Prior

Ian Prior
Executive Director of Fight for Schools

EXHIBIT A

From: [Scott Ziegler](#)
To: [School Board Confidential](#)
Cc: [Ashley Ellis](#); [Timothy Flynn](#); [Kevin Lewis](#); [Joan Sahlgren](#)
Subject: CONFIDENTIAL School Incident
Date: Friday, May 28, 2021 4:09:00 PM

Good Afternoon, Board Members,

The purpose of this email is to provide you with information regarding an incident that occurred at Stone Bridge HS. This afternoon a female student alleged that a male student sexually assaulted her in the restroom. The LCSO is investigating the matter. Secondary to the assault investigation, the female student's parent responded to the school and caused a disruption by using threatening and profane language that was overheard by staff and students. Additional law enforcement units responded to the school to assist with the parent.

The school's counseling team is providing services for students who witnessed the parent's behavior. The alleged victim is being tended to by LCSO.

As LCSO is investigating both incidents, further updates may not be available.

Scott A. Ziegler, Ed.D.
Interim Superintendent of Schools
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Scott.Ziegler@lcps.org

EXHIBIT B



Public Records Request :: R000751-010322

1 message

Loudoun County Public Schools Public Records <lcps@govqa.us>

Mon, Jan 3, 2022 at 4:26 PM

To:



Dear Ian Prior:

Thank you for your interest in public records of Loudoun County Public Schools. Your request has been received and is being processed in accordance with the Virginia Freedom of Information Act. Your request was received in this office on 1/3/2022 and given the reference number R000751-010322 for tracking purposes.

Records Requested: -Any report or documents prepared by Blankingship & Keith, P.C. in conjunction with the independent investigation (hired on October 28, 2021 and announced on November 5, 2021) into LCPS's handling of allegations of student sexual misconduct at Stone Bridge and Broad Run high schools.

Your request will be forwarded to the relevant department(s) to locate the information you seek and to determine the volume and any costs associated with satisfying your request. You will be contacted about the availability and/or provided with copies of the records in question. PLEASE NOTE: The Virginia Freedom of Information Act does not require a governmental body to create new information, to do legal research, or to answer questions.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you for using the Public Records Center.

Loudoun County Public Schools

To monitor the progress or update this request please log into the [Public Records Center](#)



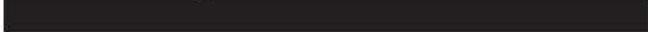
EXHIBIT C



[Records Center] Public Records Request :: R000751-010322

Loudoun County Public Schools Public Records <lcps@govqa.us>

Mon, Jan 10, 2022 at 4:46 PM



--- Please respond above this line ---



Mr. Prior,

There is one record responsive to your request, which is being withheld from disclosure in its entirety under Va. Code § 2.2-3705.1(2) relating to materials protected under the attorney client privilege. Furthermore, portions of the record are being withheld from disclosure under Code § 2.2-3705.4(A)(1) relating to scholastic information and Va. Code § 2.2-3705.1(1) relating to personnel information concerning identifiable individuals.

I also want to let you know that you currently have an outstanding charge of \$72.15 that has been outstanding for over 30 days. Please be advised that a public body may require a requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing under Va. Code § 2.2-3704(I).

- Wayde B. Byard

To monitor the progress or update this request please log into the [Public Records Center](#)



EXHIBIT D



Public Records Request :: R000758-011522

Loudoun County Public Schools Public Records <lcps@govqa.us>

Sat, Jan 15, 2022 at 5:31 PM



Dear Ian Prior:

Thank you for your interest in public records of Loudoun County Public Schools. Your request has been received and is being processed in accordance with the Virginia Freedom of Information Act. Your request was received in this office on 1/15/2022 and given the reference number R000758-011522 for tracking purposes.

Records Requested: -The retainer agreement between LCPS and Blankingship and Keith, signed on or around October 28, 2021, for the purposes of an independent review of LCPS's handling of the sexual assaults at Stone Bridge and Broad Run and announced by Superintendent Ziegler on November 5, 2021.

Your request will be forwarded to the relevant department(s) to locate the information you seek and to determine the volume and any costs associated with satisfying your request. You will be contacted about the availability and/or provided with copies of the records in question. PLEASE NOTE: The Virginia Freedom of Information Act does not require a governmental body to create new information, to do legal research, or to answer questions.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you for using the Public Records Center.

Loudoun County Public Schools

To monitor the progress or update this request please log into the [Public Records Center](#)



EXHIBIT E



[Records Center] Public Records Request :: R000758-011522

Loudoun County Public Schools Public Records <lcps@govqa.us>

Fri, Jan 21, 2022 at 11:27 AM



Dear Ian Prior,

RE: PUBLIC RECORDS REQUEST of January 15, 2022, Reference # R000758-011522

Dear Ian Prior,

The Loudoun County Public Schools received a public information request from you on January 15, 2022. Your request mentioned:

“-The retainer agreement between LCPS and Blankingship and Keith, signed on or around October 28, 2021, for the purposes of an independent review of LCPS’s handling of the sexual assaults at Stone Bridge and Broad Run and announced by Superintendent Ziegler on November 5, 2021.”

This email is to notify you that no records exist. Your request has been closed.

If you have any questions, please contact my office at . Thank you for your attention.

Sincerely,

Wayde Byard
Communications and Community Engagement

To view the full details of this request please log into the [Public Records Center](#).



EXHIBIT F



4020 University Drive
Suite 300
Fairfax, Virginia 22030
T: 703.691.1235
F: 703.691.3913

JOHN F. CAFFERKY
jcafferky@bklawva.com

June 15, 2021

By electronic mail (scott.ziegler@lcps.org)

Loudoun County School Board, c/o
Scott A. Ziegler, Ed. D.,
Division Superintendent
21000 Education Court
Ashburn, VA 20148

Re: Proposal to Provide Interim Outside Division Counsel Services

Dear Dr. Ziegler:

Following up our recent telephone conversation, this letter will confirm and constitute my firm, Blankingship & Keith, PC's (the "Firm") offer and intent to provide necessary legal services to the Loudoun County School Board, and Loudoun County Public Schools (LCPS) beginning July 1, 2021, on an interim "as needed/as requested" basis as a result of the retirement of LCPS Division Counsel later this month.

As I have mentioned, my practice over the last 35 years has been devoted primarily, and now almost exclusively, to representing Virginia school boards and school divisions. I have served (and serve) as Division Counsel to several, and outside counsel to numerous others. Both from experience and from talking to Mr. DeVita, I believe I have a good idea of the Board's and the Division's legal needs, as well as the way in which Division Counsel works with the various outside counsel (most of whom I know well) whom LCPS regularly engages. At the same time, I am confident that Mr. DeVita is familiar with my experience, and I have had some opportunity to work with your Board. Nonetheless, if you would like a detailed list of references, I would be more than happy to provide them.

My Firm will provide general advice and representation to LCPS and the School Board on all routine legal matters and, if requested, attend meetings of the School Board. Examples of routine matters that would be included are rendering advice over the telephone or by email to the School Board, the Superintendent and designated members of the Superintendent's staff, as appropriate; consulting with approved staff members as necessary to provide advice; and rendering written advice in circumstances which do not require substantial amounts of research.

In addition to general, routine representation, the Firm will provide legal advice and representation on non-routine matters when requested and agreed upon. Non-routine matters include litigation, complex hearings, EEOC complaints, OCR investigations, extensive contract review and negotiation, and other specific engagements requiring a significant amount of time. We will consult with you prior to opening separate non-routine matters so that you know, in advance, and have a clear

Loudoun County School Board, c/o
Scott A. Ziegler, Ed. D.,
Division Superintendent
June 15, 2021
Page Two of Four

understanding of what will result in supplementary legal fees. In addition, we will provide you with status updates from time to time during this engagement.

Our work under this agreement will be subject to the attached LCPS Guidelines for Outside Counsel ("Guidelines"). In the event of a conflict between this letter and the Guidelines, the Guidelines will control.

The Firm now includes a team of partners and associates who also provide legal advice, and litigation representation, to school boards and school divisions. These include, among others, Partners Bill Porter and Laurie Kirkland, who work with schools in litigation and HR matters; Jeremy Root, Giff Hampshire and Quint Robinson, who handle transactional and landuse matters; and Associates Melissa Little, Emily Haslebacher and Ian McElhaney, among others. Bios of all of them (in addition to mine) are available on our firm website.

For the sake of simplicity, we would propose to charge \$300 per hour for work by partners, and \$250 for Associates. This is the same rate as we charge to our regular school clients, and a significant discount from our regular rates, as well as a reduction from the rate we have been charging for occasional LCPS projects. We do reserve the right to review and revise our hourly billing rates as appropriate.

One important recommendation I have is that legal work should flow to, and from, Division Counsel via some established protocol. This prevents both left hand/right hand-type misunderstandings, as well as over-use of legal resources. Typically, I recommend that on the Board, the Chair and/or Vice-Chair have the ability to seek advice on behalf of the Board, and that other individual Board members go through the Board leadership do to so. On the Division side, typically I would communicate with the Superintendent and leadership team-level administrators, as well as those other school administrators or staff whom they in turn identify.

We bill on a monthly basis so it will be possible for you to monitor the work and the resulting fees on a regular basis. These bills will be sent to the Superintendent's office with a copy to the Director of Procurement's office. I or my designee will review all monthly invoices to see that they are appropriate, and you should feel free to discuss with the Firm any questions concerning any invoice. These bills will include charges for courier/delivery, postage, and court reporter costs as well as any additional sums that we advance on your behalf in relation to a case or matter. Our bills are due upon presentation, and though we have not found it necessary to do so, we reserve the right to charge interest at 6% per annum on any amounts that remain unpaid for more than 30 days.



4020 University Drive
Suite 300
Fairfax, Virginia 22030
T: 703.691.1235
F: 703.691.3913

JOHN F. CAFFERKY
jcafferky@bklawva.com

Loudoun County School Board, c/o
Scott A. Ziegler, Ed. D.,
Division Superintendent
June 15, 2021
Page Three of Four

It is essential to our representation of you that you cooperate with us fully and provide us all the information we need to assist the Board and Division. I encourage clients to keep detailed notes of questions that may arise and of any new information or other important matters that come to your attention.

One additional suggestion in that regard: Some of our regular clients have found it helpful to have the attorney on-site, in order to be available for staff to be able to drop by with questions that may arise, rather than always having to email them. I would be prepared to arrange to be on-site at LCPS central administration, say, twice per week on some scheduled basis for that purpose. In that situation, I do not charge billable time for the travel, nor for time while there spent on non-LCPS matters.

Communication via email is not necessarily the most secure means of communication, though nowadays, it is widely employed. In any event, by signing this agreement, you acknowledge that we may correspond by email, notwithstanding the risk that communications may be intercepted by third parties.

If at any time you become dissatisfied with our handling of any matter, you should not hesitate to tell me immediately so we can resolve the problem and maintain a good relationship with you. LCPS may terminate our representation at any time. In the event of termination, LCPS will be responsible for payment of any fees earned or expenses incurred. Blankingship & Keith may terminate this relationship upon written notice and only as permitted or required by laws and regulations, or if you fail to cooperate or follow our advice on a material matter, or if there exists at any time a factor circumstance that would, in our opinion, render our continuing representation unlawful, unethical, or otherwise inappropriate. Failure to pay fees or expenses will be cause for such termination.

The Firm also agrees, upon termination, to undertake steps to the extent reasonably practicable to protect your interests, including allowing time for employment of other counsel and providing your file as required by the Virginia Rules of Professional Conduct.

The Firm will take reasonable steps to protect the confidentiality of all confidential information obtained during the course of our representation of you including after the termination of the matter. If the Firm receives a demand from any person or entity for the contents of your file, the Firm will use its best efforts to immediately notify you of such a demand so that you may take what efforts you think appropriate to resist or comply with the demand.

The Firm shall provide services as an independent professional. Under no circumstances will the Firm be considered an employee of the School Board.

Loudoun County School Board, c/o
Scott A. Ziegler, Ed. D.,
Division Superintendent
June 15, 2021
Page Four of Four

The Firm shall assume all risks for damage or injury to their property, their person, or to their employees or subcontractors as a result of or in connection with the contracted services. The Firm shall assume responsibility for damage they cause to the property of others as well as any personal or bodily injury they cause to others in connection with the agreed upon services.

The Firm shall maintain in force during the term of this engagement general liability and lawyers' professional liability insurance, with coverage of at least One Million Dollars (\$1,000,000) for each occurrence, insuring itself and its agents and employees for their wrongful acts, omissions or negligence. The Firm shall provide to LCPS evidence of such insurance coverage in the form of a Certificate of Insurance.

If the terms of this engagement letter are acceptable, please sign below and return a signed copy to me.

Please call me if you have any questions regarding the terms of our proposed representation. We look forward to the prospect of working with you, LCPS and the Board.

Very truly yours



John F. Cafferky

Accepted By:

Scott A. Ziegler, Ed.D.
Division Superintendent
Loudoun County Public Schools

Signature: _____

Date: June 16, 2021

GUIDELINES FOR OUTSIDE COUNSEL

These guidelines provide for when and how to bill for services, describe reimbursable costs, and provide expectations for planning and budgeting for legal cases/projects reasonably anticipated to meet or exceed \$10,000. Legal services may be procured by competitive negotiations for any cases/projects or other matters whose aggregate phases are expected to meet or exceed \$60,000.

I. BILLING

- A. Format. A separate billing statement should be submitted for each School Board case/project for which the Firm or attorney is working. If the Firm submits a single statement, itemized billable hours and disbursements for each project should be set forth in a separate section of the statement. The following information is required on each billing statement with respect to each case/project:
1. Title of the project (assigned upon retention of services by the responsible School Board staff member).
 2. Name of the outside attorney in charge of the project.
 3. For each date that services are rendered, a description should accompany the entry and the amount of time spent (see Paragraph B below) and be written with sufficient specificity so that the School Board staff member may understand the nature of the time spent, the specific subject matter and transaction and should include factually detailed information.
 4. Entries should be listed or compartmentalized in a fashion that facilitates redaction of confidential information, if necessary.
 5. Total hours billed for the period by each provider of services.
 6. Billing rate for each provider of services.
 7. Specific fee arrangements, if applicable.
 8. Aggregate fees for the monthly billing period.
 9. Itemized disbursements for the monthly billing period.
 10. The Total Approved Budget for the Case/Project, if any.
 11. The total amount billed on the case/project from inception through the current bill.
 12. No bill should be submitted with blocked/bulk time entries. Time entries must be separated by each task performed.
- B. Rates and Practices
1. Notice of any changes in rates must be provided to the School Board, in writing, before becoming effective.
 2. Hourly billable rates shall be billed in six (6) minute increments as reflected by one/10th (.10) increments on a monthly bill. Quarter (.25) incremental billing or minimal fifteen (15) minute billing increments are prohibited.
 3. Cases and matters should be staffed by the fewest number of attorneys and paralegals necessary to perform the work effectively and efficiently without jeopardizing quality.

4. The School Board will not pay for the attendance of more than one attorney at meetings, depositions, interviews, hearings or other investigative and/or pre-trial matters, unless approval is obtained at last seven (7) days in advance.
5. Selection of attorneys and legal assistants to work on an assigned case/project should be identified in plans and budgets for projects anticipated to meet or exceed \$10,000 and agreed to by the School Board. The School Board generally prefers not to have first- or second-year associates or summer associates assigned to its cases/projects. If it is necessary to associate with counsel outside the firm, or to retain experts to work on a project, you must advise us in advance of the need for their involvement, their billing rates and the budget for their services and obtain our approval before retaining them regardless of whether costs are reasonably anticipated to meet or exceed \$10,000.
6. The School Board will not pay for the Firm's attorneys/paralegals participating in internal Firm meetings or discussions without our presence. The School Board does not pay to offset the training or supervision of associates or others. We also ask you to keep to a minimum the number of attorneys participating in telephone and office conferences with us for whom you intend to bill.
7. The School Board retains outside counsel for their expertise in the areas of law involved in a project. Therefore, we do not expect basic research, seminars, or other trainings to be part of any plan, budget, or billings. Any proposed material research memoranda should be itemized in any approved plan and budget. Research on a body of law that outside counsel should be familiar will not be allowed.
8. Duplication/repetition of effort among staff members must be avoided.
9. Attorneys and paralegals may not bill for clerical tasks.
10. The School Board will not pay to bring associates or staff up to speed on a case due to unforeseen changes in staffing by the Firm.
11. The School Board will not pay for time spent in preparing, revising, or discussing budgets or bills or answering questions about the budget or bills.

C. Frequency and Retention of Bills

1. Unless another arrangement has been agreed to in writing, bills should be submitted monthly, no later than fifteen (15) days following the last business day of the month during which services were rendered.
2. Outside counsel is required to prepare and maintain all bills and supporting documentation for seven (7) years. For audit purposes, daily time sheets maintained by attorney name, caption, date, time with a detailed description of services are to be included in the needed documentation.

II. REIMBURSEMENTS

A. Travel

1. Travel to and from meetings, depositions, hearings, trials, etc. shall not be allowed except with advance approval and shall be paid at one-half the usual hourly rate or the Firm's travel rate, whichever is lower, for in-state travel. If the Firm has no travel rate that is customarily charged to clients, then there shall be no travel rate charged to the School Board or if the customarily charged rate is lower than the formula here, then the School Board shall receive the benefit of the lower rate.
2. Travel time and expenses will be disallowed if travel distance from outside counsel's office to destination is within a ten (10) mile radius, including travel time to and from the courthouse or other destination for attending hearings or depositions or the filing of pleadings or other litigation or pre-litigation activities.

3. Should out-of-state travel become necessary, outside counsel shall always seek pre-approval from the responsible School Board staff member. When the occasion arises, outside counsel should seek the most economical means of travel and instruct travel agents accordingly. In any event, air travel will not be reimbursed at more than coach (domestic) or business class (international) rates. Similarly, expenses for lodging and ground transportation should be as economical as reasonably feasible. Receipts are required for all travel expenses, except meals. Meals will be reimbursed at \$61 per full day.
4. Outside counsel is urged to plan travel so that travel time may be used to work either on the School Board matter for which the travel is being undertaken or for other clients so as to avoid billing the School Board for unproductive time.

B. Digital Legal Research

1. Major computerized research projects should be authorized in advance. A computerized research project is considered major when the online time is expected to exceed three (3) hours. Repetitive research queries that duplicate prior research conducted in other cases on the same issue will not be allowed. However, reasonable time to update and/or modify prior research for use in a new case is acceptable, and therefore, compensable.
2. Should the need arise for outside counsel to retain an expert, other specialized service provider, or other specialized services, written pre-approval must be obtained from the responsible School Board employee at least seven (7) days in advance of retaining the expert, the service provider or specialized services.
3. Charging for the use of a "litigation support department" or other such personnel to handle eDiscovery or other electronically stored information shall be prohibited in routine matters and may be considered by the School Board only upon advanced written request from the Firm containing a stated budget estimate.

C. Other Reimbursements

1. The School Board will not reimburse for courier service or expedited mail when the urgency is a matter within outside counsel's control.
2. The School Board will reimburse the following disbursements as indicated:
 - (i) Lexis/Nexis and/or Westlaw Cost
 - (ii) Law firm photocopies cost, not to exceed \$.05/page
 - (iii) Postage/courier cost
 - (iv) Office long-distance telephone and fax cost
 - (v) Printing and binding cost
3. The School Board will not reimburse for the following:
 - (i) Mail handling
 - (ii) New File Set up
 - (iii) Calendar maintenance
 - (iv) Copying when digital copies could have been provided,
 - (v) Faxing,
 - (vi) Data Entry
 - (vii) Routine Scheduling
 - (viii) Enclosure or transmittal letters (attorney or clerical time)
 - (ix) Secretarial overtime
 - (x) First Class airfare
 - (xi) Scheduling of events, i.e., depositions, hearings, etc.

III. LEGAL PROJECT MANAGEMENT PROCEDURES

A. Plan and Budget

1. For legal projects, whether transactional or litigation, strategic plans and budgets are the primary mechanisms by which the School Board collaborates with outside counsel to promote the best legal/business result possible. This enables the School Board to most effectively manage and monitor a project, to control costs and plan internal department budgets, and to mobilize needed in-house resources. In litigation matters, it permits the School Board to evaluate potential exposure, to analyze settlement values and approaches and to develop the most effective strategies for successful dispute resolution.
2. Consequently, a plan and budget must be prepared at the inception of any case or legal project for which costs are reasonably anticipated to meet or exceed a total of \$10,000. No payment for services will be authorized until a plan and budget have been submitted and approved.
3. The School Board will not pay for time spent preparing or revising project plans and budgets.
4. The budget should represent a realistic estimate of the time expected to be required, taking into consideration known facts and circumstances. The total budgeted expense should be expressed as a dollar amount, not a range, and should not factor in unforeseen contingencies. For complex projects, the plan and budget may encompass only the initial phase of a project. Subsequent phases may be planned and budgeted later.

B. Essential Components

1. The degree of detail required will vary with the complexity and projected total cost of any given assignment and should be discussed with the responsible School Board department when retained. At a minimum, a Legal Case/Project Budget must be completed and approved for each legal project meeting the criteria. The following information should be provided:
2. Name of case/project.
3. Identification of partners, associates and legal assistants who will staff the project and their billing rates.
4. A description of the legal project, itemizing the material legal services to be undertaken, the estimated hours/cost required for each and the key milestones (by date or time period, as appropriate) for completion.
5. Identification of any significant expected expenditures for experts, travel, printing, filings, exhibits, eDiscovery and the like.
6. For litigation: an evaluation (to be updated or refined as developments warrant) of probable exposure/award ranges, settlement prospects and strategies, and opportunities for alternative dispute resolution.
7. For non-litigation: preliminary identification of primary areas of legal or factual investigation or research, and/or proposed strategy.
8. In many cases, we anticipate that the plan and budget will be created following discussions among the School Board, business services representatives, Division Counsel, and outside counsel, at the inception of the project. After the School Board has received the plan and budget from the Firm, we will discuss any questions or comments we may have, and any changes required before the plan and budget are approved.

C. Revisions of the Plan and Budget

1. The budget represents the total amount authorized to be paid for the specific legal project unless a revised budget is approved by the School Board.
2. In the event unforeseen developments signal that the budget is in danger of being exceeded, outside counsel will inform the School Board before the budget is exceeded in order to discuss the new developments, the alternative strategies available, and to agree upon a revised plan and budget for the project.
3. A revised budget must be approved before services will be authorized in excess of the original budget.

D. Reporting. Outside counsel are not required to provide written reports provided the School Board department head is kept informed of substantial developments or unless a written report is requested by the School Board department head.

E. Documentation. Outside counsel must always provide the School Board department head the following documentation in a timely manner:

1. Copies of all pleadings and amended pleadings, reports, evaluations, memoranda, legal research, legal opinions, or other substantive documents that are either prepared or received by outside counsel.
2. A copy must also be sent to Division Counsel when applicable.

F. No payment will be made for preparation of pleadings and other substantive documents when copies have not been furnished to the School Board for advance review and/or approval.

IV. DISPUTE RESOLUTION

A. Regarding any dispute with the Firm, the Firm shall first be required to seek the decision of the Division Superintendent prior to instituting any legal action in any court. All legal actions shall be brought in the Loudoun County Circuit Court. Each party will pay their own legal fees.

B. Binding arbitration is strictly prohibited.

C. Non-binding mediation may be mutually agreed upon by the parties.

EXHIBIT G

Transcript of Trial
Conducted on September 22, 2021

<p>1 IN THE GENERAL DISTRICT COURT OF LOUDOUN COUNTY 2 -----x 3 COMMONWEALTH OF VIRGINIA, : 4 Plaintiff, : Case No. 5 vs. : GC 21002176-00 6 JON TIGGES, : 7 Defendant. : 8 -----x 9 10 Hearing 11 Before the Honorable IAN R.B. WILLIAMS 12 Leesburg, Virginia 13 Wednesday, September 22, 2021 14 9:32 a.m. 15 16 17 18 19 20 Job No.: 401256 21 Pages: 1 - 176 22 Transcribed by: Teresa R. Salazar</p>	<p>1 A P P E A R A N C E S 2 3 ON BEHALF OF THE PLAINTIFF: 4 BUTA BIBERAJ, ESQUIRE 5 LOUDOUN COUNTY ATTORNEY'S OFFICE 6 20 East Market Street 7 Leesburg, Virginia 20176 8 (703) 777-0242 9 10 ON BEHALF OF THE DEFENDANT: 11 CHRISTOPHER I. KACHOUROFF, ESQUIRE 12 DOMINION LAW CENTER, P.C. 13 13649 Office Place 14 Suite 101 15 Woodbridge, Virginia 22192 16 (703) 365-9900 17 18 19 20 21 22</p>
<p>1 Hearing held at: 2 3 LOUDOUN GENERAL DISTRICT COURT 4 18 East Market Street 5 Leesburg, Virginia 20176 6 (703)777-0312 7 8 Pursuant to agreement, before Brendon Cuenca, 9 Notary Public in and for the State of Maryland. 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	<p>1 A P P E A R A N C E S 2 (Continued) 3 4 ON BEHALF OF DEFENDANT: 5 JOSH HETZLER, ESQUIRE 6 FOUNDING FREEDOMS LAW CENTER 7 707 East Franklin Street 8 Richmond, Virginia 23219 9 (804) 971-5509 10 11 ALSO PRESENT: 12 Jon Tigges, Defendant 13 14 15 16 17 18 19 20 21 22</p>

Transcript of Trial
Conducted on September 22, 2021

9	11
1 be my first witness.	1 THE COURT: Okay. Would either counsel
2 THE COURT: All right. He can stay	2 like to make an opening statement?
3 where he is right now. The other witnesses need	3 MS. BIBERAJ: We would, Judge, briefly.
4 to go out in the hall. Do not discuss this case	4 THE COURT: If either counsel at that
5 while you are waiting. And we will call you if	5 distance may lower your mask if you wish to
6 and when you're needed as a witness.	6 communicate more efficiently.
7 THE COURT REPORTER: Your Honor, would	7 MS. BIBERAJ: Thank you, Judge, and I
8 you like to swear me in?	8 may do that just when addressing the Court.
9 THE COURT: Do you swear or affirm	9 Thank you for the benefit to be able to do that.
10 you'll transcribe the evidence and the testimony	10 Good morning.
11 presented here today to the best of your ability	11 THE COURT: Good morning.
12 under penalty of law?	12 MS. BIBERAJ: Judge, on June 22nd of
13 THE COURT REPORTER: I do.	13 2021, in the Loudoun County Public School
14 THE COURT: Thank you very much.	14 administration building located in Loudoun
15 THE COURT REPORTER: Thank you.	15 County, there was a school board meeting. Based
16 THE COURT: All right. And you said	16 on the incidence of that evening, it was assessed
17 you had some matters you wanted the Court to	17 that the level of risk to the community as far as
18 address?	18 individuals becoming agitated and aggressive, the
19 MR. KACHOUROFF: Yes, Your Honor. The	19 school board ended up terminating the public
20 first thing, he's been charged under 18.2-119 and	20 comment.
21 for being warned for trespass at a school board	21 That was made -- the announcement was
22 assembly. I believe the correct charging statute	22 made by Dr. Ziegler, who is the agent of Loudoun
10	12
1 should be 18.2-128, which is trespass upon school	1 County Public School System, directing
2 property is what this case arises out of, and so	2 individuals to go ahead and vacate the boardroom.
3 I would request that the Commonwealth either	3 That warning and that request was repeated on
4 amend it or move to dismiss. I think they'll	4 numerous occasions.
5 amend it.	5 Mr. Jon Tigges, who we'll identify for
6 THE COURT: I don't know. What's your	6 the Court as the person in the courtroom here
7 response to that?	7 today --
8 MS. BIBERAJ: Judge, if the Court would	8 MR. KACHOUROFF: We'll stipulate.
9 grant me one second.	9 MS. BIBERAJ: -- ended up refusing to
10 Judge, we would ask the Court to amend	10 leave when specifically asked whether or not he
11 it to 18.2-128, Subsection B.	11 was going to leave. He was then placed under
12 THE COURT: 18.2-128, B as in?	12 arrest. Later, after some of the other
13 MS. BIBERAJ: B as in Boy, sir.	13 incidences related to the crowd control, he was
14 THE COURT: Bob. Any objection to	14 released on a summons and is here today for
15 that?	15 trial.
16 MR. KACHOUROFF: No, Your Honor.	16 We would ask the Court at that point to
17 THE COURT: All right. That's done.	17 find that he willfully refused to leave the
18 That's amended. Any other preliminary matters	18 premises as directed by the proper authorities
19 that need to be addressed?	19 and, therefore, is guilty of trespass upon school
20 MS. BIBERAJ: Not on the part of the	20 property. Thank you.
21 Commonwealth.	21 THE COURT: Okay. Would you like to
22 MR. KACHOUROFF: No, Your Honor.	22 make an opening?

Transcript of Trial
Conducted on September 22, 2021

<p style="text-align: right;">13</p> <p>1 MR. KACHOUROFF: Please, Your Honor, 2 briefly. 3 May it please the Court, this was a 4 school board meeting and under Virginia law, as 5 the Court may know, I think it's 2.2-3707, the 6 open meeting statute, all public meetings that 7 are designated for -- as a public forum, you're 8 entitled to have the public there listening. 9 Now in this particular open meeting 10 case, you have a school board that decides to 11 terminate public comment, and they decide to 12 terminate public comment because people are not 13 showing applause this way. And I'm motioning 14 with my hands. They call them -- I don't know if 15 they call them glee hands or jazz hands, where 16 that's how they show their approbation and 17 applause to a speaker. The school board didn't 18 like this (claps hands), so -- and I'm clapping, 19 obviously for the court reporter's benefit. 20 So in this open meeting statute where 21 you have a crowd that's present, they have a 22 right to be there. It's a duly noticed meeting.</p>	<p style="text-align: right;">15</p> <p>1 for this to be an unlawful assembly, there's two 2 things that have to occur and this is under 18.2- 3 406. First, three or more persons assembled 4 share the common intent to advance some lawful or 5 unlawful purpose by the commission of an act or 6 acts of unlawful force or violence likely to 7 jeopardize serious public safety, peace, or 8 order, and the assembly actually intends to 9 inspire persons of ordinary courage with well- 10 grounded fear of serious and immediate breaches 11 of public safety, etcetera, etcetera. 12 So there's two components, lawful or 13 unlawful use of force or violence and likely -- 14 and the assembly actually tends to inspire 15 persons of ordinary courage with well-grounded 16 fear of serious and immediate breach to public 17 safety, peace, or order. Then the statute 18 declares it is an unlawful assembly. 19 So we have a conundrum that you'll face 20 when you -- the issue in this case is this. Was 21 the superintendent correct in dictating that this 22 was an unlawful assembly? I fully expect the</p>
<p style="text-align: right;">14</p> <p>1 The school board sets the time, place, and 2 manner. They actually designated a portion of 3 the public meeting for public comment. Now they 4 decided to terminate public comment and went on 5 recess. The public meeting wasn't over. The 6 public had a right to be there. Indeed, one the 7 deputies stayed for that meeting after the room 8 was clear because he wanted to hear a point that 9 was going to be discussed, so basically operating 10 as a member of the public at that point. 11 I heard my colleague say that it was 12 assessed that there was a risk, that there was 13 this level of agitation and safety to the public. 14 Well, Virginia statutes cover that, and they have 15 codified -- the general assembly had codified a 16 well-known statute. It's the unlawful assembly 17 statute and that statute is probative here 18 because, first of all, the superintendent, as 19 you'll hear -- I know they won't deny this. They 20 can't because it's on tape -- declares this to be 21 an unlawful assembly. 22 And under the Virginia Code, in order</p>	<p style="text-align: right;">16</p> <p>1 officers who I spoke with moments ago to testify 2 that they declared of their own determination 3 that the trespass should be declared, nothing to 4 do with the superintendent's declaration of 5 unlawful assembly. I suspect they know that 6 there's not three or more persons. 7 There was an incident and you'll hear 8 about that but essentially, if you look at brief 9 chronology, and I generally hate doing 10 chronologies because they're tedious, but 11 generally speaking, the board doesn't like the 12 clapping. They warned the crowd not do it again, 13 so the crowd for the most part complies. Then 14 Former Senator Dick Black gets up with a rousing 15 speech and they can't help themselves and they 16 clap. The clapping dies down. 17 The board determines that it is going 18 into recess and they're terminating public 19 comment. They didn't terminate the meeting, just 20 public comment. So during this time, Jon Tigges 21 stood up and said to the folks, look, we all came 22 here to talk, so while they're in recess, why</p>

<p style="text-align: right;">17</p> <p>1 don't each of you say what you wanted to say, 2 take a minute and address the crowd since 3 nobody's in the room, and they were still waiting 4 for the board to resume on the dais. 5 During that time, a squabble breaks 6 out. Somebody in the front row, a gentleman who 7 was already -- his case has being adjudicated in 8 the circuit court -- a leftist protestor came up 9 to him and said that his daughter wasn't really 10 molested in school. He -- 11 MS. BIBERAJ: Objection, Judge. I 12 don't mean to interrupt, but this has nothing to 13 do with the proceedings before the Court. It's 14 only intended at this point to prejudice the 15 Court for some other unrelated matter and I would 16 object and ask Counsel to stick to the issues of 17 June 22nd, as they relate to Mr. Tigges. 18 MR. KACHOUROFF: My understanding was 19 she opened the door when she said there was a 20 risk of -- high level risk of agitation. If 21 she's not going to bring that up and I'll 22 stipulate then that we -- that's irrelevant to</p>	<p style="text-align: right;">19</p> <p>1 welcome to continue. 2 MR. KACHOUROFF: I'm merely reciting 3 facts to you, Judge, of what's transpiring, so if 4 she -- they're going to raise this issue, and so 5 I'm just going to briefly go over it and you can 6 decide -- you, as the fact-finder and experienced 7 judge can determine whether it's relevant or not 8 relevant. 9 But essentially, one of the officers 10 comes up behind the guy. They don't -- grabs 11 him. He says, get off me. They all tackle him. 12 In the meantime, Mr. Tigges is at the front and 13 he says -- tells everybody just to wait, stand 14 down until the police do their job. So the 15 police remove this gentleman. There was no 16 further incident. 17 They continue the public speaking. It 18 goes on for another five minutes. Everybody's 19 being orderly. There were some people singing 20 "The Star-Spangled Banner" or the National 21 Anthem, if you will, and then the superintendent 22 comes on the scene and he says that this -- he's</p>
<p style="text-align: right;">18</p> <p>1 the case by her proffer. I mean, that's up -- 2 THE COURT: Well, I understand that 3 she's saying the argument is not relevant. 4 MR. KACHOUROFF: Right. So I'm 5 stipulating that that's not relevant. 6 THE COURT: (Indiscernible). 7 MR. KACHOUROFF: That makes her case 8 more difficult to prove this unlawful assembly, 9 so that -- I'll accept it as is, if that's what 10 she wants. 11 THE COURT: Has he correctly recited 12 your position on this? 13 MS. BIBERAJ: No, Judge. The point 14 that I was making is what was the reason as to 15 why that person that was unrelated to Mr. Tigges, 16 as far as their interaction, was arrested and 17 what may have happened or not happened was not 18 before the -- is not before the Court on that 19 issue, so what happened to Mr. Smith -- is the 20 person that he's referring to -- is not an issue 21 before the Court. That was the point that I was 22 objecting to. Everything else, he's more than</p>	<p style="text-align: right;">20</p> <p>1 declaring an unlawful assembly, at which point 2 the sheriff's department then comes on board and 3 says, y'all have to leave. You're being warned 4 for trespass. 5 Sheriff's department is going to get up 6 here and I expect them fully to testify in the 7 same manner that they told me just moments ago, 8 that they made their determination of trespass 9 separate and independent of the unlawful assembly 10 that was declared by the superintendent. So 11 there's problems with that, of course. First of 12 all, there was no unlawful assembly. Secondly, 13 the sheriff's department doesn't have the 14 authority to clear that room, a public meeting, 15 unless there some reason to clear it, some reason 16 that trumps the First Amendment, trumps the open 17 meeting laws in Virginia. 18 So I would argue, Your Honor, that 19 under the statutes that we have, 18.2-128, a 20 trespass upon school property which is before 21 you, Subsection A talks about people being there, 22 that you're not allowed to be on the property,</p>

<p style="text-align: right;">21</p> <p>1 other than to attend a meeting or service held or 2 conducted in such church or school property. So 3 they were there to attend the property, and 4 Subsection B says, it shall be unlawful for any 5 person, whether or not a church member or 6 student, to enter upon or remain upon any church 7 or school property in violation of any direction 8 to vacate the property by a person authorized to 9 give such direction. 10 The sheriff's department has no 11 authorization to end the public meeting. Only 12 the school board can. The public meeting hadn't 13 end -- I want to just clarify that. That's what 14 the issue is. The public comment period had 15 ended. Based upon that, the Commonwealth cannot 16 prove their case. It's not possible to show that 17 there was an unlawful assembly. The school board 18 just can't sua sponte of their own accord decide 19 that they don't want to hear any more of the 20 public or they don't want to face their 21 constituents. They just can't. Their authority 22 to terminate a meeting, well, we don't even get</p>	<p style="text-align: right;">23</p> <p>1 questions by the Commonwealth attorney first, and 2 then the attorney for the Defendant may also have 3 questions for you. Thank you. 4 THE WITNESS: Yes, sir. Thank you. 5 Whereupon, 6 DR. SCOTT ZIEGLER, 7 being first duly sworn or affirmed to testify to 8 the truth, the whole truth, and nothing but the 9 truth, was examined and testified as follows: 10 DIRECT EXAMINATION BY COUNSEL FOR THE PLAINTIFF 11 BY MS. BIBERAJ: 12 Q. Good morning, Dr. Ziegler. 13 A. Good morning. 14 Q. Dr. Ziegler, can you state your full 15 name for His Honor, please? 16 A. Sure. Dr. Scott Ziegler. 17 Q. And I'm going to direct your attention 18 please to June 22nd of 2020. 19 Were you employed on that day? 20 A. Yes, I was. 21 Q. And what was your -- the capacity of 22 your employment?</p>
<p style="text-align: right;">22</p> <p>1 to that question because the school board never 2 did. 3 When the room was cleared, they then 4 came back and conducted the meeting and I 5 maintain in violation of the open meeting law, 6 but the point is that's not what's before you. 7 What's before you is whether the sheriff had the 8 authority independent of the superintendent to 9 clear the room for trespass, to clear a lawful 10 and valid public assembly that was there for a 11 public purpose, to lawfully clear them for -- and 12 warn them for trespass and arrest those people on 13 the board. They did not. 14 Thank you, Your Honor. 15 THE COURT: Okay. Thank you. The 16 Commonwealth will call its first witness. 17 MS. BIBERAJ: Judge, our first witness 18 will be Dr. Ziegler, please. 19 THE COURT: Dr. Ziegler, come forward 20 to the witness stand, which is up here to your 21 right. You were sworn earlier with the other 22 witnesses. And have a seat and you will be asked</p>	<p style="text-align: right;">24</p> <p>1 A. I was, on June 22nd, the interim 2 superintendent of Loudoun County Public Schools. 3 Q. All right. And can you give the Court a 4 little bit of information as to what does that 5 mean in relationship to your position and 6 authority with the Loudoun County Public Schools? 7 A. The superintendent is charged with the 8 day-to-day operations of the school, and proposing 9 budgets, overseeing instruction, overseeing 10 operations. Basically, the superintendent is the 11 CEO of the organization. 12 Q. Excellent. And on that particular day, 13 could you tell the Court please around about the 6 14 o'clock hour, where were you? 15 A. I was in the boardroom. 16 Q. Okay. And prior to that time -- I want 17 to just lay a little bit of the background -- was 18 there a school board meeting already planned for 19 on that day? 20 A. There was. 21 Q. All right. And did it come to your 22 attention that this board meeting was going to be</p>

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1 heavily attended?
2 **A. Yes.**
3 Q. And how did you come to learn that?
4 **A. Intelligence provided by our security**
5 **director and also shared with -- my understanding**
6 **is with the Loudoun County Sheriff's office -- led**
7 **us to believe that there would be a large number**
8 **of people in attendance at that meeting. We also**
9 **do sign-ups for public speaking and there was an**
10 **unusually large number of individuals that signed**
11 **up for public speaking.**
12 Q. Do you know what the capacity is of that
13 boardroom?
14 **A. It is just under 700.**
15 Q. Okay. And at some time, based on your
16 observations from that evening, was it near
17 capacity, at capacity, greater?
18 **A. It was at capacity. We had -- as far as**
19 **I could see -- nearly every chair was filled and**
20 **there was individuals standing along the back**
21 **wall. I believe the count at the door was 669 or**
22 **thereabouts.**

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1 Q. Okay. The way that the board meetings
2 are set up, can you just please describe for the
3 Judge as to how the room is set up, as far as the
4 dais and the public, where they sit relative to
5 one another.
6 **A. The dais is a curved desk-like**
7 **structure. All nine members of the school board**
8 **sit behind that I sit behind that as well. One**
9 **school board member was attending via**
10 **videoconferencing that evening. About 10 or 12**
11 **feet in front of the -- well, about six feet,**
12 **there is a podium with a computer control on it,**
13 **and another six feet beyond that is the first row**
14 **of the gallery. And then staff sits up on --**
15 **generally on either side but staff has tables and**
16 **desks on either side of the dais.**
17 Q. Okay. The building wherein this meeting
18 was held, is that owned by the Loudoun County
19 Public School System?
20 **A. It is.**
21 Q. And can you tell the Judge, please,
22 where is that located?

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1 **A. At 21,000 Education Court in Ashburn.**
2 Q. All right. And is Ashburn in Loudoun
3 County?
4 **A. It is.**
5 Q. While the meeting was taking place on
6 the dais, there's some mention of counsel as far
7 as what proper decorum is for those who attend
8 those meetings.
9 Can you give the Court a little bit of
10 information as to how audience is expected and
11 directed to act when they attend such meetings?
12 **A. It is designed to be a respectful venue,**
13 **where the public -- during that portion of the**
14 **meeting when the public is giving their comment,**
15 **the chair often asks -- and it is posted both in**
16 **the sign-ups and in the agenda -- about proper**
17 **decorum for the school board. And so that means**
18 **being respectful of other speakers, not doing**
19 **things like booing or offering gestures to**
20 **speakers with whom you agree or disagree, and**
21 **basically the chair would ask for the room to be**
22 **generally quiet and respectful of speakers.**

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1 Q. Okay. And is that done so that each
2 person who is speaking can have their time to
3 speak and be heard?
4 **A. That's correct, yes.**
5 Q. On this particular evening, did
6 something happen from the start of the meeting
7 into the meeting that caused you to be concerned
8 or have concerns as to the behavior that was being
9 conducted during the meeting?
10 **A. Yes, ma'am. One, it was a large crowd,**
11 **so I was concerned about -- if there was an**
12 **emergency -- about people being able to get out of**
13 **the room expeditiously if we had to evacuate but**
14 **there was also several instances where the crowd**
15 **would get loud and disrespectful to speakers.**
16 **There was a lot of booing. There was a lot**
17 **of finger-pointing. There was shouting from the**
18 **gallery during several public speakers' comments**
19 **either before or afterwards. I saw people that**
20 **were raising fists, that were giving the finger.**
21 **All of these things were occurring early in the**
22 **meeting on a regular basis and got to the point**

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1 **where it was so rancorous that the board chair**
2 **declared a brief recess.**
3 Q. Okay. So now I want to go a little bit
4 back into your personal background.
5 What about having seen that type of behavior
6 caused you to be concerned, you said, for the
7 safety of the attendees? What did you base that
8 on? Do you have any training or experience in
9 being able to assess incidences such as that?
10 **A. I do, yes.**
11 Q. Can you tell the Court, please, based on
12 your background, what would that be?
13 **A. From 1984 to 2003, I served as a police**
14 **chaplain with the City of Virginia Beach, logged**
15 **over -- well over 10,000 hours of service with the**
16 **city police department during that time.**
17 **One of the main duties of a chaplain at that**
18 **time was to assist with patrol during the summer**
19 **months at the Virginia Beach resort area, which**
20 **was particularly an area called The Block, which**
21 **was often crowded, a number of bars on that**
22 **street, and so we were trained to read crowds and**

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1 **to intervene when necessary. And we would also**
2 **form a protective shield around police officers**
3 **when they were conducting arrests and hold the**
4 **crowd back at bay, while arrests were being**
5 **conducted.**
6 Q. What did you obtain in your training to
7 be identifiers to suggest to you that risk is
8 being challenged, that you then saw during this
9 board hearing?
10 **A. So we were trained to evaluate voice**
11 **tone. We were trained to evaluate body language,**
12 **stances, posturing, body position. All of these**
13 **things were -- we were told to be on the lookout**
14 **for the crowd and to de-escalate when possible but**
15 **to bring in police intervention whenever needed.**
16 Q. Okay. And you said as far as to de-
17 escalate. What forms of de-escalation were you
18 trained that you can employ when the situation is
19 starting to get, in my words, hot?
20 **A. We would try separating individuals. We**
21 **would try personal interaction. As a chaplain, of**
22 **course, we're there not in an enforcement role,**

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1 **but we're there to help with community relations,**
2 **so often time, we would talk with individuals and**
3 **try to de-escalate, try to get them to commit to a**
4 **different course of action.**
5 Q. Okay. From the consummate from the
6 dais, what efforts were made by the chair of the
7 school board to -- in essence to try to intervene
8 or interact with the public to de-escalate the
9 situation?
10 **A. So in addition to the recess that was**
11 **taken in order to, I believe, give the -- those**
12 **attending time to return to a calmer state, she**
13 **also gave several admonitions to maintain the**
14 **decorum of the boardroom. She reminded those in**
15 **attendance several times that it was the board's**
16 **desire to hear all of the speakers and that, if**
17 **decorum was not made -- was not maintained, that**
18 **they would be unable to do that.**
19 **And then after a few warnings, when the crowd**
20 **became loud, she said this is the final warning.**
21 **I believe she said again that she wanted to hear**
22 **all of the attendees, and then moved on.**

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1 Q. Okay. I'm going to go back a little bit
2 to before the hearing took place in and of itself.
3 Did you have the opportunity to observe
4 outside the school entrance, like the parking lot
5 areas?
6 **A. I did not, not directly, no.**
7 Q. Okay. When you say not directly, did
8 you become aware that there were individuals who
9 had gathered outside the school board meeting?
10 **A. Yes, there were. There were several**
11 **groups that had gathered. We had designated a**
12 **public assembly area for that night and there was**
13 **several groups that had assembled in that public**
14 **assembly area.**
15 Q. All right. And that was done by the
16 choice of the school board?
17 **A. Yes.**
18 Q. At any point in time prior to the
19 meeting or while the meeting was going on, before
20 it was terminated, was that space still made
21 available to anyone wanting to assemble publicly
22 and make comment there?

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1 **A. Outside? Yes, ma'am.**
2 Q. Yes. Okay. Now I'm going to bring you
3 back inside. You indicated once the chair made
4 the final warning and indicated that she wished to
5 hear from all the protestors; however, they needed
6 to conform with the expectations of the decorum of
7 the board.
8 What then happened?
9 **A. Many speakers continued. We had 256, I**
10 **believe, speakers signed up for that night. And**
11 **after the recess, which lasted about ten minutes,**
12 **the board returned and public comment continued.**
13 **The board chair issued that final warning and, for**
14 **many speakers, those in attendance complied with**
15 **the board chair's wishes to maintain decorum.**
16 **As counsel pointed out that the expectation**
17 **in the boardroom is to use jazz hands. There were**
18 **many people expressing support for individuals by**
19 **using jazz hands. There was individuals holding**
20 **up signs, but for a period of time for a number of**
21 **speakers, the boardroom seemed to have settled**
22 **down.**

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1 Q. Okay. You indicated at some point that
2 the behavior expectations are in writing and on
3 notice to the general public. You mentioned that
4 it was on the public notice as far as the hearing.
5 **A. Mm-hmm.**
6 Q. Right? Is it also in any other policy
7 or any other written mandates from the board?
8 **A. It is. It appears on the agendas. The**
9 **board chair reads it, reads the expectation before**
10 **the beginning of every public comment period, and**
11 **it's also in board policy.**
12 Q. Okay. You indicated for the most part,
13 soon after the last warning, things calmed down a
14 bit.
15 Did things change after a while?
16 **A. They did.**
17 Q. And I'm going to ask you a question if I
18 may. Where were you as you observed these
19 changes?
20 **A. I was sitting at dais.**
21 Q. Okay. So you were actually physically
22 in the room.

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1 **A. Yes.**
2 Q. Can you tell the Court by using your
3 senses, not just what you saw but also maybe the
4 motions and things of that nature that you saw
5 changing within the boardroom that caused you to
6 be concerned for safety.
7 **A. Yes. So when -- right before the board**
8 **recessed for the second time, a speaker, Mr.**
9 **Black, came up to the podium. It appeared to me**
10 **as if many in the room were waiting for Mr.**
11 **Black's speech. I have no way to confirm that, of**
12 **course, but it appeared to me that they were**
13 **waiting.**
14 **As Mr. Black's time expired, the board chair**
15 **muted his microphone. He did not immediately**
16 **relinquish the podium. He began yelling and at**
17 **that time, the crowd stood up and began cheering,**
18 **began moving about the room. I saw hands and arms**
19 **in the air. Of course, I was concerned because**
20 **with that kind of movement, even a jubilant**
21 **movement with that many people in the room, it**
22 **does become a safety concern.**

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1 Q. Okay. And in particular, you said even
2 if it's a jubilant movement.
3 Would it be fair to say that there were
4 individuals attending that meeting from a side in
5 support of the comments that Mr. Black was making
6 as there may be those in -- that were contrary to
7 his position?
8 **A. There was, yes.**
9 Q. All right. Did you see any interaction
10 between such individuals that you made that
11 perception that caused you to be concerned about
12 the safety?
13 **A. Yes. Very early on, both groups were**
14 **vocal. When a speaker would speak to a position**
15 **of which they were in favor, oftentimes,**
16 **especially early in the meeting, we would hear**
17 **shouting, and we would see the finger being**
18 **raised. We could hear cursing and chastisement, I**
19 **guess, we would describe it as.**
20 **In particular, there was a comment made by a**
21 **speaker on one side that mentioned something about**
22 **religion. Those in the crowd did not appear to**

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1 like that comment and became very vocal and -- in
2 their opposition to that comment. At that point,
3 I believe one gentleman who was sitting on the
4 side of the room that I was on was raising his
5 finger often and shouting, and he was asked to
6 leave by staff. He did comply and left the
7 boardroom because of the disruption he was causing
8 there.

9 There was also, I mean, just telling people
10 -- when one young man spoke about his personal
11 experience, I heard the crowd tell him, we don't
12 want you here anyway. The young man was talking
13 about a suicide attempt or suicidal ideation, and
14 I heard members of the crowd tell him that he
15 wasn't wanted there. So the comments from the
16 crowd caused me to believe that individuals may
17 not have been in the majority that night felt
18 unsafe.

19 Q. Did you have any concerns regarding the
20 safety of any of the board members based on the
21 responses and reaction of the attendees?

22 A. I did. There was several people in the

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1 crowd that were voicing their opinions and their
2 actions directly toward the board members. I
3 recall one gentleman that was sitting in the front
4 row that, when somebody would speak and he -- I
5 guess he agreed with their position -- he would
6 stand up and try to take a stance -- what we would
7 call a posturing stance, I guess, directly facing
8 the board members and he would just stare at the
9 individual board members for several seconds.

10 Q. Okay. And why did that cause you to be
11 concerned?

12 A. It's an unusual thing to do, right? So
13 the way he would jump up, kind of lean in toward
14 the board, and just hold their gaze until they
15 turned around or until the speaker started, I felt
16 he was doing that in an attempt to intimidate the
17 board.

18 Q. Okay. With the repeated warnings made
19 by the chair from the dais, did there come a point
20 in time where it appeared to you that the meeting
21 should -- the public comment meeting should -- I'm
22 sorry -- public comment portion of the meeting

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1 should be terminated?

2 A. Yes.

3 Q. Okay. And when was that?

4 A. That was immediately following Mr.
5 Black's comments to the board.

6 Q. Okay. Now if I could ask you to bring
7 us into that moment. I know you spoke a little
8 bit about how some people maybe felt -- it
9 appeared like they were waiting for him to have
10 spoken and there was a response to that.

11 From where you were situated in that meeting,
12 and if you were to look across the attendees, tell
13 the Court, please, what did you see that caused
14 you to now be concerned at a heightened level.

15 A. Just it appeared -- since it appeared to
16 me that they were waiting for that moment, at that
17 point, it just seemed like they were not going to
18 come back under the decorum of the boardroom. So
19 they began shouting. I did notice members of the
20 gallery who did not agree with Mr. Black's
21 position.

22 When the crowd jumped up, several gallery

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1 members left. I saw several parents with children
2 take their children out of the boardroom, so it
3 just seemed like those who felt unsafe were trying
4 to rush out and those who interested in disrupting
5 the meeting just seemed to escalate and stay
6 there.

7 Q. You also indicated that now there was
8 also some movement within the boardroom. Is that
9 consistent or inconsistent with prior behaviors
10 within a board hearing?

11 A. Very inconsistent.

12 Q. Okay.

13 A. And this was -- 30 years in education,
14 this was the first board meeting I've seen with
15 this level of disruption.

16 Q. All right. And when you're having that
17 mobility also take place, what does that do to
18 your sense of assessment as far as safety within
19 the boardroom?

20 A. So it's heightened for me because I have
21 -- as in charge of operations of the school
22 division, it worries me for the safety of those in

<p style="text-align: right;">41</p> <p>1 attendance, right, because we have to be have to 2 be able to evacuate the room. We have to be able 3 to deal with emergencies. We have to keep the 4 aisles clear. 5 These are all things that are expected in a 6 public venue, no matter if you go to a football 7 game or you come to a board meeting, these kind of 8 things are safety-related no matter where you go, 9 whatever kind of meeting you're attending. 10 Q. Okay. 11 A. And so I was -- I became exceedingly 12 concerned that attention would be directed to 13 either speakers who had previously spoken or 14 people who were holding signs that were not in the 15 majority opinion of the room. I became concerned 16 for their safety, that if decorum is not resumed, 17 that attention may turn to those individuals. 18 Q. All right. What, if any, action did you 19 take relative to that assessment? 20 A. I'm sorry? 21 Q. What action, if any, did you take 22 relative to that assessment, when you started</p>	<p style="text-align: right;">43</p> <p>1 Q. Okay. From the dais, was there any 2 statement made that since the public comment had 3 been terminated, that people needed to leave? 4 A. There was after some time. The board 5 evacuated to the back room. Initially, I left the 6 room with the board members, and then probably 7 after about five or ten minutes, I returned to the 8 boardroom. 9 Q. All right. And upon your return, what 10 did you then see regarding the attendees within 11 the room? 12 A. I saw that they were kind of clustered 13 around the center of the room. Well, there were 14 many clustered around the center of the room, the 15 center, front of the room. There was others kind 16 of milling about. There was people standing on 17 chairs. Chairs had been moved and were in a 18 disarray. People were still shouting at one 19 another. 20 There was a lot of press there, so some 21 people were shouting toward the press. Some 22 people were just shouting -- just in general, back</p>
<p style="text-align: right;">42</p> <p>1 noticing that things -- as you said, you became 2 exceedingly concerned? 3 A. So at that time -- at the same time 4 shortly after Mr. Black finished his comments and 5 the boardroom erupted, the vice chairman motioned 6 to move the agenda and suspend or end the public 7 comment. The chair called for a vote, and that 8 vote passed unanimously, nine to zero, to move the 9 agenda. 10 Q. Okay. Then what happened? 11 A. Then the crowd directed their attention 12 to the board. They began -- there was some booing 13 and jeering. There was shouting of things like 14 you suck and F you, things like that. There was a 15 lot of pointing and gesturing toward the board, 16 middle fingers raised. 17 And then probably within 15 seconds of the 18 motion being passed, the board evacuated the room 19 and security, both school security officers and 20 members of the Loudoun County Sheriff's office 21 came to the front of the room, along with other 22 administrative staff of the school division.</p>	<p style="text-align: right;">44</p> <p>1 toward the school board. Somebody had brought in 2 a voice amplification device at some point, and 3 there was individuals, I guess, trying to organize 4 their own version of public comment. 5 Q. Okay. What does this observation do to 6 you as far as your assessment regarding the safety 7 of the attendees? 8 A. So at that point, it became clear to me 9 that we were not going to be able to restore order 10 in the room, that these individuals were going to 11 continue standing on chairs, that they were going 12 to voice opposition to things that were on the 13 agenda that night, but also that it wasn't going 14 to be safe in the room for those who disagreed 15 with their opinion. Basically, individuals had 16 taken over the boardroom and it was very 17 reminiscent to me of January 6th. 18 Q. Okay. As you're observing this, what do 19 you then do? 20 A. So I conferred with Loudoun County 21 Sheriff's office. Major McDonald was the senior 22 officer on the scene. We talked about whether the</p>

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1 room needed to be cleared. He agreed that it
2 needed to be cleared but asked for him to be able
3 to get additional law enforcement elements on
4 site, so we waited approximately 20 minutes and
5 then I, from the dais, after conferring with Major
6 McDonald made an announcement to clear the
7 boardroom.
8 Q. Okay. So now let's talk about that 20
9 minutes while you were waiting.
10 Did things start to calm down?
11 A. Not at all, no.
12 Q. Okay. How would you describe that 20-
13 minute block as to what impact it made to your
14 decision to ultimately announce that the boardroom
15 was going to be closed?
16 A. So it appeared chaotic to me. People
17 were standing on chairs. The voice amplification
18 device made it impossible for us to communicate
19 with those who were still in attendance. People
20 were still trying to get out. Others were trying
21 to come in. Chairs were disarrayed all across the
22 boardroom, so to me, it was just chaotic. That's

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1 really the best word to describe it.
2 Q. Okay. At the point that you choose to
3 make an announcement, what announcement do you
4 make?
5 A. I said that it was -- I declared that it
6 was unlawful assembly and I warned those in
7 attendance that if they refused to vacate the
8 room, they may be arrested for trespassing.
9 Q. Okay. So now let's talk about your
10 terminology of unlawful assembly.
11 Was that a legal determination you were
12 making?
13 A. It was not.
14 Q. Okay. And the point that you wanted to
15 communicate to the attendees was what relative to
16 that statement?
17 A. The point that I was trying to get
18 across was it was time to leave the boardroom and
19 that if you refuse to leave the boardroom, you may
20 be subject to charges of trespassing.
21 Q. Okay. How did you communicate that
22 because you indicated that the room was pretty

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1 loud and it was hard to hear. How did you
2 communicate that so that it could be heard by
3 those in attendance?
4 A. I used a dais microphone.
5 Q. Okay. And in response or after you made
6 that statement, what, if any, action did you see
7 being taken by the attendees?
8 A. A few, very few, moved toward the exits.
9 The sheriff's office came in from a rear door in
10 the auditorium to the left and they began taking
11 individuals -- asking individuals who were on the
12 periphery of the main group to leave the
13 boardroom. Some complied. Some directly argued
14 with the deputies who were in attendance.
15 Q. Did you hear additional requests made
16 for people to leave?
17 A. Yes. I made the request at least four
18 times.
19 Q. Okay. On that particular evening on
20 June 22nd of 2021, did you have the occasion to
21 see Mr. Jon Tigges?
22 A. I did.

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1 Q. All right. Do you see him the courtroom
2 today?
3 A. I do.
4 Q. Can you please --
5 MR. KACHOUROFF: I stipulate this is Jon
6 Tigges.
7 MS. BIBERAJ: Thank you.
8 Q. Can you please identify him for His
9 Honor? Are you able to identify him with an item
10 of clothing or some identification, please?
11 MR. KACHOUROFF: I just stipulated,
12 Judge, this is Jon Tigges.
13 MS. BIBERAJ: And I would appreciate if
14 they allowed me to try my case but thank you.
15 MR. KACHOUROFF: (Indiscernible).
16 Q. Can you do that, please?
17 A. The gentleman sitting in the middle of
18 the defense table.
19 THE COURT: All right. That's noted.
20 He's pointing to the Defendant at counsel table.
21 Counsel for the Defendant has also stipulated that
22 that's who it is.

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1 Q. On that particular day, as he's dressed
2 here today, he wasn't dressed the same way that
3 day, was he?
4 **A. I believe he had on jeans and a t-shirt**
5 **but I don't recall.**
6 Q. Okay. And can you tell the Court,
7 please, what observations did you make of his
8 behavior on June 22nd?
9 **A. I recall Mr. Tigges was sit in the --**
10 **seated in the front row, kind of toward the center**
11 **of the room. Mr. Tigges was a participant in the**
12 **meeting. His behavior was not notable until after**
13 **the order to leave the room and the trespass order**
14 **was granted -- or the trespass warning was**
15 **granted.**
16 Q. How did his behavior change that he then
17 became of note to you?
18 **A. He became very agitated. He was one of**
19 **the -- I don't know if he brought in the voice**
20 **amplification device, but he was one of the**
21 **individuals that seemed to have control of the**
22 **voice amplification device to me.**

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1 **He was very loudly stating that he had a**
2 **right to be there, that he was -- that those**
3 **assembled had a right to address the board and to**
4 **say what they had to say, and that he wasn't going**
5 **to leave until he had his chance to say what he**
6 **needed to say, or something along that line.**
7 Q. At any point in time, did you have
8 direct contact with him?
9 **A. I did not.**
10 Q. So you're seeing this from a distance.
11 **A. I did, yes.**
12 Q. What, then, do you see of Mr. Tigges?
13 **A. So as the room was cleared and the crowd**
14 **became less and less, those remaining were**
15 **centered around Mr. Tigges -- I'm sorry -- Tigges**
16 **-- I'll try to pronounce it correctly -- around**
17 **Mr. Tigges.**
18 **And as the deputies began to concentrate**
19 **their effort on that center group that had the**
20 **most individuals remaining, Mr. Tigges began to**
21 **directly challenge the deputies who were**
22 **approaching him. The only interaction that we**

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1 **would have had and it was indirect is at one**
2 **point, I recall Mr. Tigges saying something to**
3 **deputies, are you going to side with the people**
4 **are going to side with that thing, and he pointed**
5 **at me at the dais with kind of an aggressive**
6 **gesture.**
7 Q. Okay. Then what is the next thing you
8 saw or heard?
9 **A. There was probably four deputies that**
10 **were around Mr. Tigges. The deputies took control**
11 **of the voice amplification device. Mr. Tigges was**
12 **blocking deputies from coming into his space. At**
13 **one point, I observed a police deputy sergeant ask**
14 **Mr. Tigges if he was going to leave the premises.**
15 **Mr. Tigges loudly said he was not going to leave,**
16 **and the sergeant ordered the deputies to place Mr.**
17 **Tigges under arrest.**
18 Q. Okay. At any point of time thereafter,
19 did you see Mr. Tigges?
20 **A. I did not.**
21 Q. Once he was -- prior to his being
22 removed, was there any other incident that

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1 occurred in the boardroom that was a -- of concern
2 regarding safety to you?
3 **A. There was two. There was a scuffle, a**
4 **fight, that broke out that I did not observe but**
5 **my security personnel brought that word of that**
6 **fight back to me that an individual had been**
7 **arrested.**
8 MR. KACHOUROFF: Your Honor, I would
9 object. This is hearsay.
10 THE COURT: I think he can testify that
11 he received notice of that, but the particulars
12 would not be admitted into evidence.
13 MR. KACHOUROFF: Thank you, Your Honor.
14 MS. BIBERAJ: Okay.
15 **A. It was also brought to my attention that**
16 **during the chaotic time of the -- when the board**
17 **was in recess, that a woman was attempting to exit**
18 **and became hurt on her attempt to exit, and that**
19 **she required medical care which was delivered by**
20 **EMS.**
21 Q. Okay. Now while you were in the room,
22 did you see another incident where law enforcement

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1 had to arrest somebody for their refusal to leave?
2 **A. I did not.**
3 Q. Okay. Dr. Ziegler, I have no further
4 questions at this moment, if you wouldn't mind
5 answering any questions that Counsel may have.
6 Thank you.
7 **A. Sure.**
8 THE COURT: Cross-examination?
9 MR. KACHOUROFF: Thank you, Your Honor.
10 CROSS-EXAMINATION BY COUNSEL FOR THE DEFENDANT
11 BY MR. KACHOUROFF:
12 Q. Good morning, Dr. Ziegler.
13 **A. Good morning.**
14 Q. So this reminded you of January the 6th?
15 **A. It did, yes.**
16 Q. Were there people that were burning
17 chairs inside the room?
18 **A. No, but there were people who were**
19 **moving chairs, aggressively, yeah.**
20 Q. Okay. So you didn't see anybody -- like
21 they were in Portland, burning chairs inside of a
22 boardroom.

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1 **A. In Portland?**
2 Q. Portland, Oregon.
3 **A. Yes, I'm aware of where Portland is.**
4 **I'm not sure what that has to do with January 6th,**
5 **but, no, I didn't see anybody burning chairs.**
6 Q. Where the -- what you observed, you
7 described great chaos.
8 **A. Yes.**
9 Q. It was a great chaos like the Antifa
10 riots we've all seen on TV, where they burned down
11 buildings. They barricaded courthouses, or was
12 this a crowd that was showing applause to the
13 speakers they supported?
14 **A. They were showing applause to the**
15 **speakers they supported, but they were also**
16 **showing aggression and animosity towards speakers**
17 **that they did not support.**
18 Q. On that note, you mentioned about
19 somebody had mentioned something about Christians
20 and that the crowd booed her.
21 Would you agree, sir, that the woman said
22 that all these fake Christians who don't believe

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1 in Jesus, such hatred-filled in the room, was that
2 woman talking about the policy or was she
3 directing that towards the crowd?
4 **A. She was likely directing that toward the**
5 **crowd.**
6 Q. And did the chair do anything to stop
7 her?
8 **A. The chair -- I don't know if she**
9 **addressed that individual directly. She called a**
10 **recess during that individual's comments.**
11 Q. And after the recess was over, did she
12 not say, Kelly, referring to the individual, you
13 can resume your speech and added 40 seconds to her
14 time?
15 **A. She did.**
16 Q. And did that person not then repeat, as
17 I was saying before, she said -- did she not
18 repeat that her comment that that room was filled
19 with hate?
20 **A. I believe she did but I didn't review**
21 **her comments (indiscernible).**
22 Q. And she was only the third speaker,

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1 wasn't she?
2 **A. She was toward the beginning. I wasn't**
3 **counting but toward the beginning.**
4 Q. And so at that point, the crowd -- when
5 the second time that she spoke, the crowd quieted
6 down. Is that fair to say?
7 **A. I honestly don't recall.**
8 Q. Because the crowd wanted to -- there
9 were people, members of the public, wanted to
10 speak and they didn't want the dais to shut
11 everything down. Is that correct?
12 **A. That's correct, yes.**
13 Q. Now, you talked about proper decorum.
14 There's nowhere in school board policy that says
15 you have to use these jazz hands thingamajiggers.
16 I mean, you can just go ahead and clap. There's
17 nothing in the board policy that says that you
18 can't clap.
19 **A. No, there's not.**
20 Q. And so, yet, the dais decided that it
21 didn't like the clapping. Is that right?
22 **A. I wouldn't know what the dais**

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1 particularly was objecting to. They were
2 objecting, I guess, to the noise level. The
3 clapping, and the shouting, I think would be
4 included in that, not just the clapping.
5 Q. And you mentioned you saw people
6 standing and it had you concerned.
7 Did the board not say to use your hands,
8 stand up and show signs to show you -- and not
9 clap? Isn't that something they admonished the
10 crowd?
11 A. I don't know if they -- if she said
12 stand up. She definitely said use your jazz hands
13 is what it's referred to in the boardroom.
14 Q. In fact, she said, use signs. Hold your
15 signs up.
16 A. Mm-hmm.
17 Q. And you don't recall her saying stand.
18 A. I don't, no.
19 Q. So the best evidence of that would
20 probably be the video that we have of the entire
21 incident. Is that correct?
22 MS. BIBERAJ: Objection, Your Honor.

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1 That would be for the Court to determine, what
2 best evidence is here.
3 THE COURT: That's sustained.
4 Q. Yeah. You would agree that a video of
5 the event would be -- it could show the entire
6 event accurately and truthfully. You agree that
7 that video would be the best depiction of what
8 happened at that -- on that night.
9 A. Yes.
10 Q. And you said that you were a police
11 chaplain --
12 A. Yes.
13 Q. -- in Virginia Beach for 20 years.
14 A. For eight.
15 Q. Eight years.
16 A. Yes, '94 to 2003.
17 Q. Oh, '94. I thought you said '84 to
18 2003. Okay.
19 A. I'm not quite that old, Counsel.
20 Q. So were you sworn law enforcement?
21 A. No.
22 Q. And what -- was that your main job?

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1 That was what you were supposed to do?
2 A. No, that was a volunteer position.
3 Q. A volunteer position. And so as a
4 volunteer, they had you out in crowd control?
5 A. They did. From '94 to 2008, we received
6 full weapons training and full defensive tactics
7 training. Until '96 or '97, we carried weapons.
8 Q. And so you said -- so you were -- you'd
9 gone to the police academy?
10 A. No, we had a designated academy for
11 chaplains.
12 Q. Okay. You were analogizing the crowd
13 that was there that night to the crowds that come
14 from bars where people had been drinking on the
15 strip in Virginia Beach.
16 A. Yes.
17 Q. And so as far as you know, there was no
18 liquor being served at this meeting.
19 A. There was not.
20 Q. You say you were trained to read crowds.
21 A. Yes.
22 Q. What kind of training do you have to

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1 read crowds?
2 A. Again, I would point to my police
3 chaplain training that goes back to the early 90s.
4 So you're trained to look at a crowd and to try
5 and ascertain what's going to happen next, to try
6 to predict what's going to happen next.
7 Q. So do they tell you that when you see a
8 an individual furrowing his brow at you, that
9 that's a danger sign?
10 A. That would be considered a sign of -- or
11 could be considered a sign of aggression. You
12 would certainly pay additional attention to
13 somebody whose body language was posturing towards
14 you.
15 Q. And you needed to be taught that to know
16 what that meant?
17 A. I mean, no, I would know it
18 instinctually but you asked specifically what my
19 training was.
20 Q. As part of your training, you talked
21 about de-escalation, that you try to talk to
22 individuals to try to de-escalate. Fair enough?

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1 **A. Fair enough, yes.**
2 Q. At no time did you ever announce from
3 the dais or by the microphone which you had
4 control of, your voice amplification device on the
5 board -- at no time did you ever tell the crowd to
6 -- listen, I'm going to declare an unlawful
7 assembly. I'm going to warn you for trespass if
8 you don't settle down.
9 **A. The warning was the trespass notice,**
10 **yes.**
11 Q. So you did not at any time tell them to
12 settle down or you were going to have to clear the
13 room for trespassing.
14 **A. No, the chair was -- had done that**
15 **several times.**
16 Q. I'm not asking about the chair. I'm
17 asking about you.
18 **A. No, I did not. I said no. Yeah. No, I**
19 **did not.**
20 Q. So you did not use your training to de-
21 escalate that situation?
22 **A. I did not try to de-escalate that**

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1 **situation, no.**
2 Q. You claimed that there was a public
3 assembly area outside, a public comment area.
4 **A. A public assembly area, not a public**
5 **comment area.**
6 Q. So what was the public supposed to do
7 outside?
8 **A. That was a place for them to gather --**
9 Q. To do what?
10 **A. -- designated for protests, designated**
11 **to gather, I mean.**
12 Q. And you didn't announce that from the
13 dais microphone, that there was a public comment
14 outside that they could -- or a public area where
15 they could assemble outside, did you?
16 **A. No.**
17 Q. That wasn't something the board had
18 planned in advance and had noticed for the
19 meeting, had it?
20 **A. We designate -- whenever we anticipate a**
21 **large crowd, we designate an area of the parking**
22 **lot as the public assembly area.**

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1 Q. You were talking about the school board
2 policy for decorum, right?
3 **A. Yes.**
4 Q. And decorum is contained in School Board
5 Policy 2050, is it not?
6 **A. That's correct.**
7 Q. And 2050 doesn't mention anything about
8 applause.
9 **A. It does not.**
10 Q. You said you were concerned for the
11 safety of the board.
12 **A. Yes.**
13 Q. And you were concerned about voicing
14 opinions towards the board meeting -- the board
15 members, rather.
16 **A. That's correct.**
17 Q. You understand that this is a political
18 meeting, right?
19 **A. Yes.**
20 Q. And that the crowd that is there are
21 constituents of the board.
22 **A. Yes.**

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1 Q. The board is elected.
2 **A. Yes.**
3 Q. These are elected officials.
4 **A. Yes.**
5 Q. You claim that immediately following Mr.
6 Black's discussion, that the board erupted.
7 It erupted with applause or it didn't erupt
8 with violence, did it?
9 **A. Applause, and cheering, and as I said,**
10 **standing up.**
11 Q. And at some point, the applause and
12 cheering ends, correct?
13 **A. Yes.**
14 Q. And the board then at that point decides
15 that it's going to now terminate public comment.
16 **A. That's correct.**
17 Q. At that -- when they terminated public
18 comment, it was audible for the room to hear.
19 **A. Yes.**
20 Q. Because nobody was applauding or
21 clapping at that point.
22 **A. Not at that point, no.**

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1 Q. They were listening to what the board
2 had to say.
3 **A. Yes.**
4 Q. So you left the room with the board
5 members. For about five minutes, you were with
6 the board members.
7 **A. Yes.**
8 Q. Did they tell you to declare an unlawful
9 assembly?
10 **A. They did not.**
11 Q. What did they tell you?
12 **A. They didn't tell me anything. They**
13 **asked what was going on out in the room and they**
14 **were conversing amongst themselves.**
15 Q. And what did you tell them about what
16 was going on in the room?
17 **A. I told them that it seemed to be out of**
18 **control, that people were -- as I described**
19 **earlier.**
20 Q. There was nobody jumping all over the
21 dais, and when I say the dais, that's the bench
22 where all the board members were, right?

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1 **A. That's correct.**
2 Q. There was no member of the public
3 sitting in the chair, spitting on their chairs.
4 **A. No.**
5 Q. So you gave -- you conferred with the
6 Loudoun County Sheriff's office and you told them
7 that the room needed to be cleared.
8 **A. No. I asked them, do we need to clear**
9 **the room? We had a conversation and I didn't say**
10 **the room needed to be cleared. I'm not in a**
11 **position to direct the actions of the sheriff's**
12 **office.**
13 Q. So you --
14 **A. We had a conversation.**
15 Q. Let me understand this. You declare an
16 unlawful assembly and you don't tell the sheriff's
17 office to clear the room.
18 **A. I conferred with members of the**
19 **sheriff's office before I made that announcement.**
20 Q. Did you order them to clear the room?
21 **A. Order who?**
22 Q. The sheriff's office.

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1 **A. I did not.**
2 Q. Did you ask them to clear the room?
3 **A. In cooperation, the sheriff's office and**
4 **I had a conversation with the ranking member of**
5 **the department that was there and we had a**
6 **conversation, is it time to clear the room? We**
7 **agreed it was time to clear the room, and Major**
8 **McDonald gave me the go-ahead to make the**
9 **announcement.**
10 Q. So the sheriff's office was directing
11 you to make the announcement?
12 **A. Again, we made it cooperatively after**
13 **assessing the situation.**
14 Q. So you said go ahead and clear the room?
15 **A. I'm sorry?**
16 Q. You said to go ahead and clear the room?
17 **A. No. Major McDonald said go ahead and**
18 **make the announcement.**
19 Q. You're a superintendent of a public
20 school system, are you not?
21 **A. I am.**
22 Q. And as the interim superintendent of the

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1 public school system, you've got school resource
2 officers, police officers that are on campus, do
3 you not?
4 **A. There are resource officers on campus,**
5 **but they're members of the Loudoun County**
6 **Sheriff's office.**
7 Q. Right. And so they are there to restore
8 order when they see crimes occurring.
9 **A. That's correct.**
10 Q. And you believe that there was trespass
11 going on in this room when you decided to clear
12 it. You decided they -- people didn't have a
13 right to be there anymore.
14 **A. That's correct.**
15 Q. The board didn't do that. You did.
16 **A. That's correct.**
17 Q. You said that the unlawful assembly was
18 not a legal determination.
19 **A. That's correct.**
20 Q. Did you do that when you talked to the
21 Commonwealth's attorney? Did you talk about that
22 issue?

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1 **A. No. Upon reflection, we did an after**
2 **action debrief with my staff and we agreed that,**
3 **after reviewing the code that counsel cited at the**
4 **beginning of the trial, that my words were**
5 **incorrect. They were given in the heat of the**
6 **moment in a desire to clear the room and keep the**
7 **public safe.**
8 Q. And you said that there was a bunch of
9 people in there.
10 They were also giving their own form of
11 public comment, right?
12 **A. Some of them were, yes.**
13 Q. With a voice amplification device,
14 correct?
15 **A. Correct.**
16 Q. And the reason they were using their own
17 voice amplification device -- we'll call it a
18 microphone -- is that y'all had shut off the
19 microphones at the podiums.
20 **A. We did.**
21 Q. And you at that time didn't want to hear
22 any more public comment.

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1 **A. I'm not in charge of public comment,**
2 **sir.**
3 Q. But you're in charge of apparently the
4 board meeting, right, whether it continues or
5 whether it's open to the public?
6 **A. I'm in charge with the operations of the**
7 **school building administration and with the school**
8 **administration building, yes.**
9 Q. That's a school boardroom.
10 **A. Yes, it is.**
11 Q. You don't have authority to clear out
12 the school board, do you?
13 **A. I believe I do, yes.**
14 Q. So you --
15 **A. Oh, I'm sorry, the school board or the**
16 **school boardroom? No, I don't have the authority**
17 **to direct the school board.**
18 Q. Because in a school board meeting,
19 they're in charge, aren't they?
20 **A. That's correct.**
21 Q. I'm going -- and finally, let's just
22 talk about -- you said a majority of the crowd

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1 left when you gave the announcement.
2 **A. I don't believe I said a majority. I**
3 **believe I said some members of the crowd left.**
4 Q. Well, out of 669 people that tabbed into
5 that room, that was -- I think that was your
6 number that you gave.
7 **A. Yes.**
8 Q. Tell me, about how many of the people
9 remained?
10 **A. After the order was given, I would say**
11 **above 300 initially.**
12 Q. So a significant portion left the room
13 initially.
14 **A. Yes.**
15 Q. And then after that initial portion, how
16 many more people left the room?
17 **A. They trickled out gradually as the**
18 **sheriff's department made rounds around the room**
19 **and asked people to leave.**
20 Q. And so people were compliant.
21 **A. Some were compliant and some were**
22 **argumentative.**

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1 Q. You said you have 30 years in education.
2 What is your 30 years in education, doing what?
3 **A. I spent 17 years as a classroom teacher,**
4 **several years as a school-based administrator,**
5 **several years as an investigator for the**
6 **department of human resources, and then a chief**
7 **human resources officer in two divisions, and now**
8 **I'm superintendent.**
9 Q. Does the school board have an entire
10 complete copy of the video unredacted?
11 **A. They have an entire and complete copy of**
12 **the video while the session was in session. There**
13 **was no recording during the recess.**
14 Q. And why would -- why did not -- they did
15 not record -- why didn't they record during the
16 recess?
17 **A. It's normal process to go to a blank**
18 **screen when the board is in recess. That happens**
19 **at every meeting.**
20 Q. So the recorder doesn't continue?
21 **A. No.**
22 Q. Somebody has to physically flip the

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1 switch to stop it from recording.
2 **A. Yes. When the board goes into recess,**
3 **the board clerk hits a button that stops the**
4 **recording and puts up a screensaver type thing**
5 **that says -- I mean, it's a preprinted message.**
6 **It says the board is in recess and the meeting**
7 **will resume shortly.**
8 Q. If Mr. Tigges had a right to be there
9 and to speak, you understand why he was agitated,
10 correct?
11 MS. BIBERAJ: Objection, Your Honor.
12 Calls for speculation as to why he was agitated.
13 MR. KACHOUROFF: He's the one who raised
14 that. I mean, she opened the door when she asked
15 the question. He mentioned he was agitated.
16 MS. BIBERAJ: No, he was asking whether
17 or not he knows why Mr. Tigges was agitated. That
18 calls for speculation.
19 MR. KACHOUROFF: I didn't ask him why.
20 I said -- I gave him a reason why. If Mr. Tigges
21 had a First Amendment right to speak -- you don't
22 need to be looking at her. Look at me. If he had

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1 a right to speak --
2 THE COURT: He can look at her if he
3 wants to. The instructions don't come from you.
4 MR. KACHOUROFF: Your Honor, I don't
5 have a problem with what you're saying. I just
6 don't want him getting cues from the attorney
7 about how to answer a question. That's why I said
8 that.
9 MS. BIBERAJ: If that allegation, Judge,
10 is going to be made, I think counsel should have
11 facts as to what cues I am giving. My objection
12 will go back to the what the issue is before Your
13 Honor.
14 The objection is that he asked the
15 witness, Dr. Ziegler as to whether or not Mr.
16 Tigges had a right to be agitated. That calls for
17 speculation. He can't speak to the mind or
18 mindset of Mr. Tigges. That's my objection.
19 THE COURT: I think the question is
20 argumentative, and I'm going to sustain the
21 objection.
22 MR. KACHOUROFF: As to argumentative.

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1 THE COURT: Yeah. You asked him about
2 the -- being agitated and essentially asked him
3 why he was agitated.
4 Q. A person who has a right to speak would
5 be agitated if they were told to leave. Fair
6 enough?
7 MS. BIBERAJ: Objection. Yet, again,
8 Judge, it asks for speculation. Somebody may have
9 the right to speak and say, okay, fine, not --
10 today is not the time and then respectfully walk
11 out. He can't speak to what anybody's perception
12 or their response --
13 THE COURT: (Inaudible) she's right
14 about that. You can argue --
15 MR. KACHOUROFF: Yeah. And, Judge, it's
16 --
17 THE COURT: -- someone who's -- thinks
18 they have a right to be there may be agitated
19 they're asked to leave, but I don't know that he
20 can answer for everybody who was there, whether
21 they were agitated or not, including Mr. Tigges.
22 MR. KACHOUROFF: And I apologize for

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1 this, Judge, but, again, I didn't open this door.
2 This was -- all of her questioning was about
3 agitation. He mentioned it numerous times, so I
4 think it's fair game on cross. If he -- the Court
5 doesn't, I respect that.
6 THE COURT: Okay. Well, you've got my
7 ruling. My ruling is --
8 MR. KACHOUROFF: Thank you, Your Honor.
9 THE COURT: -- that it's sustained. The
10 objection is sustained.
11 MR. KACHOUROFF: I have nothing further.
12 THE COURT: Thank you. Redirect?
13 MS. BIBERAJ: I have no redirect of this
14 witness. Thank you, Doctor.
15 THE COURT: All right. You may step
16 down. Is this witness being deferred or do you
17 want the witness to wait out in the hall?
18 MS. BIBERAJ: Judge, I believe there is
19 rule on witnesses, so, yes, please.
20 THE COURT: All right. You need to go
21 outside. Do not discuss this case outside of the
22 courtroom. Do not discuss this case while you're

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1 waiting. You may be recalled as a witness.
2 THE WITNESS: Yes, sir.
3 THE COURT: Thank you. Next witness for
4 the Commonwealth?
5 MS. BIBERAJ: We would ask for Major
6 McDonald.
7 THE COURT: Major McDonald?
8 THE COURT OFFICER: Yes, sir.
9 MS. BIBERAJ: Thank you.
10 THE COURT: Major McDonald, come forward
11 to the witness stand. You were sworn earlier with
12 the other witnesses. You've been called as a
13 witness for the Commonwealth who will question you
14 first, and then the attorney for the Defendant may
15 also question you. Thank you.
16 THE WITNESS: Thank you, Your Honor.
17 Whereupon,
18 EASTON L. MCDONALD,
19 being first duly sworn or affirmed to testify to
20 the truth, the whole truth, and nothing but the
21 truth, was examined and testified as follows:
22 EXAMINATION BY COUNSEL FOR THE PLAINTIFF

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1 BY MS. BIBERAJ:
2 Q. Good morning.
3 A. **Good morning.**
4 Q. Major McDonald, can you please introduce
5 yourself to His Honor?
6 A. **I am Major McDonald, Easton McDonald,**
7 **with the sheriff's office for 20 years.**
8 Q. I'm going to ask you some questions
9 relative to the June 22, 2021, incident at Loudoun
10 County Public Schools. Before I get there, I just
11 want to ask you some background questions, please.
12 A. **Sure.**
13 Q. Can you let the Judge know how long have
14 you been in law enforcement?
15 A. **I've been in law enforcement 24 years,**
16 **the last 20 with Loudoun County. I oversee the**
17 **school resource officers and the traffic section.**
18 **I've trained at the academy, community policing.**
19 **I have worked patrol, midnights, just about every**
20 **section in the agency. And before that, I worked**
21 **corrections.**
22 Q. Okay. Within each of those

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1 responsibilities and I'm going to name three
2 specifically, corrections --
3 A. **Yeah.**
4 Q. -- and that's over at the jail, right?
5 A. **That is correct. I didn't work for**
6 **Loudoun. I worked for Arlington County Sheriff's**
7 **office.**
8 Q. Okay. And then as far as when you were
9 talking about, like, street patrol, and then with
10 the school resource officers. Do each of those
11 have additional training regarding crowd control
12 and assessment for safety in the community?
13 A. **Yes.**
14 Q. Okay. Can you tell the Court, please,
15 and if you want to specify in each of those
16 responsibilities where you may have learned this,
17 you're welcome to, otherwise, I'm asking a global
18 question. In assessing crowd control or safety
19 within the community, what are some of the things
20 that you look for?
21 A. **So if you're looking as far as crowd**
22 **control is concerned, you want to be able to**

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1 **communicate with the individuals that are there,**
2 **why a person is there, access to doors, emergency**
3 **access, medical emergencies, if I need to clear a**
4 **room quickly, which is there enough exits for them**
5 **to get in and out, things of that nature, how many**
6 **children are in the room, different things like**
7 **that. If it's in regards to the community, it can**
8 **deal with all kinds of things from assessments of**
9 **security to homes, shrubs, bushes, lighting,**
10 **etcetera.**
11 Q. Okay. And that's on a physical
12 assessment, right?
13 A. **Yeah.**
14 Q. When you add the human component, what
15 do you then look for to see how that might change
16 or impact your decision as to whether this is a
17 safety concern?
18 A. **Safety issues, body language. People**
19 **with balled fists, not following rules, maybe if**
20 **everyone is sitting down and someone is standing,**
21 **maybe if someone is moving closer to a particular**
22 **person, just the -- not willing to listen to you**

<p style="text-align: right;">81</p> <p>1 or not hearing a conversation, voice, tone, things 2 of that nature. 3 Q. Okay. Now we're going to go to the June 4 22nd incident. You were -- were you there -- I'm 5 sorry. 6 What time of day were you at -- over by the 7 Loudoun County Public School building? 8 A. I probably got there as early as -- if 9 it started before -- I want to say it might have 10 start -- well, I don't remember the time exactly 11 that the meeting started, but I was there probably 12 about two hours before the meeting started. 13 Q. Okay. And when you were there before, 14 did you come in through the general parking lot? 15 A. Through the which parking lot? 16 Q. General parking lot. 17 A. Oh, yeah, yeah. 18 Q. The public parking. 19 A. I parked in the rear of the building, 20 came through the general parking lot, and then 21 parked in the rear of the building. 22 Q. Okay. As you're walking into the</p>	<p style="text-align: right;">83</p> <p>1 Q. Okay. And with that expectation, was 2 there any action taken on the part of the Loudoun 3 County Sheriff's office to add any members of 4 their law enforcement team to attend the meeting 5 or to be on the premises? 6 A. Yeah. We made -- safety was the -- was 7 a paramount issue, so we had individuals that 8 would be in and around the crowd, and we had 9 individuals that would be in the boardroom, but 10 the school board has a meeting monthly and we 11 always have deputies at the meetings. Up until 12 that point, we had always had sworn deputies 13 present in the room. 14 Q. Okay. 15 A. That was nothing new. 16 Q. Now, again, (indiscernible) as you were 17 walking through the parking lot and you're coming 18 in, do you see a number of people out gathered, 19 what was the tenor of what you saw? Were you 20 concerned at that point as to what the crowd 21 engagement was? 22 A. I mean, we knew it was -- it was an</p>
<p style="text-align: right;">82</p> <p>1 building, did you see any assembling of 2 individuals out in the parking lot? 3 A. Yeah. There were people assembled 4 outside. 5 Q. Can you tell the Court, please, at your 6 initial observations about two hours before the 7 meeting, about what the crowds looked like in 8 number? 9 A. So out of all the school board meetings, 10 generally, there isn't a crowd. There isn't 11 anybody outside generally for school board 12 meetings, but there had been crowds building over 13 School Policy 8040 and there was a lot of talk 14 about -- I think it was critical race theory 15 protestors and they was also protesting Loudoun 16 County Public Schools' removal of a teacher and 17 some other stuff that were taking place outside. 18 And then there were components pro and then there 19 were components against on both sides. Some had 20 tents. They had banners outside of that building 21 on that particular day, so we had expected a large 22 number.</p>	<p style="text-align: right;">84</p> <p>1 excited -- it was like going to a big game, right, 2 a big rivalry or -- you know it's going to be a 3 good game or you know the crowd's excited. It was 4 that type. People were passionate about what they 5 were there for, pro or against, whatever the issue 6 was. And some of them were debating and making 7 their chants or doing their things -- 8 Q. Okay. 9 A. -- to make their point. 10 Q. You then enter into the building? 11 A. Yes. 12 Q. At some point, the school board meeting 13 starts. 14 Okay. Can you -- and were you inside the 15 board meeting? 16 A. Yes. 17 Q. Can you tell her -- His Honor, please, 18 what your observations were? 19 A. It was -- so normally at a school board 20 meeting, you may have seven, ten, fifteen people. 21 The room was set up for 633, and you couldn't see 22 the chairs or if there were people -- some people</p>

<p style="text-align: right;">85</p> <p>1 were standing in there. That's how many people 2 were in there. 3 The board meeting started. Very quickly, 4 somebody made a comment. It was -- I don't 5 remember the exact comment, but it was something 6 like dripping Jesus-something comment was made by 7 somebody. I can't remember the full statement and 8 the crowd responded. All the people in there 9 responded. The board -- there was a couple of 10 outbreaks. 11 It was like an outbreak of the public, and 12 then the board would have recess. Well, I don't 13 remember exactly how many they had, but they were 14 going to take a five-minute recess, at which point 15 in time, they would leave the daises, go back 16 inside, wait for everyone to settle down, and then 17 come back out. 18 Q. So when they would take the recesses, 19 did you hear them make any announcements as to why 20 they were taking a recess? 21 A. Yeah. The chair would say the board 22 would take -- be taking a recess. I don't think</p>	<p style="text-align: right;">87</p> <p>1 all the time. People would clap and, you know, 2 and she would give a warning for those outbursts. 3 Q. Okay. And did she communicate that that 4 was disruptive to the public comment or people 5 being able to hear? 6 A. She made the statement as if the -- she 7 made the statement about if it continued, that -- 8 that if it continued, that she would end the 9 meeting or the meeting would adjourn, and she like 10 gave them a general warning. 11 Q. Okay. As time passed during this 12 meeting, did you see any changes in the crowd as 13 far as in the matters that would indicate to you 14 that safety was becoming a concern? 15 A. Before the meeting was cancelled? 16 Q. Right. Before she ended public comment, 17 like -- 18 A. Oh. 19 Q. -- during the times that they were 20 taking their recesses and things of that nature. 21 A. No, not at that time. It was just 22 normal -- someone would speak. Someone would get</p>
<p style="text-align: right;">86</p> <p>1 she gave a time. I think she just said a recess, 2 and then they would go back inside. They would go 3 into -- off the daises into a room that was on the 4 side, and then at their liberty, they would come 5 back. 6 Q. Okay. While the chair and the board 7 members were on the daises, at any point in time, 8 did you hear the chair caution the crowd as to the 9 amount of noise or interruptions that were being 10 made? 11 A. Yeah, she gave numerous warnings. 12 Q. Okay. Did you see what behaviors 13 preceded her giving those warnings that caused you 14 to link the two? 15 A. So different people would make 16 statements, whether it was -- because they were -- 17 it was public comment for whatever you wanted to 18 talk about, so some people -- whatever the comment 19 is made, the support would be loud. It would be 20 claps. And I'm not saying loud, but you're 21 supposed to do this silent clapping is what 22 they're supposed to do, but that wasn't the case</p>	<p style="text-align: right;">88</p> <p>1 excited and clap, but nothing that I felt was like 2 a safety issue at that point in time. 3 Q. Okay. Did there come a point in time 4 where safety did become a concern? 5 A. Yes. 6 Q. When was that, please? 7 A. So at one point, I believe it was -- I'm 8 not sure and I don't want to mess his title up, 9 but I think it was Senator Black. He spoke and at 10 the end of his speech, the -- the audience 11 passionately -- it was a passionate speech. They 12 stood up. They were clapping. They were 13 supporting what he was saying, and it was probably 14 the most applause for anybody that night. 15 And at that point in time, the -- while that 16 applause was going on, the board asked -- I 17 distinctly remember. I think it was Reeza was 18 asked to make a motion to end the public comment. 19 It was seconded. They asked for a discussion. 20 There was no discussion, and then they took a 21 nine-zero vote to end the public comment, at which 22 point in time, they vacated the daises.</p>

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1 **And I don't think the public really picked up**
2 **what was going on until they kind of got up and**
3 **walked away and left, at which point in time,**
4 **people started yelling no, or screaming, and this,**
5 **that, and the other, but we still -- that was when**
6 **the alarm kind of went up that, like, the body and**
7 **the language in this room has now changed. At**
8 **that point, we didn't do anything.**
9 Q. How did it start to change?
10 **A. We allowed it to go on for about 20, 30**
11 **minutes. They were getting in groups like**
12 **caucuses or different groups and different people**
13 **were speaking and we just allowed that.**
14 **And then in the rear of the room, an assault**
15 **on one of my officers took place, and at that**
16 **point in time, that gentleman was taken into**
17 **custody and removed from the room. That was the**
18 **turning point where we had to reassess what was**
19 **going on and the safety of all the people in that**
20 **room.**
21 MR. KACHOUROFF: Pardon me. Pardon me.
22 Judge, I would object. We agreed at the very

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1 beginning that this arrest was irrelevant to the
2 testimony, so if they're relying upon it now, I'm
3 just -- I just want to know they've changed their
4 position.
5 MS. BIBERAJ: Judge, the objection
6 during opening was as to what the person, Mr.
7 Smith -- what he was objecting to and what he was
8 arguing about, not that the arrest took place. It
9 was what his commentary was, that was the
10 objection that Counsel was asking me to concede.
11 That was not the -- the arrest was not the issue.
12 MR. KACHOUROFF: That was not my
13 recollection, but if she's opening the door, I'm
14 fine with it.
15 THE COURT: All right.
16 MS. BIBERAJ: We'll move on.
17 THE COURT: I'll allow the question.
18 The objection's overruled.
19 BY MS. BIBERAJ:
20 Q. Major McDonald, you indicated that there
21 was an incident where there was an arrest that
22 took place. Between the 20 minutes that you

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1 allowed people to make comments and to talk and do
2 that, you said they were collecting in different
3 subgroups.
4 **A. Yeah.**
5 Q. Okay. What about the logistics of the
6 room, the way that the chairs were, or how they
7 had been previously set up, had any of that
8 changed when -- once the school board members left
9 the dais?
10 **A. So whatever your view was, there was**
11 **nothing barricading you or stopping you from**
12 **bringing extra but it was chairs set up in an**
13 **auditorium-style setting and once it ended, a lot**
14 **of people stood up. Some people who shared the**
15 **same point went to each other. Others were**
16 **disputing with each other. It was just a -- like**
17 **a -- free conversations that were going on in the**
18 **room until the arrest was made.**
19 **At that point in time, that gentleman was**
20 **placed under arrest, and then I would say**
21 **approximately within two to three minutes of that,**
22 **the superintendent of schools made an announcement**

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1 **to the public over the microphone that was on the**
2 **daises.**
3 Q. And what did he announce?
4 **A. I don't remember verbatim, but he**
5 **basically said that this is -- something in the**
6 **nature of an unlawful assembly and that if you**
7 **don't leave here, you will be arrested by the**
8 **sheriff's office, something in the nature of leave**
9 **or you will be arrested. He made that**
10 **announcement a total of four times. On the fourth**
11 **one, I signaled him to give that one again.**
12 Q. Okay. So let's walk through each of
13 those statements that he makes. When he's first
14 announcing that this is an unlawful assembly,
15 something to that effect, and I'll accept what
16 you're doing and I'll repeat similarly that these
17 may not be his exact words --
18 **A. Right.**
19 Q. -- but to the point he was making, this
20 is an unlawful assembly and you need to leave. If
21 you do not leave, you will be arrested. Okay.
22 When that first announcement was made, what

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1 impact, if any, did it have to the attendees
2 within the boardroom?
3 **A. It started to thin out. There were some**
4 **people that immediately on the first -- you saw**
5 **the room thin out.**
6 Q. All right. And then for those
7 individuals who did -- who chose not to leave,
8 what did you observe about their behaviors?
9 **A. So, again, with crowd management, if**
10 **everybody in this room tries to go through those**
11 **two doors, and then they have to go out another**
12 **two doors, they have to make a right and there's a**
13 **bathroom to the left. So you have to take into**
14 **effect that this room can't just flow easy.**
15 **You've got to make sure that the hallways**
16 **outside -- the people are moving and not milling**
17 **around. So what we did was we made sure that**
18 **there were officers outside in the hallway, and as**
19 **people exited, they were telling them, this is the**
20 **exit. Please keep moving. This is the exit. And**
21 **if someone wanted to use the bathroom, they**
22 **weren't prevented from using the bathroom.**

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1 **So that's what initially happened on the**
2 **first warning. You had people who self-**
3 **volunteered to leave. They were just going to**
4 **walk out.**
5 Q. Okay. After the first announcement was
6 made, did you make a determination or did you
7 observe the fact that not everyone was leaving?
8 **A. Yes, that is correct.**
9 Q. What did you observe about their
10 behaviors, if any, while they were inside the
11 room?
12 **A. Displeasure with the announcement. They**
13 **didn't want to leave and so --**
14 Q. How did you make that determination?
15 **A. Because --**
16 Q. Like what about your observations did
17 you make that --
18 **A. That people were yelling. There was all**
19 **kinds of chants. There were all kinds of things**
20 **being said. This is our house. We paid for this.**
21 **They can't do this. They actually brought in a --**
22 **somebody brought in a PA system with a speaker and**

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1 **they were actually taking turns. And this is**
2 **where the -- I'm going to go back. This is before**
3 **the announcement. They were actually taking turns**
4 **talking on the speaker to the crowd and we**
5 **observed that and that wasn't a problem with us.**
6 **Like I said, that was within the first 30 minutes**
7 **of what was going on.**
8 **Once the decision was made and the**
9 **announcement was made by the superintendent -- I**
10 **think he was the superintendent. I don't think he**
11 **was acting at that point. I can't remember -- but**
12 **to clear the room, we continued again with a**
13 **second announcement and more people began to clear**
14 **out.**
15 Q. All right. And then for those who
16 remained, did you see any changes in their
17 behaviors?
18 **A. So about the -- around the second or**
19 **third announcement, we started moving into the**
20 **group that was still left, telling people, please**
21 **go outside. Just please go outside. You can**
22 **assemble outside. You're free to assemble**

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1 **outside.**
2 **And then we'd get some questions, like, you**
3 **know, they can't do this and, you know, but you're**
4 **not there to really like answer questions, just to**
5 **let people know that you can assemble outside, so**
6 **we kept on doing that.**
7 Q. Okay. At some point, did your attention
8 get drawn to Mr. Tigges?
9 **A. Yes.**
10 Q. All right. Can you tell the Court,
11 please, for starters, do you see Mr. Tigges in the
12 courtroom here today?
13 **A. I do. It's the gentleman in the sling**
14 **with the jacket on.**
15 THE COURT: Okay. That's noted by
16 stipulation and he's also pointing to him.
17 MS. BIBERAJ: Yeah.
18 Q. And on that particular day, we agree
19 that he is dressed differently than he's dressed
20 here today?
21 **A. Yes, differently.**
22 Q. Okay. On that day, did you have

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1 personal contact with Mr. Tigges?
2 **A. I did.**
3 Q. What was that, please?
4 **A. Prior to -- while cleaning the room --**
5 **while clearing the room out and moving people, you**
6 **go where the flow of the people are moving. So as**
7 **the people are moving, you're just explaining to**
8 **them, yes, you can go outside and as they -- they**
9 **were talking and saying things back, and -- but**
10 **they were moving and they would leave the room.**
11 **Mr. Tigges, if I'm saying that right, was --**
12 THE COURT: Tigges.
13 **A. Tigges. Mr. Tigges was towards the**
14 **front, kind of center, and he was saying that, no,**
15 **like we're not leaving. Don't leave. He was just**
16 **adamant about not leaving at that point in time,**
17 **but what you do is -- he wasn't -- there were**
18 **others in the room, so what you would do is those**
19 **comply, you escort those and help them to leave,**
20 **and then you will deal with those individuals that**
21 **do not comply and are left eventually at the end.**
22 Q. Okay. So now as you're coming into

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1 contact with Mr. Tigges and you're hearing him
2 say, no, we don't have to leave and you indicated
3 he was also encouraging others, don't leave?
4 **A. Yeah.**
5 Q. How did those people respond? Did they
6 comply with his demands or how did that work out?
7 **A. At one point, there was a lady who was**
8 **carrying a baby and she got on the microphone and**
9 **she basically told the crowd, like, don't -- like,**
10 **I think she was kind of basically saying, don't**
11 **act up. That's what they want us to do -- or take**
12 **this outside. So she gave the mike -- another guy**
13 **came in, grabbed that microphone and that portable**
14 **speaker. They left, and they were with that group**
15 **where Mr. Tigges was.**
16 Q. Mm-hmm.
17 **A. They exited and he remained.**
18 **A. Okay. Then at some point, did he have**
19 **-- did he make any statements to you directly in**
20 **regards as to what the expectation is for him to**
21 **leave?**
22 **A. So by the time when I encountered him, I**

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1 **-- we'd cleared out the hallway. I was outside in**
2 **the hallway. When I came back inside, he was now**
3 **in handcuffs. So he was always in my periphery as**
4 **what we would say is -- he was vocal about not**
5 **leaving and I knew he was going to be there**
6 **because he was very vocal about not leaving but we**
7 **were -- I went out into the hallway and escorted**
8 **those people. When I came back in, he was in**
9 **handcuffs.**
10 Q. Okay. So then let's go back to the time
11 as you were leaving the boardroom and heading
12 outside. You said he was vocal about not leaving.
13 **A. Yeah.**
14 Q. What was he specifically saying?
15 **A. I can't give an exact word. He voiced**
16 **numerous concerns, right, throughout the time. He**
17 **was upset that he felt that he had the room to a**
18 **certain time, that they didn't have the right to**
19 **just like walk off, that these people have come to**
20 **be heard. He was making statements of that**
21 **nature, but, again, at lot of that was in my**
22 **periphery and I could see that he was talking to**

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1 **other officers and they were trying to de-escalate**
2 **the situation. So I focused on those individuals.**
3 **There were some onlookers that were kind of**
4 **watching to see what was going on with him, and I**
5 **understood that, but we told them that they had to**
6 **-- you know, that they had to leave the building,**
7 **which they -- the majority of them did.**
8 Q. Okay. I'm going to go back a little bit
9 during the time that -- after the board was off of
10 the dais --
11 **A. Mm-hmm.**
12 Q. -- and there's a -- was there a
13 conversation between you and Dr. Ziegler as to
14 coming to a decision that the time may come that
15 people needed to leave?
16 **A. Yeah.**
17 Q. Can you tell us, please, what was the
18 content and context of that conversation?
19 **A. So it happened kind of quick. I was in**
20 **the backside. Immediately after the board left,**
21 **they wanted to announce this is an unlawful entry**
22 **and I told them no, that we're not going to do**

<p style="text-align: right;">101</p> <p>1 that. Give them time. Let them voice their 2 concerns, etcetera, and that's why there was a 30- 3 minute window between the first time that myself 4 and Dr. Ziegler had a conversation about clearing 5 the room. 6 And they would have -- we would have 7 continued that. It wasn't until the arrest, the 8 violence. Once we saw that the safety of 9 everybody else that was involved in that room, 10 that is when Dr. Ziegler then gave the notice 11 officially to tell everybody else to leave. 12 Q. Okay. And I apologize because I don't 13 know if I misheard you or it was stated. You said 14 that it was an unlawful entry. 15 A. I'm sorry. I apologize. I think the 16 term he used was -- he gave his title and he said 17 unlawful assembly. 18 Q. Okay. And I may have misheard you, so I 19 apologize. 20 A. Yeah. 21 Q. I just didn't want to mess that up. 22 A. That is correct.</p>	<p style="text-align: right;">103</p> <p>1 empty. There's no one here, at which point, he 2 just started yelling, it's not over. It's not 3 over. 4 And then I told him that, listen, you're -- 5 if you look around the room, you'll see there's no 6 one here now. It's over but I want you to talk to 7 this guy in the green, at which point in time, 8 that person in the green was Officer Haynes, who 9 is one of our trained crisis intervention 10 officers, so he's trained in de-escalation, and 11 that's who I placed his attention to. 12 Q. Major McDonald, I don't have any other 13 questions. Counsel may have some for you. Thank 14 you very much for your time. 15 A. Okay. 16 THE COURT: Before you start your cross- 17 examination, let me take up one matter. 18 (OFF THE RECORD) 19 (ON THE RECORD) 20 THE COURT: All right. Now you may 21 proceed. 22 MR. KACHOUROFF: Thank you, Your Honor.</p>
<p style="text-align: right;">102</p> <p>1 Q. When you came back into the room and saw 2 Mr. Tigges in handcuffs, did he make any 3 statements regarding whether or not he was willing 4 to leave even at that time? 5 A. No. In fact, what made -- I would never 6 have encountered him, but as they were escorting 7 him to the rear of the building -- because the 8 plan was if you -- if anyone was arrested or we 9 had to remove them, we were going to go out of the 10 back -- the rear door. 11 He made a body motion to drop and resist, 12 like stretch his leg out and kind of like drop his 13 body. People do that when -- make you carry their 14 body weight, at which point in time, I stepped to 15 him, and I said, kind of, listen, hold on. Calm 16 down. And he said to me something like, I have a 17 right to be here and I have a right to listen. 18 And I said, you do. You do, or something like to 19 that nature. You do. You have a right to be 20 here. And he was saying something like, see, this 21 guy, he gets it. He gets it. And then I said to 22 him, but the meeting is over. The daises is</p>	<p style="text-align: right;">104</p> <p>1 CROSS-EXAMINATION BY COUNSEL FOR THE DEFENDANT 2 BY MR. KACHOUROFF: 3 Q. All right. It's Major McDonald? 4 A. Yes, sir. 5 Q. Make sure I get the rank right. 6 Just a quick follow up with some of the 7 things that you talked about -- 8 A. Mm-hmm. 9 Q. -- so I understand. Is it true that -- 10 I mean, after the crowd was cleared out, you 11 actually stayed for the remainder of the board 12 meeting that was occurring? 13 A. That is correct. 14 Q. You wanted to hear an issue before the 15 board? 16 A. That is correct. 17 Q. So moments ago, you talked about the 18 board meeting being over. You meant the public 19 comments time was over. 20 A. Yeah. I thought I did state that they 21 took a nine-zero vote to end public comment. 22 Q. Okay. Got it. So but during -- there</p>

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1 are plenty of school board meetings where people
2 come up and just sit in the audience and watch,
3 right?
4 **A. In the past, yes. That is correct.**
5 Q. So one thing you testified to, you had
6 no problem -- they were taking turns on the
7 speaker giving their own public comment. And you
8 -- and I said -- or you said, rather, they were
9 taking turns on a speaker -- their own speaker and
10 you had no problem at all with that but at some
11 point, you decided to clear the room. So I want
12 to talk about that just briefly.
13 The Commonwealth's attorney for Loudon County
14 has suggested that he wasn't dressed the same way
15 then as he is now. Was there some inappropriate
16 dress that he should have been wearing? Was he
17 not dressed appropriately at the board meeting?
18 Was he was wearing bad shirts or --
19 **A. No, he didn't have on anything that was**
20 **like derogatory. Like some people wear shirts**
21 **that make statements. I don't remember him**
22 **wearing anything like that. He was dressed --**

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1 Q. Nondescript.
2 **A. Yeah, just regular dress.**
3 Q. No offense to my client. And you heard
4 the woman say on the speaker, don't act up.
5 That's what they want you to do.
6 **A. It was something of that nature, like**
7 **she was telling them to kind of behave, and she**
8 **gave the speaker and she complied. She had a**
9 **child with her --**
10 Q. Understood.
11 **A. -- and she -- they left on their own.**
12 **She didn't agree. Don't get me wrong. She did**
13 **not agree with us -- with leaving and she made**
14 **that --**
15 Q. Sure.
16 **A. -- (inaudible) clear to us but --**
17 Q. Sure.
18 **A. -- she did comply.**
19 Q. The other part of your testimony -- so
20 you went back to the board and they wanted to
21 declare an unlawful assembly and you told them no.
22 **A. No, they wanted to -- I'm not going to**

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1 say -- what they wanted to declare. They wanted
2 to tell everyone to leave, so that was what we had
3 done with crowd control in light of the George
4 Floyd incident. We have -- people are allowed to
5 protest, and we have allowed people to protest.
6 That doesn't -- as long as they are protesting
7 peacefully, as long as everyone is safe and
8 there's no destruction of property, we've allowed
9 people to protest.
10 At that point when the board had left, that
11 was a protest and we allowed them to protest. The
12 moment the violence occurred, which was the
13 assault in the rear of the room, and that -- my
14 officer, that officer, was assaulted by the
15 individual who tackled the officer, at that point,
16 the free speaking to each other concerned us. The
17 number of people that were in that room, and if
18 more of those took place, how that would be to
19 break those up and the people -- there were a lot
20 of kids in there. Like I said, one lady was
21 carrying a baby.
22 Q. Sure.

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1 **A. So at that point, I agreed with the**
2 **superintendent. Now is the right time. You can**
3 **go ahead. I'm fine with it. You can make your**
4 **announcement, but we still are not going to**
5 **physically push or encourage them to leave. Your**
6 **announcement will make people leave and it did,**
7 **and he made a total of four of them.**
8 Q. Okay. So the incident with your officer
9 where you say he got tackled, did you see it?
10 **A. So I saw the corner -- I was behind the**
11 **media, so what I saw was the crowd. I didn't see**
12 **the tackle. I saw commotion and I heard the**
13 **noise, and I stood up but you still couldn't see,**
14 **and I read the other officers from the other room**
15 **as they move in, which is normal. You watch what**
16 **the --**
17 Q. Sure.
18 **A. -- backup officer is doing and --**
19 Q. Sure. (Inaudible).
20 **A. -- I saw them go down and, in fact, we**
21 **had standby officers, emergency officers that were**
22 **standing by in case things went south. I held**

<p style="text-align: right;">109</p> <p>1 them back and -- because he went down and then 2 very quickly, they stood up and he was in custody, 3 so we didn't need to -- we didn't want to over 4 send officers to a situation. It was handled by 5 two or three officers at the most. 6 Q. So it's possible that he wasn't tackled, 7 but there was a scuffle. 8 A. No, I saw the tackle on the video. 9 That's why -- 10 Q. Oh, you've seen the video of the tackle. 11 A. I saw the video. It was on the news and 12 everything else. I saw the tackle -- 13 Q. Okay. 14 A. -- but at the time, I didn't know what 15 was going on. I had to find out afterwards, why 16 was he arrested? What was the situation as -- 17 Q. Do you have the video here today? 18 A. No. 19 Q. Okay. Does it show somebody charging a 20 deputy and tackling, like a linebacker? 21 A. It shows him -- yeah, like a linebacker. 22 Q. Okay. And so was the deputy behind him</p>	<p style="text-align: right;">111</p> <p>1 tackled the officer. That's what I saw on the 2 video. 3 Q. And so you didn't run at the officer. 4 In other words, the officer grabbed him. 5 A. The officer went to take control. 6 Q. Okay. 7 A. Yeah. Three times, we were trying to 8 take control. 9 Q. Absolutely, yes. Understood. 10 A. And so he's trying to control him, like, 11 you know, this is not going good. Come over here, 12 talk to me, etcetera, and then the assault 13 occurred. 14 Q. Other than than one person, were there 15 any other incidents? 16 A. There were reports taken after the 17 incident, yes. There was a lady that said that 18 she was pushed by someone. That report was taken 19 and an incident number was placed. We interviewed 20 some people about it because she fell, adamant 21 that she was pushed and we checked into it and 22 apparently, it seemed to be that, once that</p>
<p style="text-align: right;">110</p> <p>1 or in front of him? 2 A. The deputy would have been in front of 3 him. 4 Q. Okay. And did -- was there a deputy 5 behind him? 6 A. There was a deputy that -- the secondary 7 deputy -- so the interesting thing is, so the way 8 it works is this. The noise is made. The action 9 is made. Now the camera comes over to that area. 10 So there's a commotion going on before the camera 11 gets there. The officer wasn't nowhere near 12 there. He was in another post, so once the noise 13 and the commotion takes place, the officer comes 14 over to take a look at what's going on. He has 15 some words with the individual, like, hey, you 16 need to come over here, talk to me. We'll try and 17 de-escalate the situation. 18 Now the camera comes to the situation because 19 the rest of the room is picking up on -- 20 something's happening in the back, and that's how 21 the incident went. When the officer went to pull 22 the gentleman away from the scene, he turned, he</p>	<p style="text-align: right;">112</p> <p>1 commotion had taken place, other people moved away 2 and they bumped into this person, and so some 3 people were pushed and made complaints about stuff 4 like that. 5 Q. And she was on her way out when she got 6 pushed. 7 A. I don't believe that she was on her way 8 out at all. 9 Q. Okay. 10 A. I just -- I believe she reported that -- 11 this is way before -- we hadn't told anybody to 12 leave at that time. 13 MR. KACHOUROFF: Okay. Okay. Okay. I 14 have nothing further, Your Honor. 15 THE COURT: Redirect? 16 MS. BIBERAJ: No, Judge. Thank you, 17 sir. 18 THE WITNESS: Thank you. 19 MS. BIBERAJ: He just will be subject to 20 recall. 21 THE COURT: All right. You'll -- you 22 may step down. You need to go back out in the</p>

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1 hall. Do not discuss this case while you're
2 waiting. You may be recalled as a witness.
3 THE WITNESS: Okay.
4 THE COURT: Thank you.
5 THE WITNESS: Thank you, Your Honor.
6 THE COURT: The Court --
7 MS. BIBERAJ: Next is Sergeant
8 (inaudible) please.
9 THE COURT: -- will take a five-minute
10 recess.
11 THE COURT OFFICER: All rise. The
12 Court's in recess.
13 (OFF THE RECORD)
14 (ON THE RECORD)
15 (Call to the order of the Court.)
16 THE COURT: All right. Next witness for
17 the Commonwealth.
18 MS. BIBERAJ: Sergeant Leydig, please.
19 Judge, while he's coming to the stand, may I
20 please hook up a video (inaudible) the Court?
21 THE COURT: Yes.
22 Sergeant, come forward to the witness

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1 stand, which is up here to your right. You've
2 been sworn earlier with the other officers, so you
3 may take a seat at the witness stand. The
4 Commonwealth will be questioning you first, and
5 then attorney for the Defendant may also have
6 questions. Yes?
7 MR. KACHOUROFF: Your Honor, my client's
8 using the restroom, so he should be back shortly.
9 THE COURT: Well, okay. We can't start
10 until he gets here. All right. Thank you for
11 letting me know.
12 MR. KACHOUROFF: I almost forgot myself.
13 THE COURT: While we're on a break, let
14 me address a couple of matters.
15 (OFF THE RECORD)
16 (ON THE RECORD)
17 THE COURT: All right. Is the
18 Commonwealth ready with this witness?
19 MS. BIBERAJ: We'll be ready to start
20 (inaudible), Judge.
21 MR. KACHOUROFF: Can I just check the --
22 may I approach that video just to check the

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1 exhibit --
2 THE COURT: Sure.
3 MR. KACHOUROFF: -- just to make sure
4 it's the same one we're looking at?
5 THE COURT: Yeah.
6 MR. KACHOUROFF: I apologize, Judge.
7 (Inaudible). Okay. Can we do large screen and
8 also put the sound on? I want the Judge to hear
9 the tone and tenor of the room.
10 Your Honor, I don't know if the video
11 transfer to your screen at all, but we can
12 actually -- do you mind if I (inaudible) to get
13 the full screen?
14 MS. BIBERAJ: I'm going to do that.
15 MR. KACHOUROFF: Okay. Sorry.
16 MS. BIBERAJ: No, no. That's okay.
17 MR. KACHOUROFF: I'm trying to be
18 helpful.
19 MS. BIBERAJ: I appreciate you. I just
20 want to ask him some questions first.
21 THE COURT: All right. You may proceed.
22 Thank you.

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1 (Exhibit 1 was marked for identification
2 and was retained by the Court.)
3 MS. BIBERAJ: Thank you.
4 Whereupon,
5 JASON A. LEYDIG,
6 being first duly sworn or affirmed to testify to
7 the truth, the whole truth, and nothing but the
8 truth, was examined and testified as follows:
9 DIRECT EXAMINATION BY COUNSEL FOR THE PLAINTIFF
10 BY MS. BIBERAJ:
11 Q. Good morning, Sergeant Leydig.
12 A. Good morning, ma'am.
13 Q. Can you please introduce yourself to His
14 Honor?
15 A. Your Honor, I'm Jason A. Leydig, Deputy
16 Sheriff, Loudoun County Sheriff's office, rank,
17 sergeant.
18 Q. Okay. I'm going to ask -- most of the
19 questions I've got today are going to be related
20 to June 22, 2021, incident.
21 Prior to doing that, can you tell the Court,
22 please, how long have you been in law enforcement?

<p style="text-align: right;">117</p> <p>1 A. I started my law enforcement career in 2 2001 in August in Grand Rapids, Michigan, at the 3 Kent County Sheriff's Department. I started with 4 the Loudoun County Sheriff's office December of 5 2004. 6 Q. Okay. And what responsibilities as far 7 as in titles or assignments have you had since 8 being a law enforcement officer for the sheriff's 9 office? 10 A. I started in the Loudoun County jail in 11 2004, worked there for 14 months. Then I went to 12 public relations as a DARE officer, crime 13 prevention officer, went to patrol, then did the 14 school resource, was promoted to the motorcycle 15 sergeant, to traffic sergeant, and then recently 16 was transferred to patrol in the western end of 17 the county. 18 Q. Okay. Relative to the training that 19 you've had specifically while working at the jail 20 and the patrol, as well as school resource 21 officers, is there additional training that you 22 were provided or more specific training that you</p>	<p style="text-align: right;">119</p> <p>1 Q. Okay. And as far as specific behaviors, 2 what are you looking for? 3 A. Looking for individuals yelling, 4 screaming, inciting others to yell and scream and 5 carry on a coordinated effort to break the peace. 6 Q. Okay. Are you also taught in the civil 7 disobedience training as to how to de-escalate 8 matters? 9 A. Yes, ma'am. 10 Q. What tools have they taught you to add 11 to your skillset? 12 A. Chief amongst them, the Loudoun County 13 Sheriff's office implements a crisis intervention 14 training, in which nearly a hundred percent of its 15 deputy sheriffs are trained with crisis 16 intervention. 17 Q. And what exactly does crisis 18 intervention training mean? 19 A. Crisis intervention training means that 20 a deputy is taught over the course of 20 to 40 21 hours on how to talk to an individual that is 22 exhibiting crisis-like behaviors, meaning that, if</p>
<p style="text-align: right;">118</p> <p>1 were provided regarding crowd control and 2 assessment of safety? 3 A. To answer this question very 4 specifically, I've had ancillary duties such as 5 civil disturbance. With the civil disturbance 6 training coupled with school resource, I would say 7 that there are probably around a hundred hours of 8 additional mandatory in-service recertification 9 trainings that I've received through civil 10 disturbance, crime prevention, and school resource 11 officer. 12 Q. Okay. And as part of that training, are 13 you taught how to assess certain behaviors within 14 a crowd to make a determination as to whether or 15 not safety becomes a risk? 16 A. Yes, ma'am. 17 Q. Okay. What types of things are you 18 taught to look for? 19 A. I've been taught to look for individuals 20 in a group that are organizers, individuals that 21 are acting outside of a group, and then groups 22 acting in concert with one another.</p>	<p style="text-align: right;">120</p> <p>1 they are in a crisis, instead of dealing with it 2 in a black and white legal aspect, we can deploy 3 officers that are specially trained to speak with 4 them and de-escalate the situation, hear them out, 5 and to understand what they're going through. 6 Q. Okay. Excellent. Now I want to ask you 7 specific to June 22nd, if I may, please. 8 Were you assigned to the school board 9 meeting? 10 A. I was assigned to the school board 11 meeting by voluntary overtime. So I was there 12 because I signed up for overtime for that position 13 as an LCPS contractee. 14 Q. What was your initial direction as far 15 as why you were to be there? 16 A. It was to keep the peace. 17 Q. Okay. At any point in time, were you 18 told that your position or your purpose was to 19 stop people from speaking? 20 A. Absolutely not. 21 Q. Okay. What time did you show up to the 22 Loudoun County school board building?</p>

<p style="text-align: right;">121</p> <p>1 A. If I could refer to my notes.</p> <p>2 Q. Okay. So if you could do this, I could</p> <p>3 share with counsel because I know you gave him the</p> <p>4 notes -- what notes are you looking at that we</p> <p>5 also can review?</p> <p>6 A. This is an actual self-note of the</p> <p>7 incident-based report that I submitted to the</p> <p>8 Loudon County Sheriff's office that I placed upon</p> <p>9 my cell phone, just so that I could read off of</p> <p>10 it.</p> <p>11 Q. Was it then transferred into a</p> <p>12 narrative?</p> <p>13 A. Yes, ma'am. The same narrative that</p> <p>14 everybody has access to (inaudible).</p> <p>15 Q. Okay. All right. We're good.</p> <p>16 A. Yes, ma'am. To answer your question,</p> <p>17 1500 hours, 3 p.m. is when I arrived to the area,</p> <p>18 in order to get a briefing.</p> <p>19 Q. All right. How were you dressed that</p> <p>20 day?</p> <p>21 A. I was dressed the exact way that you see</p> <p>22 me today.</p>	<p style="text-align: right;">123</p> <p>1 MS. BIBERAJ: Thank you (inaudible).</p> <p>2 Q. When you arrived to the Loudoun County</p> <p>3 school board building around 3 o'clock, did you</p> <p>4 come in through the parking lot area?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. Had you -- did you observe any</p> <p>7 individuals already gathering by that time?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Can you describe for the Court what you</p> <p>10 observed?</p> <p>11 A. I observed, by and large, the group was</p> <p>12 coordinated. They were calm. They were very</p> <p>13 appreciative of law enforcement being there, and I</p> <p>14 saw many people that I'd seen there before, having</p> <p>15 worked many overtime assignments there before.</p> <p>16 Q. Okay. Based on the size of the crowd,</p> <p>17 was this any different than the other times that</p> <p>18 you had worked one of those school board meetings?</p> <p>19 A. There were a couple more tents. There</p> <p>20 were speaker with microphones that were set up</p> <p>21 that I haven't seen before.</p> <p>22 Q. Okay. And when you made this</p>
<p style="text-align: right;">122</p> <p>1 Q. And for the record, can you describe</p> <p>2 what that means? Are you in full uniform?</p> <p>3 A. I am in full duty uniform, Class B,</p> <p>4 displaying my badge of authority with a nametag</p> <p>5 and all the other regalia.</p> <p>6 Q. And as far as your insignia and stuff</p> <p>7 like that, it says sheriff on the front?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. What does it say on the back?</p> <p>10 A. It says sheriff on the back as well.</p> <p>11 Q. All right. And as you indicated, the</p> <p>12 same uniform you have here on today in court is</p> <p>13 the same one or similar -- maybe not the same</p> <p>14 exact shirt, but similar to the one that you wore</p> <p>15 on June 22nd?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. All right.</p> <p>18 MR. KACHOUROFF: Just briefly, Judge, we</p> <p>19 don't have to go through this every time. I'll</p> <p>20 stipulate that they're all on duty wearing --</p> <p>21 displaying their badge of authority because it'll</p> <p>22 speed things up.</p>	<p style="text-align: right;">124</p> <p>1 observation, were you -- did you make it as you</p> <p>2 were going into the building or were you stationed</p> <p>3 outside the building?</p> <p>4 A. Both. I made it as I entered into the</p> <p>5 building and as I was inside the building, looking</p> <p>6 out through the windows.</p> <p>7 Q. All right. So now let's change the</p> <p>8 focus of the conversation to when you were inside</p> <p>9 the building. When you were inside the building,</p> <p>10 do you see the crowd start to increase in size?</p> <p>11 A. I did not notice the increase due to the</p> <p>12 fact that my assignment was specifically to keep</p> <p>13 the peace inside the boardroom.</p> <p>14 Q. Okay. All right. So now we're going to</p> <p>15 start talking about the boardroom in and of</p> <p>16 itself.</p> <p>17 What time did the meeting start that evening?</p> <p>18 A. I would have look at my notes.</p> <p>19 Q. That's okay.</p> <p>20 A. I don't have an exact time. I would say</p> <p>21 that it probably started around 4 p.m. --</p> <p>22 Q. Okay.</p>

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1 A. -- to the best of my knowledge.
2 Q. So you said you've attended prior board
3 meetings. Relative to attendees and the number of
4 individuals who attended, was this evening on June
5 22nd any different in the number of attendants
6 versus prior hearings?
7 A. **There were open seats at every meeting
8 that I had been at prior. This was the first
9 meeting that I saw that there were absolutely no
10 open seats.**
11 Q. Okay. And what was, like, the emotional
12 energy that evening?
13 A. **The emotional energy was by and large
14 calm at first.**
15 Q. okay. Did things then start to change?
16 A. **As the meeting continued to go through
17 its normal decorum, there was at one point booing
18 and jeering from whatever side was booing and
19 jeering towards the other side. At that point,
20 the decorum had been lost and I noticed that the
21 chair had called a brief recess.**
22 Q. Okay. And at the time that she called

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1 the brief recess, was there any comments made
2 towards the crowd as to why that recess was taking
3 place?
4 A. **I don't remember to the best of my
5 recollection.**
6 Q. Okay. Did the meeting then reconvene?
7 A. **The meeting then reconvened five to ten
8 minutes later.**
9 Q. All right. Did you observe anything
10 about the crowd or the attendees that then caused
11 you to be concerned as to the tenor or the impact
12 to safety that this may have?
13 A. **I noticed that, at that time, the crowd
14 became very, very calm and very quiet, and on both
15 sides, were running through their respective
16 speakers.**
17 Q. Okay. Did there come another point in
18 time when the chair took a recess?
19 A. **When Senator Dick Black took the podium,
20 that is when he gave an impassioned speech, and it
21 was at the time that his microphone was cut off
22 that the room then changed its tenor to become**

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1 **upset, loud, and --**
2 Q. Okay. When you say the mike cut off,
3 are there time limits on speakers?
4 A. **Yes, ma'am.**
5 Q. Had he -- to the best of your
6 information and knowledge, had he met that time
7 and exceeded it?
8 A. **Yes, ma'am. The 60 seconds had elapsed.**
9 Q. Okay. I know you said that you saw that
10 the crowd became upset and loud. What, if
11 anything, did you observe about their physical
12 demeanor that caused -- or impacted your sense of
13 safety for the attendees?
14 A. **The crowd by and large had stood up,
15 started to yell, and this is after Senator Black
16 had completed his speech and everybody had given
17 him a round of applause and it was hard to hear,
18 but the -- at that point, the chair had voted for
19 a nine-zero end to public comment, so as they
20 voted for the end to public comment at nine to
21 zero overwhelming, they then recessed to the ante
22 room.**

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1 Q. Okay. Then what, if anything, occurred
2 relative to the crowd?
3 A. **For the next 30 to 40 minutes, the crowd
4 started off by singing the National Anthem. I was
5 asked to give a brief to my command staff to which
6 I said over the radio -- if I may read from my
7 notes specifically.**
8 MR. KACHOUROFF: No objection.
9 A. **Using my duty-issued radio, I told
10 command that we are going to let these folks
11 exercise their First Amendment rights.**
12 Q. Okay.
13 A. **And that is on recording.**
14 Q. And that's fine. Right?
15 A. **Mm-hmm.**
16 Q. And did you also ask them at that point
17 that you wanted additional deputies to be there
18 because some deputies had been taken out of
19 rotation?
20 A. **There were -- there was one specific
21 incident to where a gentleman was yelling at a
22 female. Two deputies intervened. As those**

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1 deputies intervened, they had to go hands-on,
2 which basically means they had to physically take
3 that individual into custody. That liquidated a
4 majority of my deputies, which meant that it was
5 just me and another deputy. I called for backup.
6 Eventually, several more deputies came.
7 During that time, some for people left. Some
8 people stayed. We went from probably 300 plus
9 individuals in the room to at that point maybe a
10 hundred.
11 Q. Okay. And how many deputies did you
12 have in the room at that point when it was reduced
13 to about a hundred?
14 A. I don't have it written down. To the
15 best of my recollection, no more than five.
16 Q. Okay. And at this point, you've had
17 maybe about 30 minutes pass as far as when the
18 announcement was made that they needed to leave,
19 and --
20 A. Yes. And I heard at least three to four
21 -- I have written down in my notes, four
22 announcements from Dr. Ziegler of such to cease

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1 and desist, and we -- I do have an actual quote,
2 if I may read that.
3 Q. You're welcome to.
4 A. Superintendent, Dr. Scott Ziegler, says,
5 as an administrator of Loudoun County Public
6 Schools, I am notifying you that this is an
7 illegal assembly and you are ordered to leave the
8 building. Those that remain will be subject to
9 arrest for trespassing.
10 Q. Okay. After the first time you heard
11 that, what, if anything, did you -- and you -- and
12 if I may ask this so I don't make this assumption,
13 you were the highest-ranking officer within the
14 boardroom at that point in time when he made the
15 first announcement other than Major McDonald,
16 correct?
17 A. Correct.
18 Q. Okay. So after that first announcement
19 that you need to leave, it's an illegal or
20 unlawful assembly or you will be subject to
21 arrest, what do you direct your staff -- law
22 enforcement officers to do?

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1 A. From the very beginning, I said, we are
2 going to ask them to leave.
3 Q. Okay.
4 A. Just be nice. Ask them to leave.
5 Apologize profusely. Don't get into a
6 conversation with them. Please, please leave.
7 I'm so sorry. Please leave. If you're ever asked
8 a question, I'm sorry. Just please leave.
9 Q. And that's part of the de-escalation,
10 correct?
11 A. That is part of the de-escalation, open
12 hands, just very gently trying to corral people
13 out of the back of the room.
14 Q. All right. And that starts with the
15 first announcement when there's approximately 6-
16 to 700 people in the room.
17 A. Yes, ma'am.
18 Q. Some people have complied?
19 A. Some people have complied.
20 Q. All right. When it gets to the second
21 announcement, does your instructions or your
22 actions change as to encouraging those remaining

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1 to leave?
2 A. It is just a repeat of the exact same
3 orders.
4 Q. All right. Third time, does it change?
5 A. A repeat of the exact same orders.
6 Q. All right. Now by the fourth time,
7 you've now had an incident related to one of your
8 law enforcement officers coming hands-on with
9 another attendee, correct?
10 A. Yes, ma'am.
11 Q. At this point in time, what then changes
12 as far as how the actions will be for the law
13 enforcement to take?
14 A. We only have a handful of folks left,
15 and my major has said I need one more
16 announcement. Get these people out of here.
17 Q. Okay.
18 A. He said something to that effect.
19 Q. And that was after the physical
20 altercation with the one gentleman who was
21 arrested.
22 A. Yes, ma'am.

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1 Q. So let's talk a little bit about the
2 tenor of the room when that was going on. Did it
3 decrease the anxiety in the room or did it
4 increase? What impact, if any, did it have?
5 A. I will say that, since there was
6 absolutely nobody other than the five to ten
7 citizens that were left, the mood of the room was
8 calm due to the fact that there were more law
9 enforcement there than there were civilians.
10 Q. At the time that he was arrested, there
11 was only five or ten?
12 A. Mr. Tigges?
13 Q. I'm sorry.
14 A. At the time that the --
15 Q. Mr. Smith.
16 A. -- of the initial arrest, there was
17 several hundred people.
18 Q. Right. Okay.
19 A. But by the end, when Mr. Tigges was
20 arrested, there was only five to ten.
21 Q. All right. So I apologize. So I should
22 have been very specific (indiscernible) so excuse

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1 me for not having done that. Let's go back to the
2 individual who was arrested that was not Mr.
3 Tigges.
4 At that point in time, there's a couple
5 hundred individuals in the room. While that was
6 going on, what was the tenor --
7 THE COURT: Wait a minute. The answer
8 to that was yes.
9 A. The tenor --
10 THE COURT: The court reporter can't --
11 MS. BIBERAJ: Yeah, because there's a
12 court reporter.
13 THE WITNESS: That's okay.
14 THE COURT: -- (inaudible). All right.
15 MS. BIBERAJ: Yeah. Thank you, Judge.
16 Let me go back and walk through that, so that you
17 actually have an audible response.
18 Q. At the time that the other person who
19 was not Mr. Tigges was arrested, there was
20 approximately a couple hundred people in the room
21 still?
22 A. Yes, ma'am.

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1 Q. And there was about five law enforcement
2 officers?
3 A. Yes, ma'am.
4 Q. Okay. What was the tenor of the room
5 as far as the attendees when that other person was
6 being arrested?
7 A. It was loud. It was angry, and it was
8 not safe in my opinion.
9 Q. Okay. What concerns did you have and
10 for whom relative to other attendees, law
11 enforcement, or anything else in that nature?
12 A. My main goal and I tell my deputies that
13 my main goal was to keep the peace, to keep the
14 civilians safe, to keep the board safe. We're not
15 there just for the board. We're there to make
16 sure that everybody has a safe First Amendment
17 environment in which they can exercise that right.
18 Q. Okay. At this point, you indicated that
19 safety became an issue.
20 A. Yes, ma'am.
21 Q. All right. What, if anything, did you
22 then direct your fellow officers to do?

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1 A. Again, open hands, communicating in a
2 positive manner with the civilians that were left,
3 the citizens, in order to leave the boardroom.
4 Q. Okay. At that point, are they getting
5 actually closer to the crowd themselves to be able
6 to -- I don't want to use the word corral. That's
7 a little offensive -- to encourage them to leave?
8 A. Yes, ma'am. We are advancing on them by
9 taking shuffle steps.
10 Q. All right. And are most people then
11 complying with it?
12 A. Yes, ma'am.
13 Q. All right. At -- sorry. At some point,
14 do you then actually come into direct contact with
15 Mr. Tigges?
16 A. Yes, ma'am.
17 Q. All right. What would -- what is the
18 interaction between you and he?
19 A. There was one interaction before the
20 video that was captured in which I asked Mr.
21 Tigges to -- is that the proper pronunciation,
22 Tigges?

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1 MR. KACHOUROFF: It is. Yes. Thank
2 you.
3 **A. To come aside and to which -- not to say**
4 **hearsay. I just asked him what -- I said, what is**
5 **your end goal here today?**
6 Q. And what'd he say?
7 **A. Mr. Tigges then said -- he goes, there's**
8 **no way that I'm going to leave this building**
9 **without being arrested.**
10 Q. Okay. At that point, then there is an
11 interaction that is recorded between you and he.
12 **A. Yes, ma'am.**
13 Q. Can you describe for the Court, please,
14 what is your then next interaction with him?
15 **A. I saw Deputy Haynes, who will be in the**
16 **video with a green shirt, interacting with Mr.**
17 **Tigges in a CIT manner, engaging Mr. Tigges to**
18 **understand what his crisis is to be able to de-**
19 **escalate that. As he is engaging Mr. Tigges, I'm**
20 **advancing and pushing people without pushing them.**
21 Q. Without touching.
22 **A. Right. Pushing them out of the back of**

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1 **the room, and with great success. And then as I**
2 **come back, there was one more audible notification**
3 **from Dr. Ziegler and the order by Major McDonald**
4 **to make sure that all these people (inaudible) and**
5 **that is when I had my last -- my interaction with**
6 **him. That was on video.**
7 Q. And what was the interaction between you
8 and Mr. Tigges at that point in time?
9 **A. At that point, I very succinctly went up**
10 **to Mr. Tigges and said -- if I may look at my**
11 **notes just so that I'm not --**
12 Q. Sure.
13 MS. BIBERAJ: For Counsel's reference,
14 it's Page 5 of 6, Paragraph 2.
15 **A. Yes, ma'am. I returned at around 5:55**
16 **hours to find Mr. Tigges was still engaging with**
17 **Deputy Haynes. Deputy Haynes and Mr. Tigges were**
18 **speaking. Mr. Tigges was speaking about the**
19 **suppression of people's rights. I asked Mr.**
20 **Tigges, Jon, are you refusing to leave at this**
21 **time? Mr. Tigges replied, yes, I am refusing to**
22 **leave. I then gave the order, deputies, please**

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1 **arrest this individual for trespassing.**
2 Q. Okay. And did that, in fact, take
3 place?
4 **A. That took place. He was arrested**
5 **without incident.**
6 Q. All right. I'm going to go and just
7 identify some video. The videos that you will be
8 asked to look at, you've had an opportunity to
9 review them earlier, have you not?
10 **A. Yes, ma'am.**
11 Q. Are those videos that you actually
12 provided to me, those being videos that are on
13 YouTube, a public channel?
14 **A. They are on a public channel. Yes,**
15 **ma'am, to which they have been recorded and placed**
16 **into our evidence system.**
17 Q. Thank you, sir.
18 MS. BIBERAJ: Judge, based on Counsel's
19 request and my consent, what we're actually going
20 to do is actually allow the audio on this. I
21 don't think there's any objection to that.
22 Counselor, can you see that?

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1 MR. KACHOUROFF: Yes, ma'am.
2 MS. BIBERAJ: All right. Thank you,
3 sir. At any point in time that you need
4 (inaudible).
5 Q. I don't know if it's too soon to tell
6 but are you able to identify who the sheriff is in
7 this --
8 **A. That very well might be my back.**
9 Q. Okay. If at some point, it isn't, then
10 let me know. I believe it is you too but we'll
11 see that.
12 **A. That is me.**
13 (Video started.)
14 (Video stopped.)
15 Q. I just want to ask you a couple of
16 questions. You see that there's numerous deputies
17 within the throng of the crowd, and that's what
18 you were saying, that they were encouraging them
19 to leave?
20 **A. Yes, ma'am.**
21 Q. All right. Are those the exit doors on
22 the top, right-hand side?

<p>141</p> <p>1 A. Yes, ma'am.</p> <p>2 Q. All right. There's someone speaking in</p> <p>3 the background. And is that the amplification</p> <p>4 system that somebody's speaking on?</p> <p>5 A. There is one really loud woman that did</p> <p>6 not have any amplification whatsoever and that's</p> <p>7 generally who we're hearing through most of this.</p> <p>8 Q. Okay. All right. If you listen to it,</p> <p>9 there's a -- it sounds like a male voice and it</p> <p>10 sounds like an amplification. I just want to ask</p> <p>11 you a question, if you'll listen to that and then</p> <p>12 I'll -- let me know when you hear it.</p> <p>13 (Video started.)</p> <p>14 (Video stopped.)</p> <p>15 Q. So with what we are hearing, is that</p> <p>16 similar to what you were experiencing in real</p> <p>17 time?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. All right. Now I'm just going to let it</p> <p>20 play.</p> <p>21 (Video started.)</p> <p>22 (Video stopped.)</p>	<p>143</p> <p>1 training?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. All right.</p> <p>4 (Video started.)</p> <p>5 (Video stopped.)</p> <p>6 Q. Sergeant Leydig, was that a true and</p> <p>7 accurate video of the events as they transpired</p> <p>8 that evening on June 22nd?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. All right. I have no further questions</p> <p>11 at this time. Thank you, sir.</p> <p>12 THE COURT: Cross-examination?</p> <p>13 MR. KACHOUROFF: Very, very briefly,</p> <p>14 Judge.</p> <p>15 CROSS-EXAMINATION BY COUNSEL FOR THE DEFENDANT</p> <p>16 BY MR. KACHOUROFF:</p> <p>17 Q. Sergeant, you said, no way I leave</p> <p>18 without being arrested was one of the comments</p> <p>19 that he said to you.</p> <p>20 A. Yes, ma'am. Yes, sir.</p> <p>21 Q. It's okay. Fair to say that he may have</p> <p>22 -- because I didn't see that contained in your</p>
<p>142</p> <p>1 Q. Is that Mr. Tigges?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. All right.</p> <p>4 (Video started.)</p> <p>5 (Video stopped.)</p> <p>6 Q. On the (inaudible) because, at some</p> <p>7 point, you'll see Sergeant McDonald in the photo</p> <p>8 and he makes a signal. Is that you were</p> <p>9 referencing earlier to make another announcement</p> <p>10 for people to leave?</p> <p>11 A. It very well might be that I'm --</p> <p>12 correction to Major McDonald.</p> <p>13 Q. I'm sorry.</p> <p>14 A. No, it's okay. Mm-hmm.</p> <p>15 (Video started.)</p> <p>16 (Video stopped.)</p> <p>17 Q. And as far as the individual that's</p> <p>18 talking to Mr. Tigges, who is that, from the</p> <p>19 sheriff's office?</p> <p>20 A. The green-shirted deputy was Deputy</p> <p>21 Haynes.</p> <p>22 Q. And that's with the specialized CIT</p>	<p>144</p> <p>1 statement -- in your written statement.</p> <p>2 A. Yes, sir.</p> <p>3 Q. Is it contained in there?</p> <p>4 A. It is not contained in my narrative.</p> <p>5 No, sir.</p> <p>6 Q. Is it just as possible he says no way</p> <p>7 I'll leave until everyone's had a chance to speak?</p> <p>8 A. That is absolutely not what I heard.</p> <p>9 Q. Okay. So if it was on video that that's</p> <p>10 what is said, you would go with what the video</p> <p>11 said rather than your own recollection.</p> <p>12 A. If there was a video that contradicts</p> <p>13 what I said, then my recollection obviously is in</p> <p>14 flaw.</p> <p>15 Q. And you talked about the 30 minutes</p> <p>16 after the board left. What happened during the 30</p> <p>17 minutes? Were they talking? Were they on that --</p> <p>18 doing their speeches on the --</p> <p>19 A. Yes, sir. They were taking turns,</p> <p>20 standing on chairs, on a speaker system that they</p> <p>21 brought in.</p> <p>22 Q. So the board didn't come back to resume</p>

<p>145</p> <p>1 the meeting for 30 minutes or more?</p> <p>2 A. That is true.</p> <p>3 Q. Did they tell you that they weren't</p> <p>4 coming back? Did they tell you they were coming</p> <p>5 back? What was the board's intent at that point?</p> <p>6 A. I don't know.</p> <p>7 Q. Did the board ever tell you before they</p> <p>8 recessed that they wanted everybody cleared?</p> <p>9 Before you made the announcement, did the board</p> <p>10 ever say they wanted everybody gone?</p> <p>11 A. No, sir.</p> <p>12 Q. Were you in the back room with the board</p> <p>13 at any point in time?</p> <p>14 A. No, sir.</p> <p>15 Q. So you would have no way of knowing what</p> <p>16 they said.</p> <p>17 A. No, sir.</p> <p>18 Q. Okay. Mr. Tigges never once called you</p> <p>19 a pig.</p> <p>20 A. No, sir.</p> <p>21 Q. Was he respectful? Would you say that</p> <p>22 was respectful, what you saw?</p>	<p>147</p> <p>1 anything about the deputy stopping him from</p> <p>2 speaking.</p> <p>3 MS. BIBERAJ: I think it's his response,</p> <p>4 Judge, to Mr. Tigges wanting to speak and to</p> <p>5 exercise his First Amendment privilege. That's in</p> <p>6 response to that, that his attempts were not to</p> <p>7 forfeit that or just to (indiscernible) that in</p> <p>8 any way.</p> <p>9 THE COURT: The issue came up about</p> <p>10 speaking.</p> <p>11 MR. KACHOUROFF: It did. All I asked</p> <p>12 him was he said Mr. Tigges said -- because I wrote</p> <p>13 it down, I'm not leaving until -- or I'm not going</p> <p>14 to -- he asked what is his end game, and he</p> <p>15 believed Mr. Tigges said, I'm not leaving this</p> <p>16 room until I'm arrested or some such thing like</p> <p>17 that. And then I asked the question, is it</p> <p>18 possible he said I'm not leaving the room until</p> <p>19 everyone had a chance to speak. He couldn't</p> <p>20 remember.</p> <p>21 That's it, but that doesn't open the</p> <p>22 door to him -- her asking all kinds of other</p>
<p>146</p> <p>1 A. In the back parking lot, he was very,</p> <p>2 very, very respectful.</p> <p>3 Q. Okay. And he was also -- while he was</p> <p>4 adamant about his constitutional rights, he wasn't</p> <p>5 belligerent with you.</p> <p>6 A. I would say that what you saw in the</p> <p>7 video was his impassioned plea to be heard --</p> <p>8 Q. Understood.</p> <p>9 A. -- is my opinion of the situation.</p> <p>10 MR. KACHOUROFF: I have nothing further.</p> <p>11 Thank you, Judge.</p> <p>12 THE COURT: Redirect?</p> <p>13 MS. BIBERAJ: Briefly.</p> <p>14 REDIRECT EXAMINATION BY COUNSEL FOR THE PLAINTIFF</p> <p>15 BY MS. BIBERAJ:</p> <p>16 Q. Sergeant Leydig, relative to your</p> <p>17 actions and those that you directed your officers</p> <p>18 and deputies to do, was that in an attempt to</p> <p>19 silence his abilities to speak?</p> <p>20 A. No, ma'am.</p> <p>21 MR. KACHOUROFF: Objection, Your Honor.</p> <p>22 That goes beyond the scope. I never raised</p>	<p>148</p> <p>1 questions about whether he gave orders to stop</p> <p>2 speaking. I never even went into that. In fact,</p> <p>3 his testimony was that they did -- his testimony</p> <p>4 was just the opposite, that he actually is on the</p> <p>5 radio saying, we're going to give these people</p> <p>6 their First Amendment right to speak.</p> <p>7 MS. BIBERAJ: Judge, we can refer to the</p> <p>8 court reporter as to the subsequent question</p> <p>9 because there was a subsequent question if that</p> <p>10 would guide the Court in its ruling on the</p> <p>11 objection.</p> <p>12 THE COURT: I'm inclined to allow the</p> <p>13 answer to the question.</p> <p>14 MR. KACHOUROFF: Okay. That's fine.</p> <p>15 THE COURT: It seems to me that that was</p> <p>16 the -- there was a question about speaking and I</p> <p>17 think it's a follow up question to that. There</p> <p>18 might have been a difference in what you asked him</p> <p>19 about his recollection and what something may --</p> <p>20 some other testimony -- not testimony -- but the</p> <p>21 video may have been, but regardless, I'm going to</p> <p>22 allow the question. Objection overruled.</p>

<p style="text-align: right;">149</p> <p>1 MS. BIBERAJ: Thank you, sir.</p> <p>2 BY MS. BIBERAJ:</p> <p>3 Q. And Sergeant Leydig, was the crowd</p> <p>4 permitted an alternative site to continue with</p> <p>5 their public comments, such as being outside of</p> <p>6 the boardroom?</p> <p>7 A. The hallway or the parking lot at large.</p> <p>8 MS. BIBERAJ: I have no further</p> <p>9 questions. Thank you, sir.</p> <p>10 MR. KACHOUROFF: May I redirect?</p> <p>11 THE COURT: Yes.</p> <p>12 RECROSS-EXAMINATION BY COUNSEL FOR THE DEFENDANT</p> <p>13 BY MR. KACHOUROFF:</p> <p>14 Q. Do you know whether the parking lot and</p> <p>15 the right to assemble outside of the parking lot,</p> <p>16 was that announced on the loudspeaker?</p> <p>17 A. I don't recall.</p> <p>18 Q. Do you recall whether the school board</p> <p>19 had a notice that said, listen, this is a big</p> <p>20 crowd tonight. We're going to set up additional</p> <p>21 areas outside for the right for the people to</p> <p>22 assemble?</p>	<p style="text-align: right;">151</p> <p>1 hall and you may be recalled as a witness. Do not</p> <p>2 discuss this case while you're waiting.</p> <p>3 THE WITNESS: Yes, sir.</p> <p>4 THE COURT: The next witness for the</p> <p>5 Commonwealth.</p> <p>6 MS. BIBERAJ: Judge, that would be the</p> <p>7 Commonwealth's case in chief.</p> <p>8 THE COURT: Commonwealth's case.</p> <p>9 MR. KACHOUROFF: Your Honor, I move to</p> <p>10 strike the Commonwealth's case.</p> <p>11 THE COURT: Okay. Do you have some</p> <p>12 reason for that?</p> <p>13 MR. KACHOUROFF: Of course, I do. I'm</p> <p>14 getting ready to tell you.</p> <p>15 THE COURT: Okay.</p> <p>16 MR. KACHOUROFF: This case is</p> <p>17 interesting from several respects. You've got the</p> <p>18 superintendent who thinks the sky is falling and</p> <p>19 describes a chaotic scene reminiscent of January</p> <p>20 6th, yet there's no protestors burning chairs,</p> <p>21 looting, rioting, jumping on top of the dais,</p> <p>22 nothing.</p>
<p style="text-align: right;">150</p> <p>1 A. I don't recall.</p> <p>2 MR. KACHOUROFF: Thank you. Nothing</p> <p>3 further, Judge.</p> <p>4 THE COURT: You have the last --</p> <p>5 MS. BIBERAJ: Thank you, sir.</p> <p>6 RE-REDIRECT EXAMINATION BY COUNSEL FOR THE</p> <p>7 PLAINTIFF</p> <p>8 BY MS. BIBERAJ:</p> <p>9 Q. But you heard Sergeant McDonald -- I'm</p> <p>10 sorry -- Major McDonald clearly state they could</p> <p>11 assemble outside.</p> <p>12 A. Yes, ma'am.</p> <p>13 MS. BIBERAJ: I have nothing further.</p> <p>14 Thank you, Judge.</p> <p>15 THE COURT: All right. Is this witness</p> <p>16 needed further?</p> <p>17 MS. BIBERAJ: Judge, he's subject to</p> <p>18 recall if we may, please.</p> <p>19 THE COURT: All right. You may step</p> <p>20 down.</p> <p>21 THE WITNESS: Thank you, Judge.</p> <p>22 THE COURT: You need to wait out in the</p>	<p style="text-align: right;">152</p> <p>1 The only incident you saw of someone</p> <p>2 standing on a chair was a shorter fellow -- and I</p> <p>3 sympathize with him because I'm not as tall as I'd</p> <p>4 like to be -- get on a chair during the recess and</p> <p>5 attempt to speak and attempt to say something, and</p> <p>6 then the microphone gets taken away and he gets</p> <p>7 down. There was nothing disorderly about that</p> <p>8 room, nothing. The cases are replete with this</p> <p>9 type situation.</p> <p>10 And, look, we're not talking about a</p> <p>11 courtroom. If I come in here and pull antics on</p> <p>12 you, not only are you going to shut me down, the</p> <p>13 bailiffs will come and put me in cuffs because the</p> <p>14 decorum here is not the same -- it's not a</p> <p>15 political decorum.</p> <p>16 First, I mean, Justice Thurgood Marshall</p> <p>17 has mentioned on occasion a famous case. I think</p> <p>18 it was an Illinois case, a Chicago case, where</p> <p>19 they were talking about the animating contest of</p> <p>20 freedom, and when we talk about politics, that</p> <p>21 there is -- it's expected that we are engaged in</p> <p>22 this political discussion. That's why a lot of</p>

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1 people don't like to talk about religion and
2 politics, yet we have both of those things being
3 talked about here.

4 Nothing in these videos shows any sort
5 of riotous assembly. The question is -- the
6 question you have to decide is whether an unlawful
7 assembly has to be there in order for the police
8 to clear a public assembly. You can't have it any
9 other way than to have -- you have to make that
10 analysis because if you do, then there's no -- why
11 would you ever have an unlawful assembly? You
12 never would. The unlawful assembly exists for
13 this reason.

14 When I speak to unlawful assembly, I'm
15 talking about the old common law and now which is
16 codified at 406, I believe, of Title 18.2. Yes,
17 18.2-406. If this statute does not apply to
18 public assemblies, it never will -- or to public
19 protests, it never will. We will have established
20 a new squish standard that, well, I feel this and
21 I feel that and they weren't using their jazz
22 hands. They were applauding. There's no policy

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1 that says they can't applaud.

2 I noticed the Commonwealth didn't show
3 you the -- Dick Black speaking and the applause
4 afterwards because that video may not have been
5 favorable to the Commonwealth. Why didn't they
6 show the -- what the crowd's reaction was? It's
7 their burden. They have the burden to do that,
8 not me.

9 But at the end of the day, the motion to
10 strike should be granted and for one salient
11 reason, that in order to declare this an unlawful
12 assembly, you have to meet the exact terms of the
13 statute. Arresting one person who, according to
14 Major McDonald, got tackled, but Sergeant Leydig
15 didn't express it in those terms. The two guys --
16 they arrested him without incident and they took
17 him out and people continued for a little while
18 thereafter. And then they made the announcement
19 to -- that it was an unlawful assembly.

20 I think when you look back at the
21 evidence, that this really illuminates that issue
22 because we have Major McDonald telling you

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1 uncontradicted or that before he went back into
2 the room with the board and the board wanted to
3 clear the room out then and he said no. So he
4 knew he couldn't just clear it out. So what is
5 the standard by which he claims that he can clear
6 that room?

7 The board obviously didn't want to hear
8 any more public comment. That much is clear by
9 virtue of Major McDonald's testimony. They're
10 going to have that issue to deal with. That's a
11 separate issue but the real glaring part that you
12 have to overcome is why did Major McDonald have
13 the right to clear that room when there was no
14 unlawful assembly? And you'll see they're all --
15 without even my prompting, the witnesses like Dr.
16 Ziegler are now backing away from the unlawful
17 assembly because they know. They read the statute
18 and they went, oops. We screwed up.

19 So they couldn't clear that room just
20 because. When the board sets up a public meeting
21 and within that public meeting, sets up a public
22 comment session, it's accorded strict scrutiny.

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1 It's accorded First Amendment protections under
2 the United States Constitution. That's not in
3 disputed. The only way to defeat that is to show
4 -- make a showing not that, oh, well, the crowd
5 was rowdy. Well, this is politics. Crowds always
6 get rowdy. You know, I think one of the witnesses
7 likened it to a game, but there wasn't three or
8 more persons conspiring and the statute is key
9 here and it assists you in understanding whether
10 this occurred.

11 It's lawful or unlawful purpose. So
12 they had a lawful purpose, but they do so by the
13 commission of an act or acts of unlawful force or
14 violence likely to jeopardize serious public
15 safety. The statute sets the standard, not the
16 training that all these officers claim to have.
17 The statute does.

18 When three or more persons assembled
19 share the common intent, then such assembly is an
20 unlawful assembly. There wasn't three or more
21 persons using violence. All you heard was one
22 person got arrested because he was getting mad at

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<p style="text-align: right;">157</p> <p>1 another woman and there was no indication that he 2 hit her. There was no actual act of violence. 3 So in order for this case to -- in order 4 for the -- for us to say that the sheriff had the 5 right to stop a First Amendment hearing, he's 6 obviously talking to the board. The board wants 7 it stopped. That's where the school board 8 superintendent decides, well, we'll just call it 9 an unlawful assembly and we'll stop it right now. 10 The problem is it didn't meet that, so 11 in order for the Commonwealth to meet its case, it 12 can't run from the statute. They can now claim in 13 open court after the fact, oh, it wasn't really 14 unlawful. We were just scared that there were -- 15 people weren't using their jazz hands. They were 16 clapping and -- you know, no wonder why people are 17 upset with government. The government -- this is 18 not a beauty contest where we -- everybody sits 19 respectfully. This is a political forum. This 20 level is to be expected. 21 There was nothing -- you didn't hear 22 that Mr. Tigges at any time was disrespectful to</p>	<p style="text-align: right;">159</p> <p>1 trespass, which they cannot, they would have had 2 to have shown that it was an unlawful assembly. 3 He was there for a lawful purpose but he didn't 4 engage in any acts of violence. It was passive, 5 just like Martin Luther King and the passive 6 protests. So I would ask Your Honor to find the 7 Commonwealth has not met its burden. They have 8 not proved that an unlawful assembly existed, and 9 that they had no authority to order Mr. Tigges 10 from the room. He had every right to speak 11 because the time was allotted. 12 That's part of the First Amendment. 13 These board meetings, time, place, and manner. So 14 the board can regulate the time. In this case, 15 the board wasn't regulating. You heard 16 uncontradicted testimony that one woman came up 17 and called -- wasn't addressing the policy, wasn't 18 addressing the board. She's inciting the rest of 19 the audience, who she knows is against this 20 transgender policy and the critical race theory, 21 calls them all haters of Jesus and a hate-filled 22 room. What do you expect when the chair doesn't</p>
<p style="text-align: right;">158</p> <p>1 the officers. He was asserting his constitutional 2 rights. That's the oath that I took, that you 3 took, that the Commonwealth took, that the 4 officers take. Now, people have a tendency to 5 want to balance these rights out, but this is not 6 the same thing as yelling fire in a crowded 7 theater. We're not even asserting that Mr. Tigges 8 is attempting to yell fire in a crowded theater, 9 but he had a right to speak. He wasn't doing 10 anything wrong. 11 There wasn't an unlawful assembly, and 12 that's the whole point of this. That's what 13 colors this whole -- and by the way, just so the 14 Court understands the Commonwealth's case, they 15 tried to create an unlawful assembly without going 16 to the statute. That's why you heard all this 17 testimony about, well, we were scared, based on my 18 training, you know, the crowd this, the crowd 19 that. Well, it doesn't matter what any of that 20 is. What matters is what the statute says. 21 That's what we go by in the law. 22 And so in order to convict him of</p>	<p style="text-align: right;">160</p> <p>1 even dress her down or tell her to stop? But yet, 2 the moment people boo, she gets mad at them for 3 saying that. 4 The time for public comment is to 5 address public policy on the political issues. So 6 I would submit, Your Honor, the board is stuck 7 with this. They're the ones that did this. You 8 know, they have to hear public comment. They may 9 not like it but if they set aside that public 10 comment period, it's a designated public forum. 11 The First Amendment attaches with all of its 12 restrictions. 13 So based on that, Your Honor, I would 14 ask the Court to strike the Commonwealth's 15 evidence and find -- and dismiss this case. 16 THE COURT: Ms. Biberaj? 17 MS. BIBERAJ: Judge, the reason why 18 we're here is because Mr. Tigges was on the 19 property of the school board and was asked to 20 leave as one of many attendees. He chose to not 21 leave. This convoluted what the issues are, 22 so whether or not this is an unlawful assembly,</p>

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1 that's not really an issue before the Court,
2 whether it was a lawful or unlawful assembly.
3 The statute is very clear, which says,
4 it is unlawful for any person, herein, it is Mr.
5 Tigges, to remain on school property belonging to
6 the Loudoun County Public School System in
7 violation of any direction to vacate the property
8 by the property. That was done four times, by a
9 person authorized to give such direction. That
10 was Dr. Ziegler. Those are the elements of the
11 trespass statute. Each of those elements have been
12 met beyond a reasonable doubt, not only to survive
13 a motion to strike but on any level.
14 The fact that this public comment was a
15 basis by which people were invited to come to
16 speak before the school board existed. They were
17 not squashed for their ability to be able to do
18 it, just the public comment had been terminated
19 because of the behaviors within the audience.
20 That is at the right of the school board but yet
21 again, that is not the issue before Your Honor.
22 It is the trespass. The trespass, all the

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1 elements have been met and I would suggest to the
2 -- Your Honor that the comment made by Counsel as
3 far as us not showing any portion of the video, no
4 offense, we showed to which to establish our case.
5 They are given the opportunity if they wish to put
6 on a defense. They don't have that burden, but
7 they have that invitation. So I would ask the
8 Court to focus on what the issue is and what the
9 offense alleged, which is the trespass. Thank
10 you, sir.
11 THE COURT: Anything further on your
12 motion?
13 MR. KACHOUROFF: Very briefly. Any
14 direction by a person authorized. That's what
15 128, Subsection -- Paragraph B talks about. Well,
16 the superintendent admitted because I asked him
17 the question point blank, do you control the board
18 meetings? No, I do not. Do you control the
19 boardroom and the board meetings when they're in
20 session? No, I do not. He was not authorized.
21 He said the board didn't tell him to do it, so he
22 couldn't have been the person authorized to tell

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1 the public they needed to leave a public meeting.
2 Now keep in mind, granted, they could
3 have stopped the public comment but there was
4 still a public meeting and the public had a right
5 under the Virginia FOIA Act, the Open Meetings Act
6 that it could attend. That's an open meetings
7 violation to prohibit the public from going in.
8 So they have every right, unless the board meeting
9 was terminated altogether, which it wasn't. It
10 was in recess, just like you took a recess. And
11 they were supposed to come back, so you just can't
12 have people exit, especially when, Judge, all this
13 talk about all the training for de-escalation.
14 There was not a single warning that,
15 hey, guys, they're going to ask you to leave. I
16 need you to be respectful and quiet. There was
17 none of that announced over the PA. They took the
18 quick and fast opportunity to come out and say
19 unlawful assembly. They said it four times and
20 now they're trying to back away from it. They
21 know because they're caught. For that reason, I
22 would ask the Court to dismiss this case.

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1 THE COURT: The Court finds that the
2 Commonwealth has made a prima facie case in the
3 light most favorable to the Commonwealth
4 consistent with the requirements of 18.2-128B.
5 The officers were authorized and they were telling
6 the people to leave as well and it was that
7 authorization in part that the Court considers in
8 denying your motion to strike.
9 Do you wish to present any evidence?
10 MR. KACHOUROFF: No, Your Honor. I
11 would renew my motion at this time under the
12 standard of beyond a reasonable doubt with the
13 contradictions you've heard, was there a
14 reasonable doubt as to whether he should be
15 allowed to remain there, whether the
16 superintendent was a person that was authorized to
17 do so.
18 You say the officers all told him to
19 leave. All right. Just because an officer is
20 giving you an unlawful order doesn't mean -- you
21 suffer the consequences if the Court later
22 determines it to be lawful, but if it's an

<p style="text-align: right;">165</p> <p>1 unlawful order and you resist peacefully, you're 2 entitled to do that and the officer may indeed be 3 wrong. I think the officers are trying to do 4 their job with respect to following what the 5 school board and what the superintendent were 6 trying to accomplish, so I don't -- you know, when 7 the officer says, please leave, that's not the 8 standard by which we convict somebody for 9 trespassing. 10 I mean, the officer has to have -- if 11 he's getting direction from the person authorized, 12 you have to be authorized to do that, so we go 13 right back to the heart of the issue. I won't 14 repeat it again for Your Honor, but it's -- I went 15 over the First Amendment issue ad nauseum. 16 THE COURT: The Court finds that Major 17 McDonald was in concert with the school officials 18 and had the authority to tell those people to 19 leave. They were working on that back and forth. 20 MR. KACHOUROFF: Well, Judge, I 21 apologize. 22 THE COURT: The board --</p>	<p style="text-align: right;">167</p> <p>1 we're clear, it's still a public meeting. And so 2 the question is why was the room -- you're saying 3 because of safety issue, well, you're invoking the 4 unlawful assembly (indiscernible). 5 THE COURT: I am invoking the 6 requirements of the statute. 7 MR. KACHOUROFF: Well, they can't -- 8 they're not authorized to do it. That's the 9 point. Just because he's authorized at large to 10 manage the buildings -- in other words, you've 11 just said, Your Honor -- and consider this, 12 respectfully, that the superintendent, despite a 13 board meeting, can withhold -- can stop the public 14 from going in because he has the power to 15 administer the school board or the buildings. He 16 doesn't have that power. 17 When the school board acts, they sit in 18 a session in the school boardroom. It's not even 19 -- I mean, it may be attached to the admin 20 buildings, but it's a school board dais. That's 21 what it's there for. It's for the public to come 22 and listen. That's why it was designed. So if</p>
<p style="text-align: right;">166</p> <p>1 MR. KACHOUROFF: The school board isn't 2 the school officials. The school board's an 3 elected body. The superintendent has -- he takes 4 direction from the school board but he says he 5 acted on his own. He can't do that. It's a 6 school board meeting. It's a public meeting. He 7 has no authority as a superintendent to govern a 8 public meeting, zero. 9 THE COURT: He has authority to 10 administer the billet, which is what he testified 11 to. He has the authority to do that and he had 12 authority when working with police for -- under 13 exigent circumstances for welfare and safety of 14 the people at the meeting to ask them to leave the 15 building and within the earshot of that was the 16 Defendant, who was told, you can continue outside. 17 That's on the video. 18 MR. KACHOUROFF: Yeah, but he wasn't 19 told that, number one. 20 THE COURT: It's within -- it was 21 audible from where he was. 22 MR. KACHOUROFF: Right. But just so</p>	<p style="text-align: right;">168</p> <p>1 we're going to talk about danger, if we're going 2 to talk about safety matters, the general assembly 3 has already put that in plain language in the 4 statute, and that's under the unlawful assembly 5 statute, 460. 6 Otherwise, under this interpretation, we 7 would never use unlawful assembly ever again to 8 get people to clear a room. That's the whole 9 point of the unlawful assembly. You have no 10 longer the right to assemble. It has now become 11 unlawful. And when is that? When 460 tells you, 12 three or more persons. They haven't shown three 13 or more persons. At most, they've shown one. 14 That's the point. 15 THE COURT: Do you want to respond? 16 MS. BIBERAJ: I do, Judge. Thank you. 17 Judge, Dr. Ziegler testified that he is the CEO of 18 Loudoun County Public Schools and is in charge of 19 the day-to-day operations. As far as this being a 20 board meeting, which is with the board members, 21 that is what their function is, as far as being 22 able to administer that public meeting.</p>

<p style="text-align: right;">169</p> <p>1 The tenor changed when safety became an 2 issue. And we saw on the video, this was after 3 the fourth time that people have been asked to 4 leave, and you saw there were still throngs of 5 people there, and they had no hesitation to being 6 confrontational with the law enforcement officers. 7 Here's a situation where what ends up happening is 8 that the actions within the meeting made it such 9 that they were not going to allow any more public 10 comment within. 11 Once the public comment was over, they 12 did shut it down because people were standing on 13 chairs, people are yelling and screaming at one 14 another. There's a large number of people. That 15 was the safety issue that -- the determination 16 that was made. People were given numerous 17 opportunities to leave. The direct question was 18 made to Mr. Tigges, are you going to leave without 19 being arrested? And what's your end game? I'm 20 not leaving without being arrested. 21 MR. KACHOUROFF: Not true. 22 MS. BIBERAJ: That's what the Sergeant</p>	<p style="text-align: right;">171</p> <p>1 public comment in front of the school board may be 2 one thing, but the school board was no longer on 3 the dais. So the public comment was just being 4 moved to the outside and they were welcome to do 5 that. You heard Major McDonald say, you can take 6 it outside and you can talk outside. Just go on. 7 Let's go. We've got to go out and leave the room. 8 I don't know how much more notice could 9 have been provided. I don't know how much more 10 the law enforcement could have done to be able to 11 say, this is no longer appropriate in here. So it 12 was on the trespass issue, this idea that we're 13 just going to throw in the unlawful assembly, that 14 was the words that Dr. Ziegler choose. He said, I 15 just misspoke on that, but the notice is very 16 clear. You are not allowed to be here any longer. 17 Otherwise, you run the risk of being arrested. 18 That's what trespass requires, notice. Notice was 19 very clear. 20 MR. KACHOUROFF: If I may respond 21 briefly. It's my motion. 22 THE COURT: Okay. Well --</p>
<p style="text-align: right;">170</p> <p>1 testified to. On the video, the Sergeant asks 2 him, sir, Jon, are you willing to leave? No. You 3 will be arrested for trespass. Okay. Officer, 4 please arrest him. This was clear notice to him 5 as to his right to be in that facility was no 6 longer a right that he had because it was -- the 7 invitation had by then been revoked. 8 And we have that in every business. If 9 you go to a business that's a public business, you 10 are allowed to be there until the person who's in 11 a position of authority says, no longer. In 12 concert with law enforcement, the determination 13 was made that this was no longer a safe situation 14 to continue with. That's why there was a delay of 15 20 to 30 minutes was also to allow people to 16 speak, to kind of get it out of their system, to 17 walk out, and to allow law enforcement to come in 18 to be able to help direct that. 19 Everything was done right by the -- Dr. 20 Ziegler. Everything was done right by law 21 enforcement to say, we've just got to move this 22 outside and we're not shutting you down. The</p>	<p style="text-align: right;">172</p> <p>1 MR. KACHOUROFF: Last word, right. 2 THE COURT: Well, on your motion, you do 3 get -- 4 MR. KACHOUROFF: Correct, correct. So 5 the day-to-day affairs of a CEO don't -- do not 6 include telling shareholders how to run their 7 meeting or has nothing to do with the 8 shareholders. The shareholders here are the 9 school board. They operate on their own meeting, 10 their own assembly, like a little general assembly 11 right there. You know, and the school board 12 executive, being the superintendent, has no right 13 to tell them what to do at all, and that hasn't 14 been established. 15 If we're going to get technical, I 16 haven't heard one single statute saying that the 17 superintendent -- one single Virginia regulation 18 saying that the superintendent had a right to do 19 what he did, zero. So that day-to-day operations, 20 I think, is crazy. And just moments ago, she 21 said, well, they could have taken it outside. 22 That's not the point. Regardless of the public</p>

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1 comment, they had a right to be in a public
2 meeting. That's part of the Virginia FOIA
3 statute, the open meeting violation, so that
4 alone, that shows you the weakness of the case.
5 Judge, you can't order people outside. You can
6 end public comment. I get it.
7 Now that's going to -- that's a
8 completely different issue at this point whether
9 they could or couldn't, but the point is they shut
10 down the entire meeting, the entire public meeting
11 for the public. They were no longer allowed in to
12 observe the board. Now you also heard Major
13 McDonald say, he stayed behind not for the purpose
14 of securing the board, but to listen to an issue
15 the board was going to talk about. So he could
16 sit there as a member of the public and do it, but
17 the rest of the people could not. Why? Because
18 they had shut down the public participation.
19 They'd shut down public access to that room and
20 they should not have.
21 THE COURT: The Court believes from the
22 totality of the evidence that the requirements of

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1 18.2-128B have been fulfilled, and the Court finds
2 the Defendant guilty of the offense and imposes a
3 \$500 fine with \$400 suspended, conditioned on his
4 good behavior for the next 12 months of
5 unsupervised probation. That's a final order.
6 You have a right to appeal this decision within
7 ten days.
8 MR. KACHOUROFF: Thank you, Your Honor.
9 MS. BIBERAJ: Thank you for your time,
10 Judge.
11 THE COURT: Thank you.
12 (Off the record at 12:15 p.m.)
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1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC
2 I, Brendon Cuenca, the officer before
3 whom the foregoing deposition was taken, do
4 hereby certify that said proceedings were
5 electronically recorded by me; and that I am
6 neither counsel for, related to, nor employed by
7 any of the parties to this case and have no
8 interest, financial or otherwise, in its outcome.
9 IN WITNESS WHEREOF, I have hereunto set
10 my hand and affixed my notarial seal this 3rd day
11 of October 2021.
12 
13 _____
14 Brendon Cuenca, Notary Public
15 for the State of Maryland
16
17
18
19
20
21
22

176

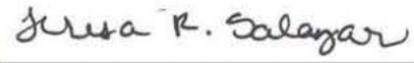
1 CERTIFICATE OF TRANSCRIBER
2 I, Teresa R. Salazar, do hereby certify
3 that the foregoing transcript is a true and
4 correct record of the recorded proceedings; that
5 said proceedings were transcribed to the best of
6 my ability from the audio recording and
7 supporting information; and that I am neither
8 counsel for, related to, nor employed by any of
9 the parties to this case and have no interest,
10 financial or otherwise, in its outcome.
11 
12 _____
13 Teresa R. Salazar
14 October 3, 2021
15
16
17
18
19
20
21
22

EXHIBIT H



LOUDOUN COUNTY PUBLIC SCHOOLS
OFFICE OF THE SUPERINTENDENT

21000 Education Court
 Ashburn, Virginia 20148
 (571) 252-1020

Scott Ziegler, Ed.D.
 Superintendent

Sheriff Mike Chapman,

We are committed to providing our community with good, solid information as we work to provide all students with a safe learning environment.

With that in mind, we are writing to address what may be inaccurate information that was shared at the Board of Supervisors meeting on November 3, and reported in the media last evening.

Per the Code of Virginia, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult.

During the quarterly crime update to the Loudoun County Board of Supervisors on November 3, Col. Mark J. Poland of the Loudoun County Sheriff's Office suggested that your offices notified the Loudoun County Public Schools of charges in the Stone Bridge High School sexual assault case. The question-and-answer with the Board of Supervisors and Sheriff's Office went as follows:
 Dulles District Supervisor Matthew Letourneau asked Col. Poland of the Loudoun County Sheriff's Office: "I'm just gonna ask, straight up, could you tell us if the Sheriff's Office did, in fact, notify Loudoun County Public Schools when the individual was charged?"

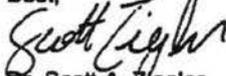
Col. Poland answered: "To answer your question, they were notified. They were absolutely notified."

At this point, LCPS cannot confirm that we have received the required notification of charges from the Loudoun County Sheriff's Office regarding this case.

We request that LCSO forward a copy of the notification of charges, the date it was sent, and to whom it was addressed, directly to the superintendent and principal of Stone Bridge High School, as required by the Code of Virginia. Moving forward, we need a clear understanding of who in the Loudoun County Sheriff's Office will be responsible for communicating this required information with the superintendent and building principal.

We believe our partnership with LCSO is critical in ensuring a safe environment in our schools and overall community.

Best,


 Dr. Scott A. Ziegler
 Superintendent

Cc: Loudoun County School Board
 Loudoun County Board of Supervisors
 Col. Mark J. Poland, Loudoun County Sheriff's Office

SZ/mw

EXHIBIT J



Sheriff Michael L. Chapman

LOUDOUN COUNTY SHERIFF'S OFFICE

P.O. Box 7200, Leesburg, Virginia 20177-7200

803 Sycolin Road SE, Leesburg, Virginia 20175

Telephone 703-777-0407

November 10, 2021

Dr. Scott A. Ziegler
Superintendent
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148

Dear Dr. Ziegler,

This letter is in response to correspondence I received from you on Friday, November 5, 2021 (Attachment #1). In your letter, you state that Loudoun County Sheriff's Office (LCSO) Colonel Mark Poland shared what "may be inaccurate information" to the Board of Supervisors at the November 3, 2021, meeting regarding a sexual assault that occurred at Stone Bridge High School on May 28, 2021. You detail a response by Colonel Poland to Supervisor Matt Letourneau's question as to whether Loudoun County Public Schools (LCPS) was notified of the arrest of the individual who committed the offense. Colonel Poland's response was, "They (LCPS) were absolutely notified."

You fixated your question on whether the arrest notification was made specifically by the LCSO – not on whether you had received "official notification" of the subject's July 9, 2021 arrest. Nothing in your letter addresses the following facts:

- That you knew of the alleged sexual offense the day it occurred.
- That despite a public statement at a School Board meeting on June 22, 2021 denying any knowledge of sexual assaults in any LCPS bathrooms, you sent an email on May 28, 2021 to members of the School Board advising them of the incident – thus invalidating your public statement (see Attachment #2).
- That LCPS was aware of the offense the day it occurred, and an official notification of the suspect's July 9, 2021 arrest was made to LCPS by Juvenile Intake as required by law.
- That LCPS was aware of the Juvenile Intake, Commonwealth Attorney, and Judicial process throughout this case.
- That despite knowing the serious nature of the offense, LCPS decided to place this individual back into (another) high school population.
- That the consequences of that decision resulted in a second student being victimized by the same defendant.

To address your concern more clearly, it is important to recognize Code of Virginia requirements and its application, as well as the sequence of events. You state, "Per the Code of Virginia, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such report, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult." Unfortunately, two critical points were omitted from your letter.

- The section you refer to, *Code of Virginia §22.1-279.3:1*, stipulates “offenses,” not arrests. This offense was reported to the LCPS the day it occurred as evidenced by your email on May 28, 2021. You were unmistakably aware of the offense as you personally reported it to the School Board that same day.
- You failed to articulate that the July 9, 2021 arrest did not occur on LCPS grounds, but at Juvenile Intake while school was on summer recess. All investigations involving minors, that involve Juvenile Intake during the process (as did this case), **require** that Juvenile Intake provide notification to the LCPS regarding certain arrests (sexual assaults included). This is stipulated in §16.1-260 Section G of the Code of Virginia which states, “the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court.”

This process was properly followed as evidenced by the timeline of communications below:

- Just prior to the July 9, 2021 arrest, case investigator Detective Czekaj of the LCSO Special Victims Unit, communicated with Mr. Jason Bickmore of the Loudoun County Juvenile Court Service Unit (JCSU). She asked if “we” (LCSO) should make the arrest notification to LCPS. Mr. Bickmore advised that JCSU would make the notification as it is their responsibility to do so. In a post-arrest conversation between Detective Czekaj and Mr. Bickmore, Mr. Bickmore confirmed the notification was sent by letter to LCPS, which LCPS could then disseminate for safety purposes.
- On October 27, 2021, conversations about this case occurred between Sergeant Promisel and Mr. Bickmore (JCSU). On that date, Mr. Bickmore advised Sergeant Promisel that he was “surprised” that LCPS, in conjunction with the Commonwealth Attorney’s Office, had determined to place the defendant in another school.
- The fact that all required notifications were made to LCPS was further validated on October 28, 2021, by Greg Davy, the Virginia Department of Juvenile Justice Public Information Officer, who was quoted by WTOP stating, “*notifications required by 16.1-260G of the Code of Virginia are met in the Loudoun District Court Service Unit by mailing a hard copy notification letter to the office of the District Superintendent of Schools.*” It is critical for arrest notifications to be made under this Virginia law, by the JCSU, as many incidents involve arrests made by outside jurisdictions other than where the offender resides. Therefore, the JCSU, which is considered a state agency, can assure notifications are made to the proper school system.
- On October 28, 2021, Lieutenant Colonel Bobby Miller confirmed with Mr. Ira Holland, Director of Loudoun County Juvenile Court Service Unit, that a notification was made to LCPS. Mr. Holland stated, “*we followed the law.*”
- Finally, on November 8, 2021, Mr. Bickmore informed Sgt. Promisel, that in late August 2021, he had conversations with both Mr. Doug Fulton, Director of School Administration, and Mr. Dave Spage, the Principal of Broad Run High School, regarding the defendant’s court-ordered disposition.

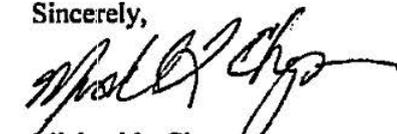
The sequence of events and review of applicable Virginia Codes clearly demonstrate that you and your leadership staff at LCPS were aware of the offense; the suspect’s arrest; and the judicial process involving the Commonwealth Attorney’s Office, Juvenile Intake, and Juvenile Court from the time of the original sexual assault to the time of the defendant’s conviction. Despite that, LCPS opted to place this individual in another school where a second sexual assault allegedly occurred. If there were any lapses in

communication directly to you throughout this process that impacted your decision making, it would seem it occurred within LCPS' own administration.

Finally, I noticed that you commissioned an "independent" review, which I assume will be paid for by the LCPS using Loudoun County taxpayer dollars. You announced this a day after incoming Attorney General Jason Miyares stated publicly that he intends to investigate this incident. While I believe an independent review would be helpful, I have concerns of the legitimacy of such a review conducted at your direction. As the Attorney General is accountable to the citizens of Virginia, I feel an Attorney General review is the most objective way to move forward on this issue.

Please feel free to contact me if you have any questions or concerns. Thank you.

Sincerely,



Michael L. Chapman
Sheriff

cc: Loudoun County Public Schools School Board
Loudoun County Board of Supervisors



EXHIBIT I

From: [REDACTED]
Sent: Friday, March 12, 2021 9:55 PM
To: Atoosa Reaser <Atoosa.Reaser@lcps.org>; scott.ziegler@lcps.org <scott.ziegler@lcps.org>
Cc: mike.chapman@loudoun.gov <mike.chapman@loudoun.gov>; stephen.devita@lcps.org <stephen.devita@lcps.org>; Brenda Sheridan <brenda.sheridan@lcps.org>; ian.serotkin@lcps.org <ian.serotkin@lcps.org>; jeff.morse@lcps.org <jeff.morse@lcps.org>; harris.mahedavi@lcps.org <harris.mahedavi@lcps.org>; leslee.king@lcps.org <leslee.king@lcps.org>; john.beatty@lcps.org <john.beatty@lcps.org>; bos@loudoun.gov <bos@loudoun.gov>
Subject: Teacher bashing parents

Atoosa and Dr. Ziegler,

There is a group on Facebook called Anti-Racist Parents of Loudoun County.

As you can see in one post below, Beth Barts, not acknowledging she is not speaking on behalf of the board, started a frenzy of a conversation.

Soon thereafter, the other post and comments below began from this [REDACTED], better known as [REDACTED], a teacher at [REDACTED], to go after parents she “thinks” are against CRT.

This is not ok, by anybody, but from a teacher is unexceptionable. A student would be in trouble for this. Why isn't a teacher held accountable? Honestly, this post is beyond scary and disturbing. My heart has been pounding since this was brought to my attention. Are they coming after me because of my view they don't even know about? Do I need to keep guard at my front door? Maybe I should consider myself lucky because they don't know my “legal” name.

This needs to stop. This teacher threatening parents, to the point one just told me she has to tell her HR on Monday in fear of losing her job, is not ok.

I can't beg you enough; please make her stop. She is a teacher. And the fact that there are other board members in this group not putting it to a stop is shameful.

Exhibit J

PROFESSIONAL CONDUCT

1 The Loudoun County School Board expects all staff, as public employees, to
2 recognize that they are in a position of public trust and are held to the highest standard of
3 personal and professional conduct, serving as role models, influencing and shaping young
4 lives, and representing the school division. It is the policy of the School Board to promote
5 and foster work and educational environments that demonstrate the principles of respect,
6 professionalism, civility, and inclusivity.

7
8 As stewards of the school division, employees are expected to convey these
9 principles to students, parents, colleagues, and the school community through their actions
10 and day-to-day activities during and after school or work hours, whether on or off school
11 board property, including the property of any school, office, or facility. As public employees,
12 it is important that employees are mindful of the potential impact of their behaviors and
13 actions that occur outside of their job responsibilities and work hours.

14
15 A. Expectation of Professionalism. Employees are expected to perform all
16 assigned job duties in accordance with performance standards and job-specific
17 requirements (to include attendance-related policies, procedures, and guidelines).
18 Employees are expected to conduct themselves professionally, to treat all individuals with
19 dignity, respect, and civility, and to demonstrate a commitment to an inclusive, safe and
20 supportive work and educational environment where individuals from diverse backgrounds
21 work together to pursue the shared mission of the school division. Unacceptable behavior
22 includes but is not limited to:

- 23
24 1. Bullying behavior against staff or students as defined in School Board
25 Policy 7014 (Environments Free From Harassment, Discrimination, and Abuse) and School
26 Board Policy 8250 (Bullying Prevention and Education);
- 27 2. Acts of physical violence or threats of violence or harm towards others;
- 28 3. Theft of any kind;
- 29 4. Shouting, yelling, or raising one's voice in a hostile, angry, or
30 threatening manner;
- 31 5. Intentionally damaging school board or privately-owned property, or
32 acts of negligence that result in damage to property;
- 33 6. Disrespectful, discourteous, uncivil, disparaging, or demeaning words,
34 gestures or actions;
- 35 7. Using, selling, dispensing, possessing, manufacturing, or being under
36 the influence of illegal drugs and narcotics or alcohol as defined in School Board Policy 7550
37 (Drug- and Alcohol-Free Workplace); or
- 38 8. Failure to adhere to School Board policies and regulations, state and
39 federal laws and regulations, and school- or department-based procedures and guidelines.

40
41 B. Commitment to Equitable Treatment. The Loudoun County School Board is
42 committed to an equitable and inclusive work and educational environment for employees
43 and students. As outlined in the Superintendent's Statement on Equity, Loudoun County
44 Public Schools reject racist and other racially motivated behavior and language, recognizing

PROFESSIONAL CONDUCT

45 that it encourages discrimination, hatred, oppression, and violence. Employees are expected
46 to support the school division's commitment to action-oriented equity practices through the
47 performance of their job duties, as the Division engages in the disruption and dismantling of
48 white supremacy, systemic racism, and language and actions motivated by race, religion,
49 country of origin, gender identity, sexual orientation, and/or ability. Behavior that will not be
50 tolerated includes but is not limited to:

51
52 1. Harassing or discriminatory comments or conduct including speech or
53 other telephone, electronic, or social media communication that:

54 a. is motivated in whole or in part by a bias against an individual's
55 race, national origin, ancestry, color, sex, sexual orientation, perceived
56 sexual orientation, gender identity, pregnancy, childbirth or related
57 medical conditions, marital status, age, religion, disability, genetic
58 information, or veteran status; or

59 b. can reasonably be interpreted as discriminatory, racially or
60 ethnically derogatory, defamatory, or as undermining the views,
61 positions, goals, policies or public statements of the Loudoun County
62 School Board or its Superintendent when such comments or conduct
63 create the reasonable apprehension of a disruption or disrupt the
64 operations or efficiency of LCPS.

65
66 2. Use of racial insults or slurs regardless of intent. For example, it is
67 unacceptable to use a racial insult or slur in responding to or addressing a situation in which
68 an individual has used a racial insult or slur.

69
70 3. Any comments or actions that are not in alignment with the school
71 division's commitment to action-oriented equity practices, and which impact an individual's
72 ability to perform their job responsibilities or create a breach in the trust bestowed upon
73 them as an employee of the school division. This includes on-campus and off-campus
74 speech, social media posts, and any other telephonic or electronic communication.

75
76 C. Recognition of Appropriate Employee-Student Boundaries. Employees are
77 expected to establish and maintain appropriate physical, social and emotional boundaries
78 with students. Unacceptable behavior includes but is not limited to:

79
80 1. Grooming, Sexual Misconduct, and Sexual Abuse. Grooming is a
81 method used by adults that involves building trust and/or attempting to build trust with
82 children and/or adults for the purpose of developing an inappropriate relationship.
83 Grooming, sexual misconduct, and sexual abuse are egregious breaches of an educator's
84 professionalism and duty to protect children and are strictly prohibited.

85
86 a. Per School Board Policy 7530 (Duty to Report Child Abuse and
87 Neglect), allegations of behaviors that constitute grooming, sexual
88 misconduct, or other forms of abuse or neglect are strictly prohibited.

PROFESSIONAL CONDUCT

89 Child Protective Services (or Adult Protective Services, as applicable)
90 and appropriate law enforcement agencies.

91 b. Behavior that violates this policy includes but is not limited to the
92 following:

- 93 (i) Sexual or romantic invitations to students;
- 94 (ii) Dating students or soliciting dates with students;
- 95 (iii) Engaging in sexualized dialogue with students;
- 96 (iv) Making suggestive comments to students or in the known
97 presence of students;
- 98 (v) Physical exposure of a sexual, romantic, or erotic nature;
- 99 (vi) Self-disclosure of a sexual or erotic nature to students or
100 in the known presence of students; or
- 101 (vii) Sexual contact or inappropriate overtures to students
102 whether they be physical, verbal, non-verbal, written or
103 electronic.

104 c. Engaging in an intimate, romantic, or sexual relationship with a
105 student after the student's graduation, combined with credible
106 allegations of engaging in grooming behaviors with the student before
107 graduation, will result in an investigation. Substantiation that such
108 grooming behaviors occurred before the student's graduation will lead
109 to disciplinary action up to and including termination.

110

111 2. Inappropriate or Intimate Social Relationships and Communication. The
112 boundary of the employee-student relationship must be maintained at all times. Examples of
113 behaviors that constitute an inappropriate or intimate social relationship or communication
114 with a student include but are not limited to:

115

- 116 a. Conversations and comments of an intimate, romantic, or sexual
117 nature;
- 118 b. Commentary on a student's physical appearance or clothing that
119 could reasonably be interpreted as sexual, flirtatious, or harassing;
- 120 c. Physical contact with students that could reasonably be
121 interpreted as sexual harassment or as having sexual or flirtatious
122 intentions;
- 123 d. Telephonic or electronic communication, including social media
124 contact, unrelated to school activities to include but not limited to
125 connecting with, following, or friending students via social media or
126 email accounts;
- 127 e. Prolonged, frequent, or private contact between an employee
128 and student during or outside school hours that is unrelated to
129 academics or school activities;
- 130 f. Singling out students for flirtation, friendship, or personal
131 attention beyond the bounds of the employee-student relationship;
- 132 g. Singling out students for receipt of gifts;

PROFESSIONAL CONDUCT

- 133 h. Transporting students in personal vehicles without the knowledge
134 of a parent/guardian or a supervisor, outside of case-by-case approval
135 by a supervisor for an exception to transport the student in the event of
136 an emergency or unusual circumstance; or
137 i. Entering the home of a student without the knowledge of and
138 presence of a parent/guardian.

139
140 All forms of contact and communication with students must be transparent,
141 accessible to supervisors and parents, nonsexual, unambiguous in meaning, and
142 professional in reference and content. If an employee feels that a student is contacting or
143 engaging with them inappropriately or that the student is attempting to blur the line of their
144 relationship, the employee will seek immediate guidance from their supervisor.

145
146 D. Duty To Report. Employees with supervisory responsibilities are expected to
147 encourage professional, respectful, civil, equitable, and inclusive work and educational
148 environments for employees and students, and to address issues of unprofessionalism.
149 Employees who feel they have been subjected to conduct that may violate the expectations
150 outlined within this policy, or who have witnessed such conduct, should notify their supervisor
151 immediately. Students who feel they have been subjected to conduct that may violate the
152 expectations outlined in this policy, or who feel they have witnessed such conduct, should
153 notify a building administrator, school counselor, or the Department of Instruction's School
154 Administration Office.

155
156 1. If the concern is about the employee's supervisor, the employee will
157 report the complaint to the supervisor's supervisor, department head, or the Department of
158 Human Resources and Talent Development.

159
160 2. Employees must also ensure they are following reporting requirements
161 outlined in other relevant School Board policies to include but not limited to School Board
162 Policy 7530 (Duty to Report Child or Student Abuse and Neglect) and School Board Policy
163 7550 (Drug- and Alcohol-Free Workplace). Any employee who becomes aware of sexual
164 harassment by any means is obligated to immediately report it to their supervisor who will, in
165 turn, report the matter to the Title IX Coordinator. Failure to follow reporting requirements is
166 considered a violation of this policy.

167
168 3. Employees are also encouraged to report violations of LCPS's
169 commitment to equitable treatment of students and staff to their immediate supervisor or
170 principal.

171
172 E. Protected Speech. Nothing in this policy or any other policy shall be interpreted
173 as abridging an employee's First Amendment right to engage in protected speech, however,
174 based upon an individualized inquiry, speech, including but not limited to via social media,
175 on matters of public concern may be outweighed by the school division's interest in the
176 following:

- 177 1. Maintaining efficiency of the school system;

PROFESSIONAL CONDUCT

- 178 2. Preventing disruption or a reasonable apprehension of a disruption of
179 the learning and working environment;
180 3. Maintaining public trust and confidence at all times;
181 4. Fostering close personal relationships among and between staff and
182 parents;
183 5. Promoting internal LCPS and external community harmony and peace;
184 and
185 6. Establishing and maintaining a tranquil learning and working
186 environment.
187 7. Achieving consistent application of the Board's and Superintendent's
188 stated mission, goals, policies and directives, including protected class equity, racial equity,
189 and the goal to root out systemic racism.

190
191 F. Provision Against Retaliation. Employees are prohibited from retaliating against
192 an individual for raising concerns of potential violations of this policy. Individuals who
193 knowingly make false complaints under this policy are subject to disciplinary action.
194 Reasonable, good faith beliefs that this policy has been violated will not result in discipline if
195 the concerns raised are later proven untrue.

196
197
198
199

200 Adopted: 10/10/72
201 Revised: 6/22/93, 4/26/16
202 Current Revision: xx/xx/xx

203
204

205
206

207 Legal Refs: § 22.1-291.4, § 1-276.01

208

209 Cross Refs: Policy 7014, Environments Free From Harassment, Discrimination and Abuse,
210 Policy 7016, Employment Complaints, Policy 7312, Evaluation of Licensed, Classified, and
211 Administrative Staff, Policy 7530, Duty to Report Child Abuse and Neglect, Policy 7550 Drug-
212 and Alcohol-Free Workplace, Policy 8250, Bullying Prevention and Education, Duty to Report
213 Sexual Harassment as provided by Title IX Regulations, 34 C.F.R. Part 106.

EXHIBIT K

From: [Sullivan, Christy \[VA\]](#)
To: [Scott Ziegler](#)
Cc: [Sandy Sullivan](#); [Byrd, Kelly \[VA\]](#); [Sullivan, Christy \[VA\]](#)
Subject: [EXTERNAL] RE: Regulations 7560 and 7030
Date: Thursday, October 1, 2020 9:23:33 AM

Scott,

How soon do you think we can get a copy of the staff changes to Policy 7560? We would like to review it tomorrow prior to the School Board meeting on Tuesday.

Also, we would appreciate a written reply to the email we sent you last Thursday.

Thank you.

Christy W. Sullivan

UniServ Director
Loudoun Education Association
19465 Deerfield Ave, Suite 206
Lansdowne VA 20176
703.858.7700
csullivan@veanea.org

From: Sullivan, Christy [VA] <CSullivan@veanea.org>
Sent: Thursday, September 24, 2020 3:50 PM
To: Scott Ziegler <Scott.Ziegler@lcps.org>
Cc: Sandy Sullivan <president@loudounea.org>; Byrd, Kelly [VA] <Kbyrd@veanea.org>; Sullivan, Christy [VA] <CSullivan@veanea.org>
Subject: Regulations 7560 and 7030

Scott,

I am responding to the statements you made about LEA during the School Board meeting on Tuesday. LEA did not receive proposed Policy 7560 ahead of time. LEA has always received all proposed Policies the same day immediately after they are sent to the SB HRTD committee. That has not been happening lately. You, Jeff Morse, and I even had email conversations about making sure that happened. Kelly was at the virtual SB HRTD meeting; the Policy was not discussed prior to public comments. You and I **briefly** talked about the Policy during a conversation about an HRTD employee issue. I stated LEA has seen cases in many of the areas cited in the Policy and that I hoped it would help. I don't believe Kelly or I said the policy was favorable. When a proposed policy comes out, Kelly, Sandy, and I review the Policy and get feedback from members. Sandy brought that feedback to the School Board meeting on Tuesday. At no time did LEA provide feedback and state this Policy was fine.

LEA does have concerns, the same concerns brought forward by School Board members at their last meeting. LEA agrees with Ms. Barts and Mr. Serotkin about Section 2 on page 3 not being clear

enough for parents and students whose family are friends or friends with their own children. Ms. Corbo asked question on the other item LEA is concerned about. Section E, on pages 4 and 5 on Protected Speech, has brought forth a lot of emails from our members. The word **HOWEVER** at the end of line 173 makes it sound like employees have first amendment rights **HOWEVER** their first amendment rights might be outweighed by the school division's interest in the following, which goes on to seven additional points. The way this is written looks like LCPS is trying to limit what employees can talk about, even on matters of public concern. This section needs much clarification for employees to believe LCPS is not attempting to remove their Constitutional Right to free speech.

We would appreciate seeing the changes being made by staff prior the School Board taking action on the Policy at their next meeting.

Additionally, I sent you an email on August 21 (see below) with feedback on Regulation 7030 and I have yet to receive a response. We look forward to your response on Regulation 7030.

Scott, we may not always agree on wording. It is our hope LEA will receive a copy, which has been practice for a long time, of all proposed policies the same day they go the School Board or the SB HRTD committee. Timeliness will give LEA a few days prior to Policies being discussed at School Board meetings.

We look forward to your response.

Christy W. Sullivan

UniServ Director

Loudoun Education Association

19465 Deerfield Ave, Suite 206

Lansdowne VA 20176

703.858.7700

csullivan@veanea.org

From: Sullivan, Christy [VA]

Sent: Friday, August 21, 2020 3:07 PM

To: Scott Ziegler <Scott.Ziegler@lcps.org>

Cc: Sandy Sullivan <president@loudounea.org>; Kelly Byrd - VEA (<Kbyrd@veanea.org> <Kbyrd@veanea.org>); Christy Sullivan <csullivan@veanea.org>

Subject: Regulation 7030

Scott,

Thank you for your explanation of the Regulation 7030 during our conversation yesterday. We are very concerned this was released during a pandemic when most employees are teleworking and there is no distinction in the regulation as to whom the new telework section applies to.

We do have some questions/concerns to share with you:

D.1.a. Will all eligible positions *immediately* have the telework designation in their job description?

D.4.k. We have received the most complaints about the first sentence in k. Employees feels this statement is condescending and not necessary. Many teachers have wondered if this applied to them during the pandemic. Thank you for clarifying it does not. However, we would like the first sentence struck from this paragraph. It is condescending and unnecessary.

Please send us a copy of the telework agreement the employee and supervisor would sign.

I would appreciate your agreement that school-based positions are covered under section E. and not section D.

Why was this regulation released right now? It certainly has stirred up a hornet's nest since employees believe the entire regulation applies to them (including school-based employees).

I look forward to your reply; it will help us clarify this regulation when employees contact the LEA for clarification.

Christy W. Sullivan

UniServ Director

Loudoun Education Association

19465 Deerfield Ave, Suite 206

Lansdowne VA 20176

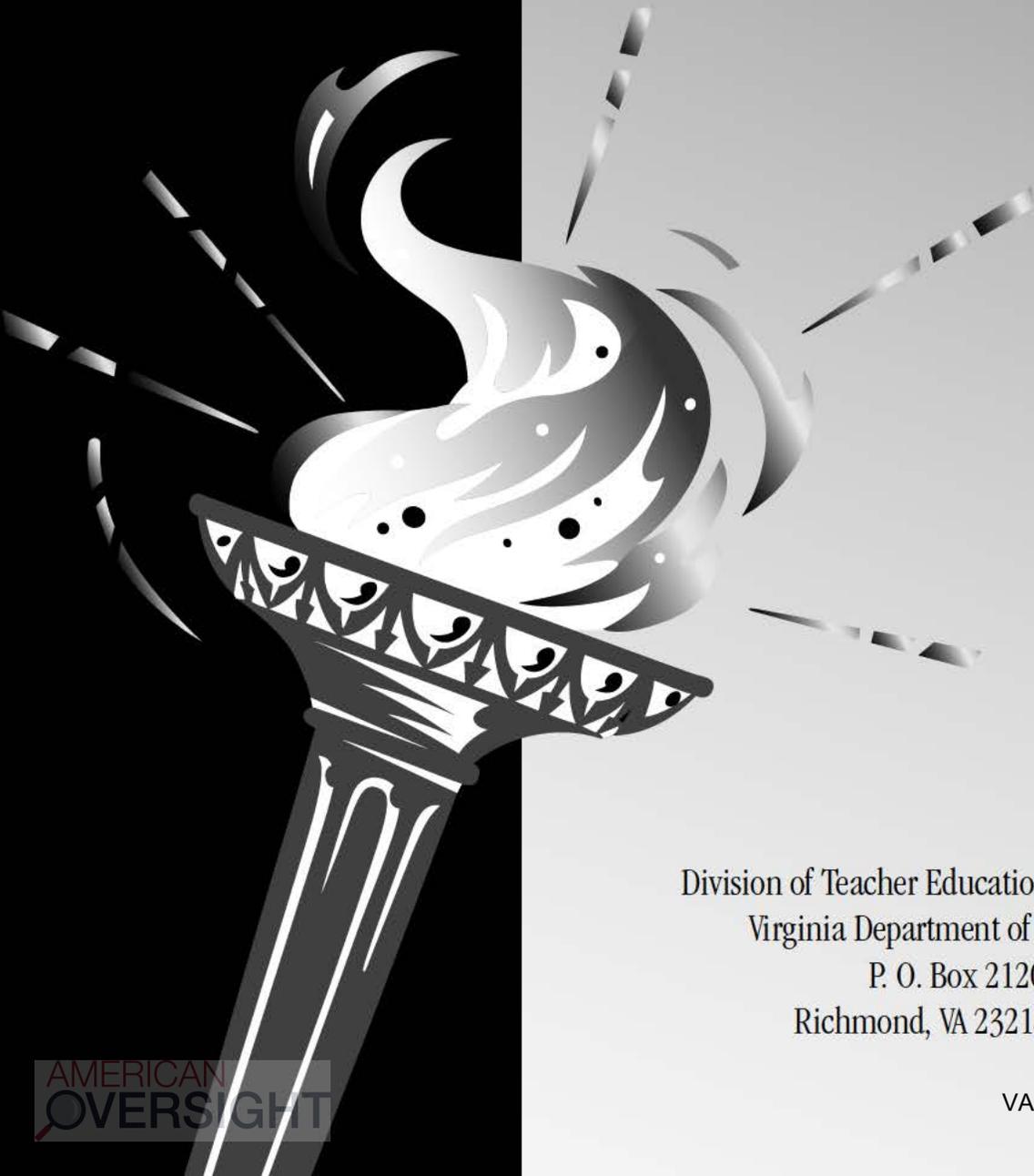
703.858.7700

csullivan@veanea.org

Exhibit L

Guidelines for
**UNIFORM PERFORMANCE
STANDARDS**

and Evaluation Criteria
for Teachers, Administrators,
and Superintendents



Division of Teacher Education and Licensure
Virginia Department of Education
P. O. Box 2120
Richmond, VA 23218-2120

**Guidelines for
UNIFORM PERFORMANCE STANDARDS
and Evaluation Criteria
for Teachers, Administrators,
and Superintendents**

*Guidelines Developed in Response to
Education Accountability and Quality Enhancement Act of 1999
(HB 2710 and SB 1145)*

*Adopted by the Virginia Board of Education
January 6, 2000*

Division of Teacher Education and Licensure
Virginia Department of Education
P. O. Box 2120
Richmond, VA 23218-2120

Foreword

Recent education reform efforts in Virginia include: (1) the revision of the Standards of Learning in four basic subject areas—English, mathematics, science, and history and social science, (2) implementation of new tests to assess the performance of students, schools, and school divisions, (3) revision of the state’s standards of accreditation to establish clear expectations and consequences for students and school performance, and (4) the development of a school report card. These reform efforts clearly effect the role and expectations of teachers, administrators, and superintendents. The *Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Administrators, and Superintendents* were developed as a result of the Virginia education reform efforts and the 1999 Education Accountability and Quality Enhancement Act (HB2710 and SB1145) approved by the Virginia General Assembly and signed into law by Governor Gilmore.

These guidelines provide the framework for school divisions to use to develop evaluation criteria for teachers, administrators including instructional central office personnel and principals, and division superintendents. They are intended to provide guidance for school boards in the development of evaluation policies and procedures. Through these guidelines, the role and expectations of those individuals having the most effect on student learning and achievement will become clearer. They also provide continuity between the roles of teachers and administrators and their impact on student achievement.

It is anticipated that the Department of Education will continue the next phase of this initiative by developing prototype instruments in the three areas. These sample instruments may be used to guide school division personnel in designing evaluation tools for annual personnel performance. In the meanwhile, as you review and use *The Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Administrators, and Superintendents*, please inform us of comments that may enhance this effort by contacting the Division of Teacher Education and Licensure, Virginia Department of Education, at (804) 371-2522.

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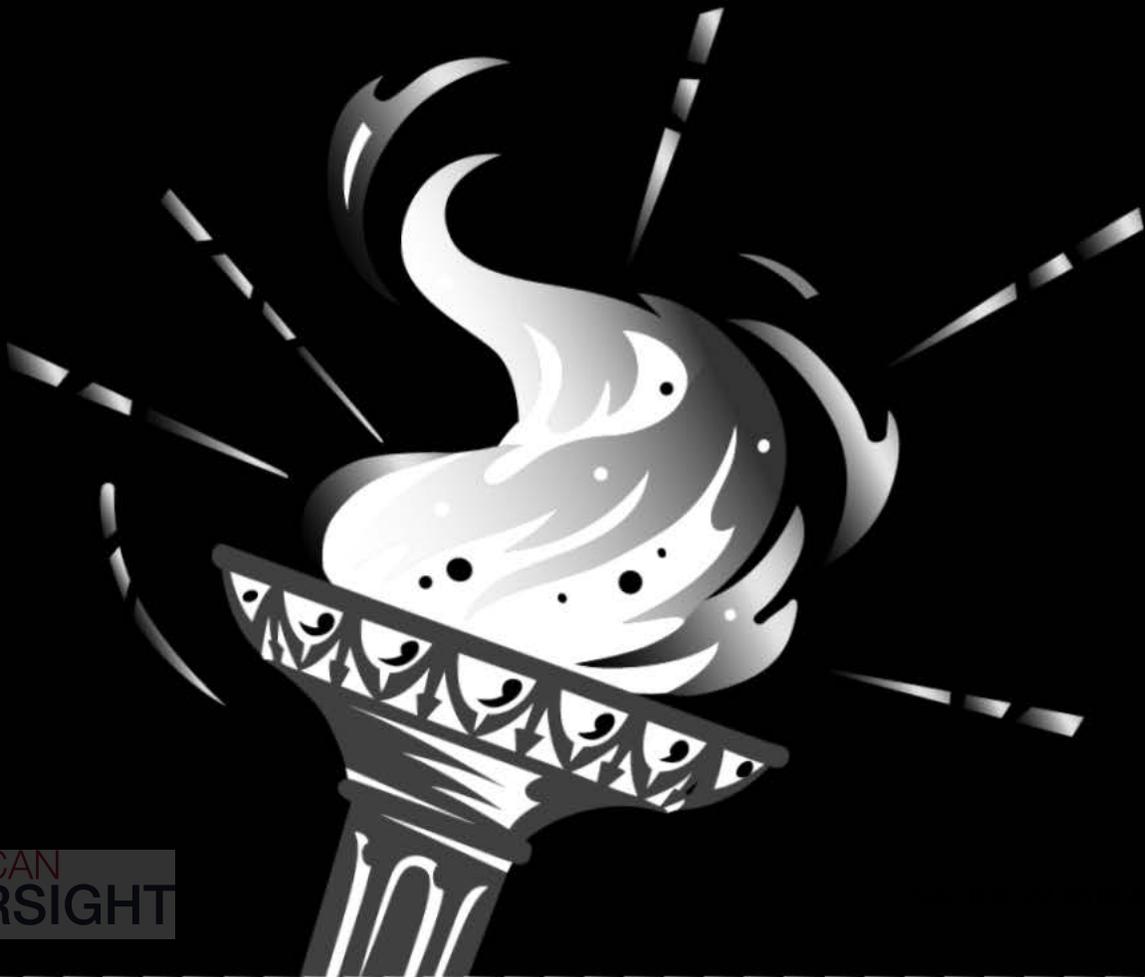
Acknowledgments

Personnel in the Virginia Department of Education acknowledge with appreciation the contributions of many educators in developing the Proposed Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Administrators, and Superintendents. The Department of Education also acknowledges the exemplary work of the Advisory Committee on Teacher Education and Administrator Evaluation representing division superintendents, principals, teachers, school division central offices, higher education, school boards, and professional organizations.

Appreciation is extended to Susan T. Noble, member of the Board of Education and Board of Education Liaison to the Advisory Board on Teacher Education and Licensure, for her contributions in the development of the guidelines. Special thanks also go to James H. Stronge, Heritage Professor, Educational Policy, Planning, and Leadership, School of Education, The College of William and Mary; Pamela Tucker, Assistant Professor, Department of Leadership, Foundations, and Policy, University of Virginia; and Michael DiPaola, Associate Professor, Educational Planning, Policy, and Leadership, School of Education, The College of William and Mary, who served as facilitators for the task force in developing the proposed guidelines.

Questions or inquiries about this document should be directed to Dr. Thomas A. Elliott, Assistant Superintendent, Division of Teacher Education and Licensure, Virginia Department of Education, P. O. Box 2120, Richmond, VA 23218-2120.

Background



Proposed Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Administrators, and Superintendents

*Proposed Guidelines Developed in Response to Education Accountability and
Quality Enhancement Act of 1999 (HB 2710 and SB 1145)*

Introduction

The expectations of public education have changed substantially in the last quarter century. Schools and school personnel at all levels must respond in a direct and convincing manner to address rigorous academic expectations for all students. Schools are expected to teach all children, regardless of the level of skills or personal circumstances they present, to a high level of academic achievement for the unfolding information age. In order to succeed in this most important endeavor, schools must modify their standard service delivery model to adapt to individual student learning needs. Everyone from classroom teachers to school division superintendents, must make the learning of every student the priority driving all other professional responsibilities. Teachers must make instruction meaningful and effective for children at all academic levels. Principals must focus the collective efforts of all school personnel on the primary goal of improving student learning. Superintendents and central office personnel must plan and support instructional programs that facilitate student achievement at the school and classroom levels.

The *Education Accountability and Quality Enhancement Act of 1999* (HB 2710, SB 1145) passed by the Virginia General Assembly mandates the development of strategies to recognize and develop these heightened responsibilities of educators. This Act addresses the evaluation and training of teachers, assistant principals, principals, central office personnel, and superintendents, with a primary focus on student achievement and safety. Additionally, the mentoring of new teachers and those experiencing difficulties is included as part of the training continuum for all teachers. Salary supplements for teachers receiving National Board Certification are also

part of this legislation, with the intent of recognizing truly exceptional classroom teachers. Collectively, the elements of this legislation offer supportive strategies for educators to become more productive and educationally accountable.

The sections of the *Education Accountability and Quality Enhancement Act* applicable to personnel evaluation are as follows:

Superintendent evaluation: The Board of Education shall develop guidelines for uniform performance standards and criteria to be used by local school boards in evaluating superintendents. These standards and criteria shall include, but not be limited to, assessing teacher and administrator skills and knowledge, improving student academic progress, providing for school safety, and enforcing student discipline. (§22.1-60.1)

Administrator evaluation: Each local school board shall adopt for use by the division superintendent clearly defined criteria for a performance evaluation process for principals, assistant principals, and supervisors that includes, among other things, an assessment of such administrators' skills and knowledge; student academic progress and school gains in student learning; and effectiveness in addressing school safety and enforcing student discipline. (§22.1-294)

Instructional personnel evaluation: School boards shall develop a procedure for use by division superintendents and principals in evaluating instructional personnel that is

appropriate to the tasks performed and addresses, among other things, student academic progress and the skills and knowledge of instructional personnel, including, but not limited to, instructional methodology, classroom management, and subject matter knowledge. (§22.1-295)

This document sets forth the basic framework for the educator evaluation component of the *Education Accountability and Quality Enhancement Act*.

Rationale

Evaluation criteria can have powerful symbolic value because they embody the values and expectations of the public regarding the functions of school personnel, particularly regarding teaching and learning. If those criteria are then used as a yardstick to judge the effectiveness of educators, they help to focus assessment efforts on self-growth, instructional effectiveness, and improvement of overall job performance. The use of clear evaluation criteria for teachers, principals, central office administrators, and superintendents serves as a foundation for a fair and comprehensive evaluation system that provides sufficient detail and definition so that educators and their supervisors can reasonably understand job expectations.

The evaluation criteria delineated herein were developed as a direct effort of the Virginia Department of Education to provide meaning and to give substance to the *Education Accountability and Quality Enhancement Act*, based on the collective expertise of the State Advisory Committee selected for this purpose. The Advisory Committee's work was developed with the intent of designing a document that integrates the multiple strands of the accountability reform efforts currently underway in Virginia, including the following key purposes:

- ◆ Design evaluation criteria that are consistent with and supportive of Virginia's Standards of Learning and Standards of Accreditation and that encompass other state statutory and policy requirements;
- ◆ Develop evaluation criteria that encourage educators and policymakers to focus on performance in key areas of student achievement and safety;
- ◆ Create a seamless approach to connecting
 - ◇ new employee mentoring
 - ◇ job expectations
 - ◇ job performance
 - ◇ employee evaluation
 - ◇ employee professional development (performance improvement)
 - ◇ school improvement;
- ◆ Clarify expectations for educators who are new to the positions of teacher, assistant principal, principal, central office administrator, and superintendent;
- ◆ Provide a context for improving employee performance (e.g., opportunity to describe and discuss performance with supervisors, peers, mentors, and other experienced educators);
- ◆ Design evaluation criteria that are consistent with pre-service teacher and administrator preparation programs;
- ◆ Provide structure and guidelines that facilitate quality evaluations and encourage consistency across schools and school divisions;
- ◆ Provide a structure for focusing improvement efforts within and across Virginia's schools; and
- ◆ Focus attention and resources on student learning in a comprehensive and concerted fashion.

Development Process

To respond to the many provisions of the *Education Accountability and Quality Enhancement Act*, the Virginia Department of Education enlisted the assistance of consultants from The College of William and Mary and the University of Virginia with expertise in the area of personnel evaluation. The consultants provided background research and assistance with development of the evaluation guidelines for consideration by the Department of Education's staff and the State Advisory Committee. The consultants were also charged with reviewing national standards for the evaluation of teachers, principals, and superintendents to provide a solid foundation for the evaluation criteria guidelines to be used in Virginia.¹ In addition, current evaluation criteria used in selected Virginia school divisions and school districts across the country were examined with the purpose of embedding widely respected professional standards in Virginia's evaluation framework while also reflecting the educational priorities set forth by the General Assembly.

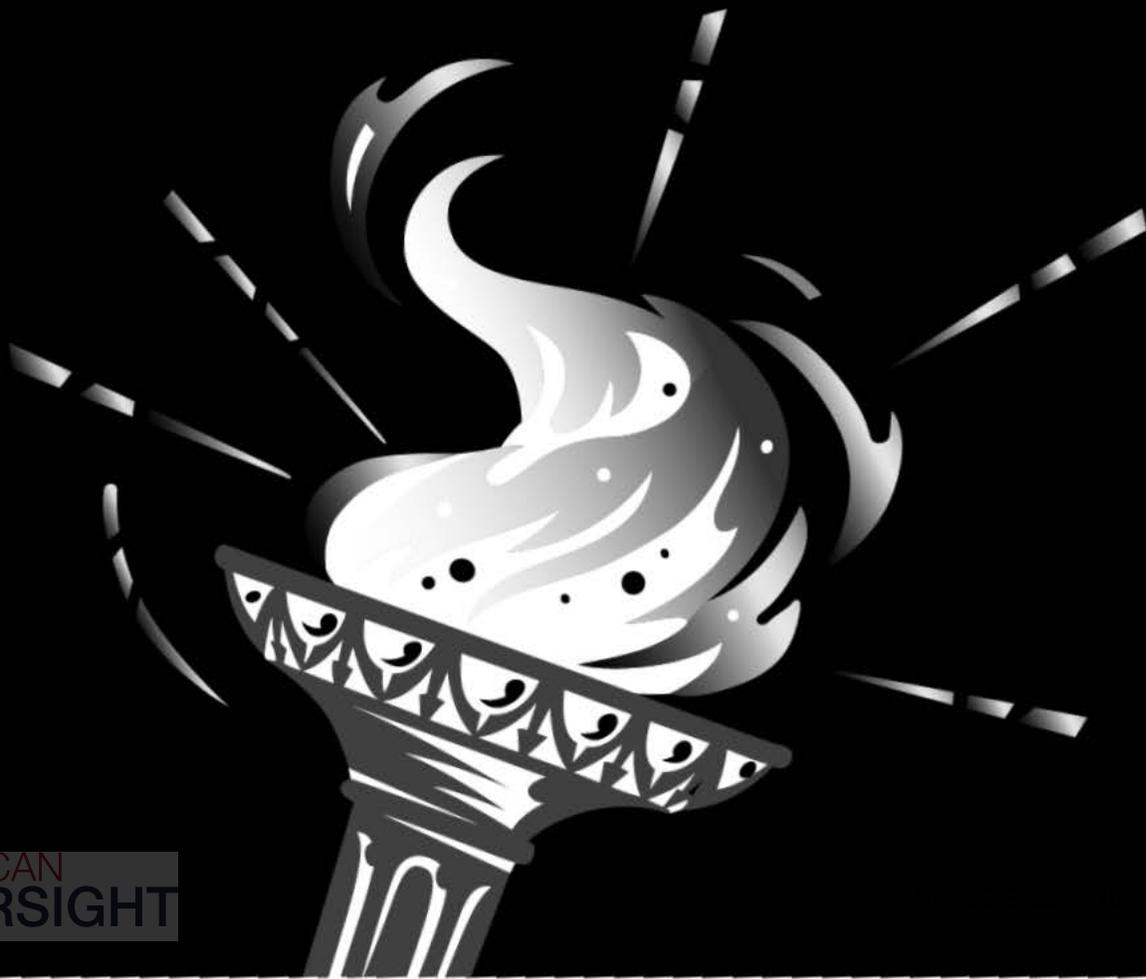
The Advisory Committee was composed of superintendents, principals, teachers, professors of education, community members, and representatives of professional organizations that have expertise to offer the process and who hold a vested interest in a well-articulated evaluation system. The committee met during the summer and fall of 1999 to offer direction in the development process and reactions to proposed evaluation criteria. Based on guidance from the committee and the Department of Education, this document was developed.

Intended Use

As set forth in the *Education Accountability and Quality Enhancement Act*, these evaluation criteria are intended to provide guidance for local school boards to consider in the development of evaluation policies and procedures for superintendents, building and central office administrators, and teachers. They are intended to reflect the priorities of the Board of Education and provide recommended guidelines for use in school divisions; however, they are not intended to be prescriptive in nature.

1 *Primary professional association standards consulted in the design of this work included those of the American Association for School Administrators, the Interstate School Leaders Licensure Consortium, and the Interstate New Teacher Assessment and Support Consortium.*

Evaluation Criteria
for Teachers,
Administrators, and
Superintendents



Evaluation Criteria for Teachers, Administrators, and Superintendents

Introduction to the Evaluation Criteria

The *Education Accountability and Quality Enhancement Act of 1999* requires the development of “defined criteria for a performance evaluation process” for teachers, principals, assistant principals, supervisors, and division superintendents. During the development process, the Advisory Committee agreed that sets of evaluation criteria were necessary for three distinct roles: a) teacher; b) principal, assistant principal, and supervisor; and c) division superintendent. While there are differences in the roles of principals, assistant principals, and central office supervisors for instruction, the committee found that their actual job responsibilities often are similar, varying in scope but not substantially in content. As a result, a common set of evaluation criteria was written for the principal, assistant principal, and central office supervisor. They are referred to collectively as the “Administrator” criteria.

The framework for evaluation criteria is organized by five major categories that reflect primary responsibilities of educational personnel. The five general categories for division superintendents, administrators (principals, assistant principals, and supervisors), and teachers are listed below. While they are substantially similar, they differ where necessary to reflect the scope and focus of the work for each position.

Descriptions of Major Categories

1. Planning and Assessment. For teachers, this category includes the responsibilities for evaluating and providing students with feedback that encourages student progress and measures student achievement. Based on a variety of assessments, content knowledge, and student knowledge, the teacher plans appropriate instruction.

For administrators and superintendents, this category includes responsibilities for assessing instructional programs and personnel and for planning responsive improvement plans to promote student learning.

2. Instruction. For teachers, this category encompasses the critical skills that determine the quality of classroom instruction. The major responsibilities include implementing a variety of activities consistent with instructional objectives and selecting instructional methods compatible with students’ abilities, prior knowledge, and learning styles.

For administrators and superintendents, this category is termed **Instructional Leader-**

Major Categories of Evaluation Criteria

Teachers

- ◆ Planning and Assessment
- ◆ Instruction
- ◆ Safety and Learning Environment
- ◆ Communication and Community Relations
- ◆ Professionalism

Administrators and Superintendents

- ◆ Planning and Assessment
- ◆ Instructional Leadership
- ◆ Safety and Organizational Management for Learning
- ◆ Communication and Community Relations
- ◆ Professionalism

ship and focuses on the support and leadership provided in the areas of personnel, curriculum, and staff development for the explicit purpose of enhancing instructional programs.

- 3. Safety and Learning Environment.** The category of safety and learning environment includes the teachers' responsibilities for planning and demonstrating effective routines and procedures that create an organized and positive learning environment.

For administrators and superintendents, this category is called **Safety and Organizational Management for Learning** and refers to responsibilities for the management and oversight of the organization's operations and climate, with particular attention to ensuring safety and meaningful student learning.

- 4. Communication and Community Relations.** The category of communication and community relations describes the responsibilities of teachers to use effective communication strategies in working with students, parents, and members of the community to promote broad support for student learning.

For administrators and superintendents, this category refers to the use of a systematic method of two-way communication to promote understanding, support, and continuous improvement of the organization's programs and services within schools and the larger community.

- 5. Professionalism.** This final category speaks to the basic responsibilities of all professional educators and defines the responsibilities for demonstrating a commitment to professional ethics and growth and for complying with school divisions' policies and procedures.

Definition of Evaluation Criteria

The framework for the evaluation criteria of the three professional roles of teacher, administrator, and division superintendent is defined using a three-tiered description:

- ◆ Major Categories of Evaluation Criteria,
- ◆ Evaluation Criteria, and
- ◆ Performance Indicators.

The three levels of specificity are intended to describe the responsibilities of each role with sufficient detail and accuracy so that teachers, administrators, and superintendents can reasonably understand the job expectations. The major categories of evaluation criteria described above are further defined with specific evaluation criteria listed in the next three sections, one for each role. In addition to the evaluation criteria, sample performance indicators are provided in Appendix A for teachers, Appendix B for administrators, and Appendix C for superintendents.

TEACHER Evaluation Criteria

Planning and Assessment

- ◆ **The teacher** designs coherent instruction based upon knowledge of subject matter, students, the community, and curriculum goals.
- ◆ **The teacher** plans instruction to achieve desired objectives that reflect the Virginia Standards of Learning and division curriculum guidelines.
- ◆ **The teacher** diagnoses individual, group, and program needs and selects appropriate materials and resources to match the abilities and needs of all students.

- ❖ **The teacher** uses a variety of assessment strategies and instruments to make both short-term and long-range instructional decisions to improve student learning.
- ❖ **The teacher** identifies and communicates specific student performance expectations and documents student learning gains using appropriate assessment instruments.

Instruction

- ❖ **The teacher** understands the central concepts, tools of inquiry, and structures of the discipline he or she teaches and creates learning experiences that make the subject matter meaningful for all students.
- ❖ **The teacher** understands how students differ in their approaches to learning and is able to differentiate instruction to meet diverse student needs.
- ❖ **The teacher** uses comprehensive materials, technology, and resources that promote the development of critical thinking, problem solving, and performance skills.
- ❖ **The teacher** selects, evaluates, and refines a variety of teaching methods and instructional strategies for the active engagement of students and improvement of student learning.

Safety and Learning Environment

- ❖ **The teacher** actively implements a discipline policy that fosters a safe and positive environment for students and staff.
- ❖ **The teacher** manages classroom procedures to maximize academic learning time.

- ❖ **The teacher** establishes and maintains rapport with students.
- ❖ **The teacher** creates a supportive learning environment for all students that encourages social interaction, active engagement in learning, and self-motivation.

Communication and Community Relations

- ❖ **The teacher** uses effective verbal, nonverbal, and media communication techniques to foster positive interactions in the classroom.
- ❖ **The teacher** forges partnerships with families to promote student learning at home and in the school.
- ❖ **The teacher** works collaboratively with staff, families, and community resources to support the success of a diverse student population.

Professionalism

- ❖ **The teacher** models professional, moral, and ethical standards as well as personal integrity in all interactions.
- ❖ **The teacher** takes responsibility for and participates in a meaningful and continuous process of professional development that results in the enhancement of student learning.
- ❖ **The teacher** works in a collegial and collaborative manner with peers, school personnel, and the community to promote and support student learning.
- ❖ **The teacher** provides service to the profession, the division, and the community.

ADMINISTRATOR

Evaluation Criteria: Principals, Assistant Principals, and Central Office Instructional Personnel

Planning and Assessment

- ❖ **The administrator** effectively employs various processes for gathering, analyzing, and using data for decision making.
- ❖ **The administrator** collaboratively develops and implements a school improvement plan that results in increased student learning.
- ❖ **The administrator** plans, implements, supports, and assesses instructional programs that enhance teaching and student achievement of the Standards of Learning.
- ❖ **The administrator** develops plans for effective allocation of fiscal and other resources.

Instructional Leadership

- ❖ **The administrator** communicates a clear vision of excellence and continuous improvement consistent with the goals of the school division.
- ❖ **The administrator** supervises the alignment, coordination, and delivery of assigned programs and/or curricular areas.
- ❖ **The administrator** selects, inducts, supports, evaluates, and retains quality instructional and support personnel.

- ❖ **The administrator** provides staff development programs consistent with program evaluation results and school instructional improvement plans.
- ❖ **The administrator** identifies, analyzes, and resolves problems using effective problem-solving techniques.

Safety and Organizational Management for Learning

- ❖ **The administrator** maintains effective discipline and fosters a safe and positive environment for students and staff.
- ❖ **The administrator** effectively coordinates the daily operation of the assigned area of responsibility.
- ❖ **The administrator** effectively manages human, material, and financial resources to ensure student learning and to comply with legal mandates.
- ❖ **The administrator** demonstrates effective organizational skills to achieve school, community, and division goals.

Communication and Community Relations

- ❖ **The administrator** promotes effective communication and interpersonal relations with students and staff.
- ❖ **The administrator** promotes effective communication and interpersonal relations with parents and other community members.
- ❖ **The administrator** works collaboratively with staff, families, and community members to secure resources and to support the success of a diverse student population.

Professionalism

- ❖ **The administrator** models professional, moral, and ethical standards as well as personal integrity in all interactions.
- ❖ **The administrator** works in a collegial and collaborative manner with other administrators, school personnel, and the community to promote and support the mission and goals of the school division.
- ❖ **The administrator** takes responsibility for and participates in a meaningful and continuous process of professional development that results in the enhancement of student learning.
- ❖ **The administrator** provides service to the profession, the division, and the community.

SUPERINTENDENT

Evaluation Criteria

Planning and Assessment

- ❖ **The superintendent** effectively employs various processes for gathering, analyzing, and using data for decision making.
- ❖ **The superintendent** organizes the collaborative development and implementation of a division strategic plan based on analysis of data from a variety of sources.
- ❖ **The superintendent** plans, implements, supports, and assesses instructional programs that enhance teaching and student achievement of the Standards of Learning.
- ❖ **The superintendent** develops plans for effective allocation of fiscal and other resources.

Instructional Leadership

- ❖ **The superintendent** communicates a clear vision of excellence and continuous improvement consistent with the goals of the school division.
- ❖ **The superintendent** oversees the alignment, coordination, and delivery of assigned programs and/or curricular areas.
- ❖ **The superintendent** selects, inducts, supports, evaluates, and retains quality instructional and support personnel.
- ❖ **The superintendent** provides staff development programs consistent with program evaluation results and school instructional improvement plans.
- ❖ **The superintendent** identifies, analyzes, and resolves problems using effective problem-solving techniques.

Safety and Organizational Management for Learning

- ❖ **The superintendent** actively supports a safe and positive environment for students and staff.
- ❖ **The superintendent** develops procedures for working with the board of education that define mutual expectations, working relationships, and strategies for formulating division policies.
- ❖ **The superintendent** effectively manages human, material, and financial resources to ensure student learning and to comply with legal mandates.
- ❖ **The superintendent** demonstrates effective organizational skills to achieve school, community, and division goals.

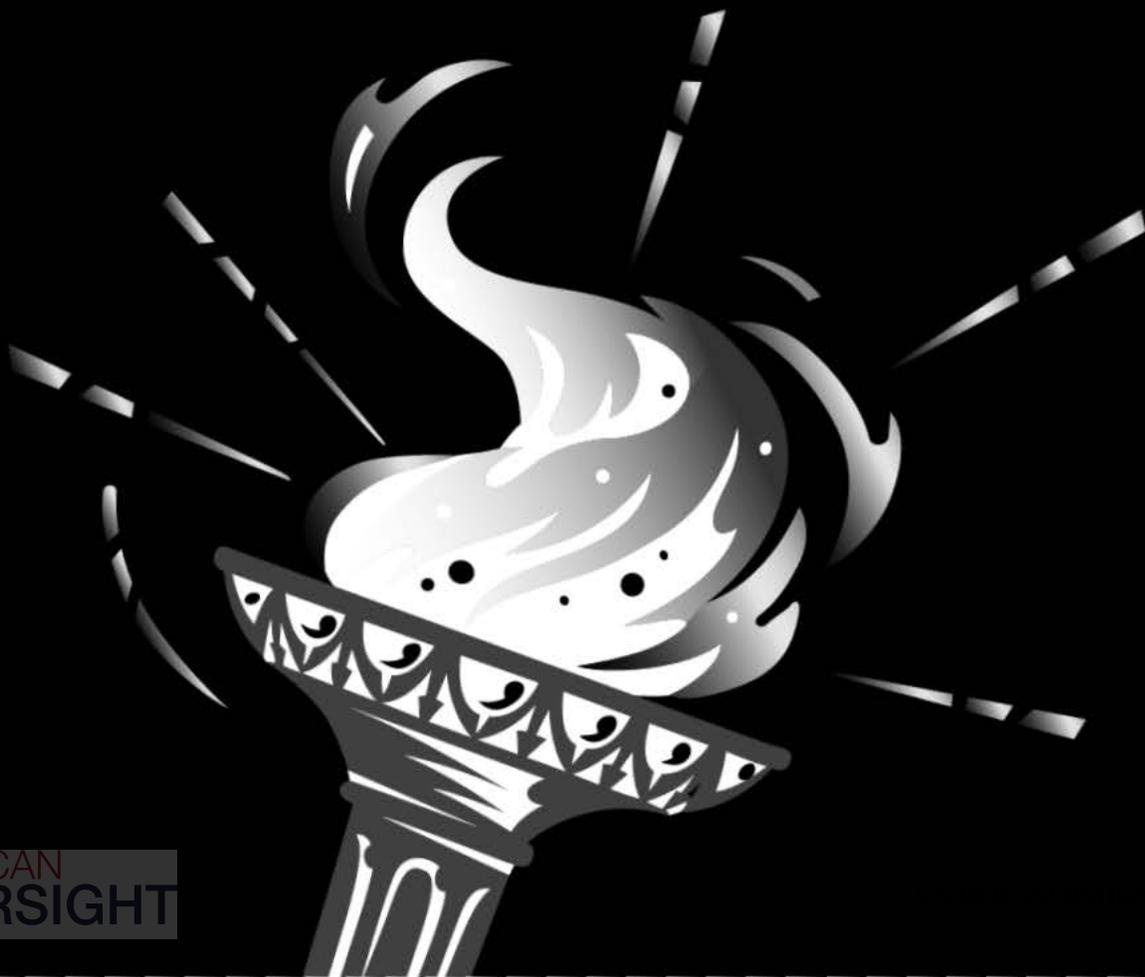
Communication and Community Relations

- ◆ **The superintendent** promotes effective communication and interpersonal relations within the school division.
- ◆ **The superintendent** establishes and maintains effective channels of communication with board members and between the schools and community, strengthening support of constituencies and building coalitions.
- ◆ **The superintendent** works collaboratively with staff, families, and community members to secure resources and to support the success of a diverse student population.

Professionalism

- ◆ **The superintendent** models professional, moral, and ethical standards as well as personal integrity in all interactions.
- ◆ **The superintendent** works in a collegial and collaborative manner with school personnel and the community to promote and support the mission and goals of the school division.
- ◆ **The superintendent** takes responsibility for and participates in a meaningful and continuous process of professional development that results in the enhancement of student learning.
- ◆ **The superintendent** provides service to the profession, the division, and the community.

Recommendations for Implementation



Recommendations for Implementation

Next Steps for Use by Local School Divisions

Local school boards must become familiar with their responsibilities as specified by the *Education Accountability and Quality Enhancement Act of 1999* and devise an implementation plan for compliance. One section of the Act (§22.1-294 B.) requires the adoption of “defined criteria for a performance evaluation process” for professional educators. The evaluation criteria recommended in this document may be modified or used as is by local school divisions to achieve that goal. School divisions are urged to consider their organizational goals and review their policy on evaluation carefully before proceeding with a review of their evaluation system and criteria. Policy should reflect organizational goals, and division goals should shape the job descriptions for all employees within the division. Using job descriptions as a starting point, the evaluation criteria offered in these guidelines then can be used to define further the expectations of teachers, principals, assistant principals, supervisors, and school superintendents.

If guidelines are used to modify existing personnel evaluation system:

- ◆ Review these guidelines for consistency with local policy for personnel evaluation, stated purposes of evaluation, and substance of existing evaluation criteria.
- ◆ Make modifications to the existing evaluation system based on the requirements of the *Education Accountability and Quality Enhancement Act of 1999*, these guidelines, and local needs.
- ◆ Give special consideration to the integration of student learning measures in the evaluation of professional educators.

If guidelines are used to develop new personnel evaluation system:

- ◆ Review guidelines for consistency with local policy for personnel evaluation and stated purposes of evaluation.
- ◆ Consider evaluation criteria and descriptors based on job descriptions.
- ◆ Modify evaluation criteria and descriptors to reflect local goals, job descriptions, and priorities.
- ◆ Select appropriate information collection strategies such as
 - ◇ observations - scheduled/unscheduled, in class/other arenas;
 - ◇ client surveys - students, parents, peers;
 - ◇ review of documents - lesson plans, grade books, parent communication, etc.;
 - ◇ goal statements and evidence of achievement;
 - ◇ miscellaneous - discipline referrals, test results, knowledge of professional contributions, community support;
 - ◇ measures of student learning.
- ◆ Delineate a schedule for information collection and evaluation reports, including
 - ◇ differentiation for tenured and non-tenured professionals,
 - ◇ number and timing of information collection strategies,

- ◇ calendar for administering evaluation system with deadlines for evaluation summaries.
- ◆ Develop a rating scale for judging performance, including
 - ◇ choice of terms,
 - ◇ definition of terms.
- ◆ Define a performance improvement process for professional educators identified as needing remedial assistance.
- ◆ Develop necessary guidelines and forms, including
 - ◇ observation forms,
 - ◇ client survey forms,
 - ◇ interim evaluation forms,
 - ◇ summative evaluation forms,
 - ◇ improvement assistance plan.

Recommendations for Integrating Student Learning in Educator Evaluation²

1. Use student learning as only one component in an educator evaluation system that is based on multiple data sources.

Measures of student learning are vitally important in judging the effectiveness of teachers, administrators, and superintendents, but they should never serve as the sole source for evaluating performance. Rather, multiple sources of information should be considered in order that a more complete picture of performance can be developed. Such multiple data sources might include formal and informal observations, client surveys, artifacts of performance, goal setting, and other relevant sources of performance information. Student learning measures should be considered in conjunction with these other sources to provide a full and comprehensive portrait of the educator's performance.

2. When judging educator effectiveness, consider the context in which schooling occurs.

There are circumstances in which educators have done everything possible to enhance student learning, but conditions beyond their control prevent maximum learning benefits by students. Thus, consideration should be given to student mobility, absenteeism, and other variables beyond the control of the educator. The entire system of support, including staff training, availability of mentors, conducive work spaces, instructional resources, community support, and other important matters cannot be overlooked in attributing responsibility for learning.

² These recommendations are adapted from: Stronge, J. H., & Tucker, P. D. (2000). *Teacher evaluation and student achievement*. Washington, DC: National Education Association.

3. Use measures of student growth versus a fixed achievement standard or goal.

Very few human endeavors are judged in terms of fixed goals; more typically, they are based on growth and progress toward stated goals. Even in the hard-nosed world of business, performance is judged based on a variety of economic indicators and comparisons to projected growth. The same paradigm should be used in education, with an acknowledgment of learning inhibitors and comparisons to projected learning growth. This approach requires the use of pre- and post-testing to determine progress rather than the attainment of predetermined pass rates or proficiency levels. While there is a place and purpose for fixed standards, such as learning to read at an acceptable level, fixed standards must be regarded skeptically when applied to personnel evaluation.

4. Compare learning gains from one point in time to another for the same students, not different groups of students.

If teachers, administrators, and superintendents are to be held accountable for student learning, then it is critical that patterns of student learning be established - not single snapshots. Repeated measures of student learning over time enhance reliability from a statistical point of view and credibility from a decision-making perspective.

5. Use fair and valid measures of student learning.

If student learning measures are to be used for the evaluation of educators, then they must conform to professional standards of practice. Specifically, the use of student assessment measures in evaluating educator performance should be

- ◆ **valid.** “Any measure of student performance, whether used for formative or summative evaluation, should be sensitive to (be able to detect) the impacts of what teachers and schools do; that is, measures of student learning should have instructional validity. If they do not ... then it would be hard to justify their use for either teacher or school evaluation of any kind.”³
- ◆ **reliable.** The assessment measure should produce adequately consistent (i.e., reliable) results across time and across scorers. One of the key issues to consider when making decisions about educator performance is inter-rater reliability among evaluators.
- ◆ **free from bias.** Student achievement data should be used in an objective, fair, and impartial manner, and should not be interpreted or used capriciously.
- ◆ **comparable.** No educator “... should be disadvantaged compared with any other based on factors beyond their control.”⁴

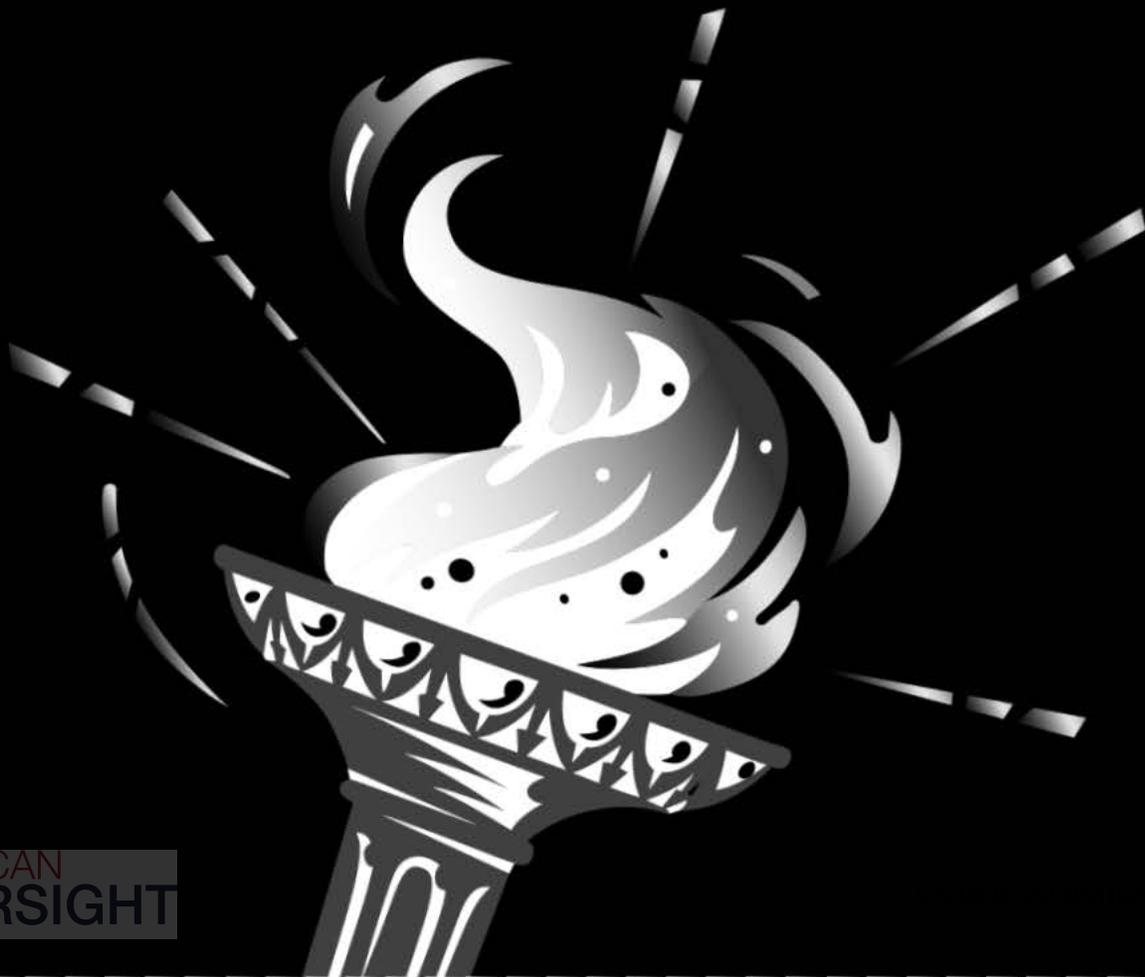
³ McConney, A. A., Schalock, M. D., & Schalock, H. D. (1997), page 177.

⁴ McConney, A. A., Schalock, M. D., & Schalock, H. D. (1997), page 178.

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Appendices



Appendix A

Teacher Evaluation Criteria and Performance Indicators Virginia Department of Education Suggested Guidelines

Planning and Assessment

The teacher designs coherent instruction based upon knowledge of subject matter, students, the community, and curriculum goals.

Sample Performance Indicators:

The teacher...

- bases instruction on goals that reflect high expectations, conceptual understanding of the subject, and the importance of learning.
- matches content/skills taught to overall curriculum scope and sequence.
- uses assessment feedback to monitor and adjust instruction.
- links objectives for instruction to prior student learning.
- reflects the goals and needs of the school and community in planning.
- uses available resources to link student learning to the community.

The teacher plans instruction to achieve desired objectives that reflect the Virginia Standards of Learning and division curriculum guidelines.

Sample Performance Indicators:

The teacher...

- selects appropriate student objectives for lessons consistent with division guidelines and the Virginia Standards of Learning.
- designs appropriate learning activities that are clearly connected to instructional objectives.
- develops lesson plans that are clear, logical, and sequential.

The teacher diagnoses individual, group, and program needs and selects appropriate materials and resources to match the abilities and needs of all students.

Sample Performance Indicators:

The teacher...

- plans instruction appropriate to the developmental level and needs of students.
- demonstrates knowledge of resources and methods appropriate to serving students with special learning needs.
- arranges/adapts classroom setting to accommodate individual and group learning needs.
- assists students in planning, organizing, and preparing for assignments, long-range projects, and tests.
- is sensitive and responsive to the diversity of individuals and groups within the classroom.

The teacher uses a variety of assessment strategies and instruments to make both short-term and long-range instructional decisions to improve student learning.

Sample Performance Indicators:

The teacher...

- monitors student understanding on an ongoing basis and adjusts teaching when necessary.
- utilizes multiple assessment practices congruent with instructional goals both in content and process.
- effectively uses both teacher-made and standardized tests as appropriate.
- uses student products as a source for assessment and instructional decisions.
- demonstrates competence in the use of acceptable grading/ranking/scoring practices in recording and reporting student achievement.
- maintains and uses organized records of student progress for instructional decisions.

The teacher identifies and communicates specific student performance expectations and documents student learning gains using appropriate assessment instruments.

Sample Performance Indicators:

The teacher...

- communicates clear expectations for learning and behavior to students and parents.
- uses pre-assessment data in developing expectations for students and as a basis for documenting learning gains.
- provides prompt and meaningful feedback to students about performance and progress.

- prepares tests that reflect the academic content studied.
- provides opportunities for students to contribute to the development of criteria and standards as appropriate.
- incorporates strategies to prepare students for SOL and standardized testing.

Instruction

The teacher understands the central concepts, tools of inquiry, and structures of the discipline he or she teaches and creates learning experiences that make the subject matter meaningful for all students.

Sample Performance Indicators:

The teacher...

- communicates a belief that all students can learn.
- exhibits an understanding of and facility in explaining the subject area(s) taught.
- uses appropriate literature and current resources and materials in the subject area(s).
- encourages the academic curiosity and critical thinking of students.
- modifies instruction to make topics relevant to students' lives and experiences.
- demonstrates ability to engage and maintain students' attention and to recapture or refocus it as necessary.
- provides clear and concise explanations of lessons.
- checks for understanding with questions, review activities, and various assessment strategies.

The teacher understands how students differ in their approaches to learning and is able to differentiate instruction to meet diverse student needs.

Sample Performance Indicators:

The teacher...

- selects materials and media that match learning styles of individual students.
- provides for the instructional needs of all students, including remedial and enrichment/extension activities as necessary.
- utilizes flexible grouping practices to respond to the diverse learning needs of students.
- collaborates with resource teachers in developing activities for students with special learning needs.
- encourages students to build on strengths while developing all areas of competence.
- paces instruction appropriately with adequate preview and review of instructional components.
- uses a variety of teaching strategies, including cooperative, peer and project-based learning, audiovisual presentations, lecture, discussions and inquiry, practice and application, and the teaching of others.
- demonstrates respect for individual, cultural, religious, and racial differences of individuals and groups within the classroom.

The teacher uses comprehensive materials, technology, and resources that promote the development of critical thinking, problem solving, and performance skills.

Sample Performance Indicators:

The teacher...

- evaluates curricular materials for accuracy, currency, and student interest.
- provides students with materials and media that are appropriate and challenging for their instructional levels.
- encourages and guides the development of problem-solving skills and independent thinking in students.
- utilizes available technological materials and resources effectively to engage students in varied learning experiences.
- provides opportunities for guided practice and hands-on technology application.
- demonstrates competence in the Technology Standards for Instructional Personnel.

The teacher selects, evaluates, and refines a variety of teaching methods and instructional strategies for the active engagement of students and improvement of student learning.

Sample Performance Indicators:

The teacher...

- solicits comments, questions, examples, and other contributions from students throughout lessons.
- uses questioning strategies effectively.
- provides opportunities for guided and independent practice.
- responds positively to student questions and active engagement.

- implements instructional opportunities in which students are interacting with ideas, materials, teachers, and one another.
- reteaches material and/or accelerates instruction based on assessment to pace instruction appropriately for interest and engagement.
- implements curriculum experiences to encourage students to reflect on and take increasing responsibility for their own learning.

Safety and Learning Environment

The teacher actively implements a discipline policy that fosters a safe and positive environment for students and staff.

Sample Performance Indicators:

The teacher...

- establishes effective classroom rules and procedures.
- communicates clear expectations about behavior to students and parents.
- implements and enforces disciplinary procedures with fairness and consistency.
- encourages students in developing self-discipline and conflict resolution skills.
- recognizes and celebrates the achievements of students and staff.
- is knowledgeable of and complies with local, state, and federal safety regulations.
- manages emergency situations as they occur.

The teacher manages classroom procedures to maximize academic learning time.

Sample Performance Indicators:

The teacher...

- plans purposeful assignments for teacher assistants, substitute teachers, student teachers, and others to ensure continuous student engagement in learning.
- structures transitions in an efficient and constructive manner.
- creates and maintains a physical setting that minimizes disruption and promotes learning and safety.
- handles administrative routines quickly and efficiently.
- has all material readily available to allow for the smooth flow of instruction.

The teacher establishes and maintains rapport with students.

Sample Performance Indicators:

The teacher...

- treats students with respect.
- communicates personal enthusiasm for learning.
- models caring, fairness, humor, courtesy, respect, and active listening.
- demonstrates concern for students' emotional and physical well-being.
- seeks and uses information about student interests and opinions.
- develops and maintains positive interactions with students in all school settings.

The teacher creates a supportive learning environment for all students that encourages social interaction, active engagement in learning, and self-motivation.

Sample Performance Indicators:

The teacher...

- encourages students to respect themselves and others.
- communicates clear expectations for appropriate interactions among students.
- models enthusiasm for and engagement in learning.
- encourages students to take pride in good work.
- enhances students' feelings of self-worth.
- incorporates principles of equal opportunity and non-discrimination into classroom management.
- provides equitable opportunities for student learning.
- promotes multicultural awareness, gender sensitivity, and the appreciation of diversity within the classroom.

Communication and Community Relations

The teacher uses effective verbal, nonverbal, and media communication techniques to foster positive interactions in the classroom.

Sample Performance Indicators:

The teacher...

- uses precise language, correct vocabulary and grammar, and acceptable forms of oral and written expression.
- articulates clear learning goals and instructional procedures to students.
- gives directions that are clear and reasonable and contain an appropriate level of detail.
- uses a variety of media communication tools to enrich learning opportunities.
- models effective communication strategies in conveying ideas and information.
- provides support for student expression in speaking, writing, and other media.

The teacher forges partnerships with families to promote student learning at home and in the school.

Sample Performance Indicators:

The teacher...

- responds promptly to parental concerns.
- demonstrates flexibility in planning meetings with parents.
- promotes parental involvement in the classroom and school.

- shares major instructional goals for the year with parents.
- initiates communication with parents or guardians concerning student progress or problems in a timely manner.
- establishes regular channels of communication between school and home.
- offers strategies for parents to assist in their children's education.

The teacher works collaboratively with staff, families, and community resources to support the success of a diverse student population.

Sample Performance Indicators:

The teacher...

- is sensitive to the social and cultural background of students and parents.
- uses multiple modes of communication to provide information to parents.
- encourages parent and community involvement in classroom activities.
- collaborates with staff, families, and community members to respond to identified needs of individual students and groups of students.
- promotes the value of understanding and celebrating school/community cultures.
- supports community partnerships and uses community resources to enhance learning.
- works with community members in carrying out school and community-sponsored functions.

Professionalism

The teacher models professional, moral, and ethical standards as well as personal integrity in all interactions.

Sample Performance Indicators:

The teacher...

- relates to colleagues, parents, and others in an ethical and professional manner.
- represents the school/program favorably in the school division/community.
- uses acceptable written and oral language.
- resolves concerns and problems in a constructive manner.
- maintains confidentiality appropriate to teaching assignment.
- maintains a professional demeanor and appearance.
- works in the best interest of the students, the school, and the community.

The teacher takes responsibility for and participates in a meaningful and continuous process of professional development that results in the enhancement of student learning.

Sample Performance Indicators:

The teacher...

- participates in professional growth activities including conferences, workshops, course work, and/or membership in professional organizations at the district, state, and/or national level.

- evaluates and identifies areas of personal strength and weakness related to professional skills and their effect on student learning and sets goals for improvement of skills and professional performance.
- maintains a high level of personal knowledge regarding new developments and techniques, including technology, in the field of professional specialization.
- comprehends and applies current literature that enhances knowledge of educational issues, trends, and practices.
- collaborates with colleagues to improve and enhance instructional knowledge and skills.
- maintains proper licensure and certification.

The teacher works in a collegial and collaborative manner with peers, school personnel, and the community to promote and support student learning.

Sample Performance Indicators:

The teacher...

- demonstrates flexibility and a collaborative attitude in supporting co-workers/work team.
- maintains effective working relationships with other teachers.
- works collaboratively with other staff members to plan for individual student learning and alignment of goals and standards across classrooms and grade levels.
- makes a positive contribution to the overall climate of the school and division.
- supports school and division-wide programs and activities.

- considers the interests and needs of other teachers and community stakeholders in promoting and supporting district goals and services.
- shares ideas and information with other teachers, school personnel, and community stakeholders.

The teacher provides service to the profession, the division, and the community.

Sample Performance Indicators:

The teacher...

- serves on school, division, state, and/or national committees.
- maintains an active role in professional and community organizations.
- explores, disseminates, and applies knowledge and information about new or improved methods of instruction or related issues.
- contributes to and supports the development of the profession by serving as an instructor, mentor, coach, presenter, researcher, or supervisor.
- organizes, facilitates, and presents at local, state and/or national conferences.
- supports and participates in efforts to align school and division goals and activities with community endeavors.

Appendix B

Administrator Evaluation Criteria and Performance Indicators (Principals, Assistant Principals, and Central Office Instructional Personnel) Virginia Department of Education Suggested Guidelines

Planning and Assessment

The administrator effectively employs various processes for gathering, analyzing, and using data for decision making.

Sample Performance Indicators:

The administrator...

- applies current research related to effective techniques for gathering data from individuals, groups, and programs.
- gathers and analyzes data on student academic achievement through standardized test results and other student performance sources.
- identifies strengths and weaknesses in programs and practices to facilitate continuous improvement.
- applies and communicates statistical findings.
- plans and implements changes in programs and/or curricula based on data.
- conducts annual analyses of school's test and subtest scores by grade and discipline.

The administrator collaboratively develops and implements a school improvement plan that results in increased student learning.

Sample Performance Indicators:

The administrator...

- ensures the development and implementation of a biennial school plan approved by the superintendent.
- works collaboratively with faculty and staff to develop a vision and mission consistent with the division strategic plan.
- supports the mission by identifying, articulating, and planning to meet the educational needs of students, staff, and other stakeholders.
- works collaboratively to develop long- and short-range goals and objectives consistent with needs assessment data.
- evaluates the effects of changes on student achievement and provides feedback on goal achievement and needs for improvement.
- keeps abreast of current literature regarding school reform.
- supports staff through the stages of the change process.
- maintains stakeholders' focus on long-range mission and goals throughout the implementation process.

The administrator plans, implements, supports, and assesses instructional programs that enhance teaching and student achievement in the Standards of Learning.

Sample Performance Indicators:

The administrator...

- demonstrates a working knowledge and understanding of the Standards of Learning and school division curricular requirements.
- articulates curricular goals and objectives to staff and other stakeholders.
- assists with the development of a comprehensive curriculum utilizing goals and objectives in alignment with the Standards of Learning.
- works with staff to plan, implement, evaluate, and revise the curriculum on a systematic and ongoing basis.
- demonstrates knowledge of and applies current research related to best practices in curriculum and instruction.
- provides resources and materials to accomplish instructional goals for all students.
- facilitates programs/curricular changes to meet state or federal requirements.
- monitors and assesses the effect of the programs and/or curricula on student achievement.
- implements division testing program for students.
- uses varied assessment data to ensure that instructional programs are responsive to students' academic needs.

The administrator develops plans for effective allocation of fiscal and other resources.

Sample Performance Indicators:

The administrator...

- meets and works collaboratively with appropriate staff to determine budget needs and priorities.
- prioritizes budget requests to meet the needs of assigned curriculum/program(s).
- meets and works collaboratively with appropriate staff to determine priorities for effective allocation of space as well as human and other resources.
- monitors and assesses resource allocation.
- revises resource allocation plans based on implementation data.

Instructional Leadership

The administrator communicates a clear vision of excellence and continuous improvement consistent with the goals of the school division.

Sample Performance Indicators:

The administrator...

- articulates a vision and works collaboratively to develop a mission and programs consistent with the division's strategic plan.
- emphasizes positive student achievement and continuous improvement.
- analyzes current academic achievement and teaching methods to make appropriate educational decisions and improve classroom instruction.

- monitors the delivery of appropriate remediation and intervention for students.
- explores, disseminates, and applies knowledge and information about new or improved methods of instruction or related issues.
- shares evaluation data and subsequent plans for continuous improvement with staff, students, and other stakeholders.
- commits resources to the achievement of the mission and goals.
- demonstrates strong motivation and high standards and models self-evaluation.
- communicates commitment to protecting academic instructional time.
- recognizes, encourages, and celebrates excellence among staff and students.
- demonstrates and applies knowledge of effective instructional models and strategies.
- identifies best instructional practices for student groups with identified needs.
- provides instructional resources, materials, training, and support to accomplish instructional goals.

The administrator selects, inducts, supports, evaluates, and retains quality instructional and support personnel.

Sample Performance Indicators:

The administrator...

The administrator supervises the alignment, coordination, and delivery of assigned programs and/or curricular areas.

Sample Performance Indicators:

The administrator...

- works with staff to develop a written plan for the coordination and articulation of curricular goals.
- meets and works with staff on a regular basis to identify needs and determine priorities regarding program delivery.
- provides direction and support in planning and implementing activities and programs consistent with continuous improvement efforts and attainment of instructional goals.
- monitors coordination of instructional programs with state and local standards.
- maintains and disseminates a current handbook of personnel policies and procedures.
- establishes and uses selection procedures that ensure fairness and equity in selecting the best candidates.
- makes recommendations regarding personnel decisions consistent with established policies and procedures.
- establishes and implements formal and informal induction procedures to promote assistance for and acceptance of new employees.
- sets high standards for staff performance.
- evaluates performance of personnel consistent with division policies, provides formal and informal feedback, and maintains accurate evaluation records.
- evaluates instructional alignment with the Standards of Learning to ensure students' successful attainment of the knowledge and skills indicated.
- evaluates classroom practices and methods for improvement of instruction.

- provides support and resources for staff to improve job performance, and recognizes and supports the achievements of highly effective staff members.

The administrator provides staff development programs consistent with program evaluation results and school instructional improvement plans.

Sample Performance Indicators:

The administrator...

- leads the development and implementation of a systematic professional development plan for individuals and for the school.
- involves school staff in identifying staff development needs based on student achievement data.
- provides staff development that supports effective instruction.
- shares knowledge and information about new, improved, or alternative methods of instruction and related issues.
- meets with instructional teams and teachers regularly to discuss ongoing school improvement efforts.
- shares program evaluation results and demonstrates connection of results to ongoing staff development efforts.
- disseminates information about conferences, course work, and membership in professional organizations.
- supports staff participation in internal and external professional development opportunities as appropriate.

The administrator identifies, analyzes, and resolves problems using effective problem-solving techniques.

Sample Performance Indicators:

The administrator...

- identifies and addresses problems in a timely and effective manner.
- demonstrates fairness in identifying multiple points of view around problem situations.
- involves stakeholders in analyzing problems and developing solutions.
- monitors implementation of problem resolutions.
- provides shared leadership and decision-making opportunities for staff that promote a climate of collaboration and collegiality.
- delegates responsibility appropriately to staff members.
- maintains focus on school and division missions and goals.
- promotes an atmosphere of mutual respect and courtesy.

Safety and Organizational Management for Learning

The administrator maintains effective discipline and fosters a safe and positive environment for students and staff.

Sample Performance Indicators:

The administrator...

- ensures a safe, secure, orderly, clean, and attractive school environment.

- clearly communicates expectations regarding behavior to students, staff, and parents.
- clearly communicates procedures for handling disciplinary problems.
- implements and enforces school division code of conduct and appropriate disciplinary procedures in a timely and consistent manner.
- establishes effective programs through which students develop self-discipline and conflict resolution skills.
- calmly and effectively manages emergency situations as they occur.
- is proactive in addressing potential problem situations.
- consistently conveys mutual respect, concern, and high expectations to students, staff, and parents.
- recognizes students and staff for their academic, co-curricular, personal, and professional achievements.
- organizes schedule to keep time students are out of class to a minimum.
- monitors and provides supervision for all programs and activities.
- oversees the general maintenance, upkeep, and appearance of the school (building administrators only).
- monitors established routines and use of facilities on a regular and timely basis (building administrators only).

The administrator effectively manages human, material, and financial resources to ensure student learning and to comply with legal mandates.

Sample Performance Indicators:

The administrator...

The administrator effectively coordinates the daily operation of the assigned area of responsibility.

Sample Performance Indicators:

The administrator...

- follows federal, state, and local statutes, regulations, policies, and procedures.
- collaboratively plans and prepares a fiscally responsible budget to support the organization's mission and goals.
- establishes and uses accepted procedures for receiving and disbursing funds.
- maintains records of receipts and disbursements of all funds handled.
- keeps staff informed about status of budget requests, equipment purchases, and materials ordered.
- monitors the efficient use of instructional resources.
- works with staff to establish an effective schedule for use of shared resources.
- accurately maintains personnel records.
- organizes staff to conduct daily routines efficiently, use space effectively, and ensure appropriate instructional time.
- publicizes routines and procedures through handbooks, orientation sessions, and other means.
- protects academic instructional time from unnecessary interruptions.

- maintains current record of licensure, endorsement, and in-service training completed by staff.
- adheres to established evaluation schedules, timelines, and procedures.

The administrator demonstrates effective organizational skills to achieve school, community, and division goals.

Sample Performance Indicators:

The administrator...

- demonstrates and communicates a working knowledge and understanding of school division policies and procedures.
- ensures compliance and follow-through regarding policies and procedures.
- uses personal time to the best advantage, manages scheduling effectively, and follows task to completion.
- performs duties in an accurate and timely manner.
- maintains accurate student records to ensure that criteria for promotion/placement/instructional intervention are included.
- maintains accurate drop-out records to work towards drop-out prevention.
- efficiently and appropriately prioritizes and addresses multiple issues and projects.
- maintains an acceptable work space.

Communication and Community Relations

The administrator promotes effective communication and interpersonal relations with students and staff.

Sample Performance Indicators:

The administrator...

- promotes a climate of trust within the school.
- facilitates constructive and timely communication.
- initiates communication and facilitates cooperation among staff regarding curriculum or program initiatives.
- models professionally appropriate communication skills, interpersonal relations, and conflict mediation.
- maintains visibility and accessibility to staff.
- solicits staff input to discuss issues and goals and to promote effective decision-making.
- establishes and maintains a collaborative relationship with classroom teachers, specialists, and administrators in promoting the division's mission and in communicating expectations.

The administrator promotes effective communication and interpersonal relations with parents and other community members.

Sample Performance Indicators:

The administrator...

- communicates school and division goals, objectives, and expectations to stakeholders.

- maintains visibility and accessibility to parents and the community.
- uses multiple modes of communication to notify stakeholders of issues, events, and useful information regarding curriculum and programs in a timely manner.
- clarifies collaborative roles of school and home in promoting student learning and meeting curricular goals.
- communicates evidence of progress toward goals and objectives.
- monitors the development and distribution of staff and student handbooks.
- uses acceptable written and oral language.
- models and promotes multicultural awareness, gender sensitivity, and the appreciation of diversity in the school-community.
- promotes the value of understanding and celebrating school and community cultures.

The administrator works collaboratively with staff, families, and community members to secure resources and to support the success of a diverse student population.

Sample Performance Indicators:

The administrator...

- plans for and solicits parent and community member input.
- promotes the development of community partnerships.
- encourages parental and community involvement in promoting school goals.
- collaborates with staff, families, and community leaders and responds to identified needs of individual students and groups of students.
- seeks grants and other community resources to support school goals.
- treats people with respect.

Professionalism

The administrator models professional, moral, and ethical standards as well as personal integrity in all interactions.

Sample Performance Indicators:

The administrator...

- relates to co-workers, customers/clients, and others in an ethical and professional manner.
- represents the school/office/program favorably in the school division/community.
- resolves concerns and problems in an appropriate manner.
- respects and maintains confidentiality and assumes responsibility for personal actions.
- maintains a professional demeanor and appearance appropriate to responsibilities.

The administrator works in a collegial and collaborative manner with other administrators, school personnel, and the community to promote and support the mission and goals of the school division.

Sample Performance Indicators:

The administrator...

- demonstrates flexibility and a collaborative attitude in supporting colleagues/work teams.

- supports the organization and advances the mission/goals.
- supports division-wide programs and activities and makes a positive contribution to the overall climate of the school and division.
- maintains effective working relationships with other administrators and staff.
- shares ideas and information and considers the interests and needs of other administrators and community stakeholders in promoting and supporting district goals and services.

The administrator takes responsibility for and participates in a meaningful and continuous process of professional development that results in the enhancement of student learning.

Sample Performance Indicators:

The administrator...

- participates in professional growth activities, including conferences, workshops, course work, and/or membership in professional organizations at the district, state, and/or national level.
- evaluates and identifies areas of personal strength and weakness related to professional skills and their impact on student learning.
- sets goals for improvement of skills and professional performance.
- maintains a high level of personal knowledge regarding new developments and techniques, including technology, in one's own field of professional specialization.
- comprehends and applies current research of educational issues, trends, and practices.
- networks with colleagues to share knowledge about effective educational practices and to

improve and enhance administrative knowledge, skills, and organizational success.

- maintains proper licensure and certification.

The administrator provides service to the profession, the division, and the community.

Sample Performance Indicators:

The administrator...

- serves on division, state, and/or national committees and maintains an active role in professional organizations.
- contributes to and supports the development of the profession by serving as an instructor, mentor, coach, presenter, researcher, or supervisor.
- organizes, facilitates, and presents at local, state and/or national conferences.
- supports and participates in efforts to align school and division goals and activities with community endeavors.

Appendix C

Superintendent Evaluation Criteria and Performance Indicators

Virginia Department of Education Suggested Guidelines

Planning and Assessment

The superintendent effectively employs various processes for gathering, analyzing, and using data for decision making.

Sample Performance Indicators:

The superintendent...

- applies current research related to effective techniques for gathering data from individuals, groups, programs, and the community, and uses reliable data in making decisions.
- reviews analyses of student academic achievement through standardized test results and other academic sources.
- provides staff with data in a collaborative effort to determine needs for improvement.
- applies and communicates statistical findings to identify strengths and weaknesses in programs and practices in order to ensure continuous improvement.
- plans and implements changes in programs and/or curricula based on data.
- reviews annual analyses of division's test and sub-test scores by school and discipline in order to assess school improvement and monitor improvement plans.

The superintendent organizes the collaborative development and implementation of a division strategic plan based on analysis of data from a variety of sources.

Sample Performance Indicators:

The superintendent...

- provides leadership in the development of a shared vision for educational improvement and of a strategic plan to attain that vision.
- implements strategies for the inclusion of staff and various stakeholders in the planning process.
- supports the division's mission by identifying, articulating, and planning to meet the educational needs of students, staff, and other stakeholders.
- works collaboratively to develop long- and short-range goals and objectives consistent with the school division's strategic plan and monitors progress in achieving long- and short-range goals and objectives.
- provides feedback to principals on goal achievement and needs for improvement.
- supports staff through the stages of the change process.
- maintains stakeholders' focus on long-range mission and goals throughout the implementation process.

The superintendent plans, implements, supports, and assesses instructional programs that enhance teaching and student achievement of the Standards of Learning.

Sample Performance Indicators:

The superintendent...

- demonstrates a working knowledge and understanding of the Standards of Learning and division curricular requirements.
- supports the development of a comprehensive curriculum utilizing goals and objectives in alignment with the Standards of Learning.
- oversees the planning, implementation, evaluation, and revision of the curriculum on a systematic and ongoing basis.
- provides resources and materials to accomplish instructional goals for all students.
- facilitates programs/curricular changes to meet state or federal requirements.
- monitors and assesses the effect of the programs and/or curricula on student achievement.

The superintendent develops plans for effective allocation of fiscal and other resources.

Sample Performance Indicators:

The superintendent...

- acquires, allocates, and manages division resources in compliance with all laws to ensure the effective and equitable support of all of the division's students, schools, and programs.
- allocates resources consistent with the mission and strategic plan of the division.

- meets and works collaboratively with the board and appropriate staff to determine priorities for budgeting and for the effective allocation of space and human resources.
- utilizes human and material resources outside the division that may support and/or enhance the achievement of goals and objectives.
- monitors and assesses resource allocation.
- revises resource allocation plans based on implementation data.

Instructional Leadership

The superintendent communicates a clear vision of excellence and continuous improvement consistent with the goals of the school division.

Sample Performance Indicators:

The superintendent...

- demonstrates personal commitment to achieving the mission of the school division.
- articulates a shared vision to all constituencies and ensures that staff members are working in concert with the division's strategic plan.
- informs members of the board and community of current research related to best practices in curriculum and instruction.
- explores, disseminates, and applies knowledge and information about new or improved methods of instruction or related issues.
- shares evaluation data and subsequent plans for continuous improvement with staff, students, and other stakeholders.
- recognizes, encourages, and celebrates excellence among staff and students.

- demonstrates strong motivation and high standards and models self-evaluation.

The superintendent oversees the alignment, coordination, and delivery of assigned programs and/or curricular areas.

Sample Performance Indicators:

The superintendent...

- articulates curricular goals, objectives, and frameworks to staff and other stakeholders.
- works with staff to develop a written plan for the coordination and articulation of curricular goals.
- works with the board, staff, and community representatives to identify needs and determine priorities regarding program delivery.
- provides direction and support in planning and implementing activities and programs consistent with continuous improvement efforts and attainment of instructional goals.
- monitors coordination of instructional programs with state and local standards.
- facilitates the effective coordination and integration of division curricular and co-curricular programs.

The superintendent selects, inducts, supports, evaluates, and retains quality instructional and support personnel.

Sample Performance Indicators:

The superintendent...

- maintains and disseminates a current handbook of personnel policies and procedures.

- establishes and uses selection procedures that ensure fairness and equity in selecting the best candidates.
- makes recommendations regarding personnel decisions consistent with established policies and procedures.
- oversees the recruitment, appointment, induction, and assignment of the most qualified personnel available.
- establishes and implements formal and informal induction procedures to promote assistance for and acceptance of new employees.
- sets high standards for staff performance.
- evaluates performance of personnel consistent with division policies, provides formal and informal feedback, and maintains accurate evaluation records.
- recommends the reappointment and/or promotion of competent, effective personnel.
- provides support and resources for staff to improve job performance and recognizes and supports the achievements of highly effective staff members.

The superintendent provides staff development programs consistent with program evaluation results and school instructional improvement plans.

Sample Performance Indicators:

The superintendent...

- leads the development and implementation of a systematic professional development plan for individuals, including members of the board, and for the division.

- works collaboratively with members of the staff in using student achievement data to determine relevant professional development opportunities.
- meets with principals regularly to assess ongoing school improvement efforts.
- evaluates the effectiveness of the professional development plan in relation to division goals.
- encourages participation in relevant conferences, course work, and activities of professional organizations.
- shares program evaluation results and demonstrates connection of results to ongoing staff development efforts.
- supports staff participation in internal and external professional development opportunities as appropriate.

The superintendent identifies, analyzes, and resolves problems using effective problem-solving techniques.

Sample Performance Indicators:

The superintendent...

- identifies and addresses problems in a timely and effective manner.
- demonstrates fairness in identifying multiple points of view around problem situations.
- involves stakeholders in analyzing problems and developing solutions.
- monitors implementation of problem resolutions.
- provides shared leadership and decision-making opportunities for staff that promote a climate of collaboration and collegiality.

- delegates responsibility appropriately to staff members.
- maintains focus on school and division mission and goals.
- promotes an atmosphere of mutual respect and courtesy.

Safety and Organizational Management for Learning

The superintendent actively supports a safe and positive environment for students and staff.

Sample Performance Indicators:

The superintendent...

- facilitates the implementation of sound, research-based theories and techniques of classroom management, student discipline, and school safety to ensure a safe, orderly environment conducive to teaching and learning.
- clearly communicates expectations regarding behavior to students, staff, parents, and other members of the community.
- clearly communicates procedures for handling disciplinary problems.
- implements and enforces school division code of conduct and appropriate disciplinary policies and procedures in a timely and consistent manner.
- supports effective programs through which students develop self-discipline and conflict resolution skills.
- calmly and effectively manages emergency situations as they occur.

- is proactive in addressing potential problem situations.
- consistently conveys mutual respect, concern, and high expectations to students, staff, parents, and community members.
- recognizes students and staff for their academic, co-curricular, personal, and professional achievements.

The superintendent develops procedures for working with the local board of education that define mutual expectations, working relationships, and strategies for formulating division policies.

Sample Performance Indicators:

The superintendent...

- respects the policy-making authority and responsibility of the board.
- develops and uses a systematic means of keeping members of the board informed with complete, accurate information.
- facilitates the delineation of superintendent and board roles and the articulation of mutual expectations.
- recommends policy additions and/or modifications to improve student learning and division effectiveness.
- anticipates future needs and demonstrates a bias for action.
- values group interaction and problem solving.
- expresses opinions on policy issues directly to the board.
- supports and implements policy established by the board.

The superintendent effectively manages human, material, and financial resources to ensure student learning and to comply with legal mandates.

Sample Performance Indicators:

The superintendent...

- complies with federal, state, and local statutes, regulations, policies, and procedures.
- collaboratively plans and prepares a fiscally responsible budget to support the organization's mission and goals.
- demonstrates effectiveness in obtaining necessary resources.
- establishes and uses accepted procedures for receiving and disbursing funds.
- ensures that expenditures are within limits approved by the board.
- implements appropriate management techniques and group processes to define roles, delegate activities and responsibilities, and determine accountability for goal attainment.
- prepares and implements short- and long-range plans for facilities and sites.
- ensures proper maintenance and repair of division property and equipment.
- monitors any construction, renovation, or demolition of division buildings.
- regularly reports to the board on the financial condition of the division.
- monitors the efficient use of resources.
- works with staff to establish an effective schedule for use of shared resources.
- ensures the maintenance of accurate personnel records.

The superintendent demonstrates effective organizational skills to achieve school, community, and division goals.

Sample Performance Indicators:

The superintendent...

- demonstrates and communicates a working knowledge and understanding of school division policies and procedures.
- ensures compliance and follow-through regarding policies and procedures.
- uses personal time to the best advantage, manages scheduling effectively, and follows task to completion.
- performs duties in an accurate and timely manner.
- maintains appropriate and accurate records.
- efficiently and appropriately prioritizes and addresses multiple issues and projects.
- systematically evaluates progress on achieving established goals.
- keeps the board, staff and community apprised of progress in achieving the division's goals.

Communication and Community Relations

The superintendent promotes effective communication and interpersonal relations within the school division.

Sample Performance Indicators:

The superintendent...

- promotes a climate of trust and teamwork within the division.

- facilitates constructive and timely communication.
- initiates communication and facilitates cooperation among staff regarding curriculum or program initiatives.
- models professionally appropriate communication skills, interpersonal relations, and conflict mediation.
- maintains visibility and accessibility to staff.
- solicits staff input to discuss issues and goals and to promote effective decision-making.
- establishes and maintains a collaborative relationship with staff members in promoting the division's mission and in communicating expectations.

The superintendent establishes and maintains effective channels of communication with board members and between the schools and community, strengthening support of constituencies and building coalitions.

Sample Performance Indicators:

The superintendent...

- accepts responsibility for maintaining communication between the board and division personnel.
- anticipates, analyzes, and discusses emerging educational/division issues with the board on a regular basis.
- systematically provides accurate, relevant information to the board to facilitate decision-making.
- establishes, maintains, and evaluates a planned, two-way system of communication with community constituencies.

- communicates school and division goals, objectives, and expectations to stakeholders.
- is politically astute and demonstrates the skills necessary to build community support for division goals and priorities.
- works cooperatively with representatives of the news media.
- establishes partnerships with public and private agencies to enhance the division's ability to serve students and other constituents.
- uses acceptable written and oral language.

The superintendent works collaboratively with staff, families, and community members to secure resources and to support the success of a diverse student population.

Sample Performance Indicators:

The superintendent...

- is responsive to the conditions and dynamics of the diversity within the school community.
- treats people with respect.
- models and promotes multicultural awareness, gender sensitivity, and the appreciation of diversity in the community.
- is knowledgeable about laws regarding individual and group rights and responsibilities and scrupulously avoids actions that might violate them.
- collaborates with staff, families, and community leaders and responds to identified needs of individual students and groups of students.
- promotes the value of understanding and celebrating school/community cultures.

Professionalism

The superintendent models professional, moral, and ethical standards as well as personal integrity in all interactions.

Sample Performance Indicators:

The superintendent...

- relates to board members, staff, and others in an ethical and professional manner.
- maintains the physical and emotional wellness necessary to meet the responsibilities of the position.
- serves as an articulate spokesperson for the school division and represents the division favorably at the local, state, and national levels.
- resolves concerns and problems in an appropriate manner.
- respects and maintains confidentiality and assumes responsibility for personal actions and those of subordinates.
- maintains a professional demeanor and appearance appropriate to responsibilities.

The superintendent works in a collegial and collaborative manner with school personnel and the community to promote and support the mission and goals of the school division.

Sample Performance Indicators:

The superintendent...

- demonstrates flexibility and a collaborative attitude in supporting professionals and other staff/work teams.
- supports the division and advances its mission/goals.

- establishes and supports a division culture that encourages collaboration and teamwork in achieving goals.
- maintains effective working relationships with other administrators and staff.
- shares ideas and information and considers the interests and needs of staff members and community stakeholders in promoting and supporting district goals and services.
- networks with colleagues to share knowledge about effective educational practices and to improve and enhance administrative knowledge, skills, and organizational success.
- maintains proper licensure and certification.

The superintendent provides service to the profession, the division, and the community.

Sample Performance Indicators:

The superintendent...

- serves on division, state, and/or national committees and maintains an active role in professional organizations.
- contributes to and supports the development of the profession by serving as an instructor, mentor, coach, presenter, researcher, or supervisor.
- organizes, facilitates, and presents at local, state and/or national conferences.
- supports and participates in efforts to align division goals and activities with community endeavors.

The superintendent takes responsibility for and participates in a meaningful and continuous process of professional development that results in the enhancement of student learning.

Sample Performance Indicators:

The superintendent...

- participates in professional growth activities, including conferences, workshops, course work, and/or membership in professional organizations at the district, state, and/or national level.
- evaluates and identifies areas of personal strength and weakness related to providing division leadership.
- sets goals for improvement of skills and professional performance.
- maintains a high level of personal knowledge regarding new developments and techniques, including technology, and shares the information with appropriate staff.
- comprehends and applies current research of educational issues, trends, and practices.

From: Ian Prior <ian@fightforschools.com>
Sent: 3/21/2022 10:30:22 AM
To: "Russell, Jon" <jon.russell@doe.virginia.gov>
Cc:
Subject: Re: Letter to Fight for Schools

Received. Thank you!!

Get [Outlook for iOS](#)

From: Russell, Jon <jon.russell@doe.virginia.gov>
Sent: Monday, March 21, 2022 10:28:52 AM
To: Ian Prior <ian@fightforschools.com>
Subject: Letter to Fight for Schools

Hi Ian, Last week Superintendent Balow sent you a response letter. I am confirming you received it. I have attached a copy for your records. Thank you for all you do for our kids.

--

Sincerely,

Jon Russell
Senior Advisor
**OFFICE of
SUPERINTENDENT OF
PUBLIC
INSTRUCTION
VIRGINIA DEPARTMENT
♥F EDUCATION**
804.659.3307 |
jon.russell@doe.virginia.gov

"Education is the key to unlock the golden door of freedom."
- George Washington Carver

From: Russell, Jon <jon.russell@doe.virginia.gov>
Sent: 5/18/2022 2:42:22 PM
To: undisclosed-recipients:
Cc:
Bcc: mpetrilli@fordhaminstitute.org, jennbellell@dataqualitycampaign.org, Coldham@uschamber.com, hkuzmich@bushcenter.org, ssanford@collegeboard.org, lindsey.burke@heritage.org, rhess@aei.org, hskandera@danielsfund.org, cfwilliams@cfwilliams.com, tom_kane@gse.harvard.edu, knussle@ripplecom.com, Emily_Oster@brown.edu, ehanford@apmreports.org, Carissa.Miller@ccsso.org, janderson@ecs.org, mikec868@gmail.com, ChristyH@ExcelinEd.org, "DOE - CABINET" <doe-cabinet@doe.virginia.gov>, Gil.Minor@outlook.com, gilbertband@ulhr.org, antionegreen1979@gmail.com, gracecreasey@gmail.com, derrell.bradford@nycan.org, robert@virginialearns.org, mhurt@cip.education, patricia@excelined.org, margaret@margaretspellings.com, dforte@edtrust.org, b.duval@vachamber.com, emily@vakids.org, ltgov@ltgov.virginia.gov, "James Dyke" <jameswdyke@gmail.com>, LFornash@mwcllc.com, "Javaid Siddiqi" <jsiddiqi@hunt-institute.org>, thoughtpartner@aol.com, pwright06@comcast.net, jldemary@gmail.com, mapitre-martin@petersburg.k12.va.us, scpssuptoffice@staffordschools.net, stralejd@lcps.k12.va.us, vshandor@ycsd.york.va.us, "Paul Nichols" <pnichols@mcpsweb.org>, michelle@mcdonnellgrouppllc.com, Maura@mcdonnellgrouppllc.com, gfa717@gmail.com, james.s.gilmore@gmail.com, "Carrie Coyner" <DelCCoyner@house.virginia.gov>, DelGDavis@house.virginia.gov, district19@senate.virginia.gov, district23@senate.virginia.gov, "Siobhan Dunnavant" <district12@senate.virginia.gov>, district40@senate.virginia.gov, chris@thomasjeffersoninst.org, "Jillian Balow" <jillian.balow@doe.virginia.gov>, "Aimee Guidera" <aimee.guidera@governor.virginia.gov>, "Richard Shanor" <dicky.shanor@doe.virginia.gov>, "McKenzie Snow" <mckenzie.snow@governor.virginia.gov>
Subject: You're Invited! Governor Youngkin Discusses Education Report and Aligned Action Plan

Please join Governor Youngkin, Secretary Guidera, and Superintendent Balow tomorrow at 11:00am for an important education announcement. We will be releasing the second of the reports required by Executive Order One which focuses on raising standards in K-12 education, closing achievement gaps, and ensuring all students graduate from high school career and college ready.

We invite you to join us in person tomorrow, Thursday May 19th, at 11:00am at the Patrick Henry Building in the West Reading Room, 1111 East Broad Street Richmond, VA 23219, or virtually through a digital platform.

Everyone who registers will receive a link to the online portal as well as a link to the report, *Our Commitment to Virginians: High Expectations and Excellence for All Students*.

Please RSVP to this event by replying to this email as soon as possible.

Sincerely,

Jon Russell, Senior Advisor to State Superintendent Jillian Balow