FILED
APR - 4 2025
CLERK, U.S. DISTRICT COURT
RICHMOND, VA

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

POWHATAN COUNTY SCHOOL BOARD, Plaintiff, v. Civil Action No. 3:24-cv-874

TODD SKINGER and DR. KANDISE LUCAS, Defendants.

MOTION FOR RECONSIDERATION OF COURT'S APRIL 2, 2025 ORAL RULING; RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF AND MOTION TO SEAL

Defendant, Dr. Kandise Lucas, appearing pro se, respectfully submits this response in opposition to Plaintiff Powhatan County School Board's ("PCSB") request for injunctive relief and any motion to seal any component of these proceedings. The Plaintiff's request for a preliminary injunction must fail for several compelling reasons. First, the Plaintiff's request must be denied due to lack of jurisdiction, principles of federalism and comity, the vexatious and frivolous nature of the claims at the administrative level, and the prohibition of prior restraint under the IDEA. Additionally, the Plaintiff's motion reflects retaliation against Dr. Kandise Lucas, and Judge Robert Payne's grant of the pre-filing injunction violates due process and established legal principles. The legal principles of bias, retaliation, and abuse of discretion must also be addressed.

For the reasons outlined below, the relief sought by PCSB exceeds the jurisdiction of this Court, interferes with state administrative proceedings, and violates constitutional protections under the First and Fourteenth Amendments, as well as established principles of federalism and due process. Moreover, sealing any part of these proceedings would directly contravene the public

interest, transparency, and accountability in the legal process. It is undisputed that attempts to require pre-approval of due process complaints is **illegal under federal law**. The U.S. Supreme Court has **repeatedly ruled that states may not create additional hurdles to due process beyond those in IDEA.** Just as in *Honig v. Doe, 484 U.S. 305* (1988), the Supreme Court ruled that procedural safeguards under IDEA **must be preserved** and that states may not create additional preconditions before parents can file for due process. In *Smith v. Robinson, 468 U.S. 992 (*1984), the Court reinforced that IDEA provides specific procedures that states must follow and states cannot impose requirements that are not in federal law.

I. POWHATAN COUNTY PUBLIC SCHOOL BOARD'S WELL ESTABLISHED HISTORY OF DISCRIMINATION, DISENFRANCHISEMENT, RETALIATION AGAINST, AND DEHUMANIZATION OF INDIVIDUALS OF COLOR LIKE DR. LUCAS

In ***Bell v. Powhatan County School Board***, (1963), the Powhatan County Public School Board (PCPB) and its counsel engaged in a continued pattern of terroristic and obstructionist tactics aimed at disenfranchising, demonizing, and dehumanizing advocates who exercised their right to access public education opportunities as well as assisting others in doing so. This systemic racism continues to be pervasive from the classroom to the boardroom in Powhatan County Schools. It is also evident in the treatment of Black female advocates who challenge the Board's discriminatory practices and culture of "FAPE Rape" that perpetuates Special Education Student Traficking by "Big Law" and "Big Ed" for profit and personal gain. Powhatan, as well as many other school boards that collude with Sands Anderson, do so based on specific ill-willed motives that in no way identify the Best Interest Of The Child Principle as the priority. These motives include:

- **Financial Incentives:**

School Boards and their attorneys often receive financial benefits from federal and state funding for illusions of compliance and manipulating litigation outcomes.

- **Institutional Racism and Bias:**

The systemic targeting of Black parents and advocates perpetuates historical patterns of oppression, rooted in maintaining control over marginalized communities. This systemic targeting is compounded when disability is included in the intersectionality, as is in this instant case.

- **Preservation of Power:**

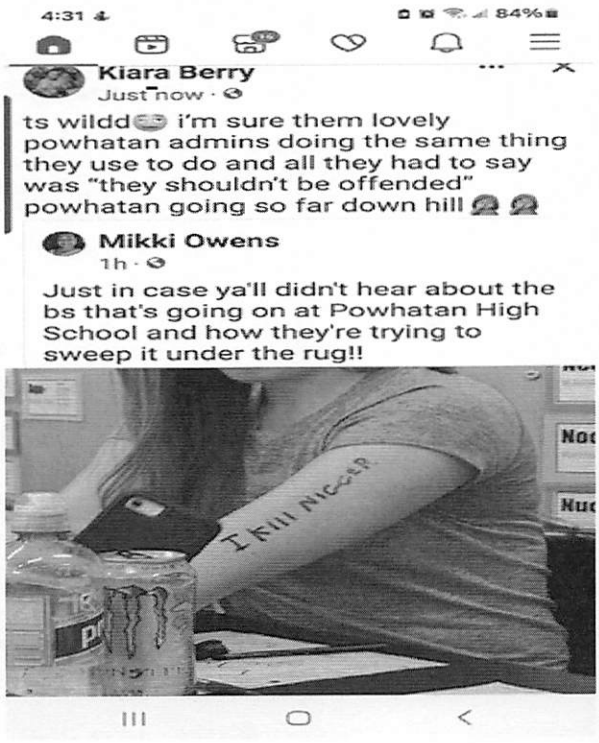
Judges, attorneys, and school administrators collude to maintain the status quo and resist challenges that could expose systemic failures or abuses; resulting in accountability and the need for real fundamental change.

- **Retaliation Against Students, Parents/Guardians, And Advocates:**

Students, Parents/Guardians, and Advocates, like Dr. Lucas, who courageously expose inequities or challenge established practices are seen as threats to institutional authority and are retaliated against to discredit their efforts, as is the case with Dr. Lucas. This deliberate and systematic weaponization of the courts not only undermines the rights of students and families but also perpetuates a cycle of inequality and injustice that greatly benefits "Big Ed" and "Big Law." Consequently, those entities will lie, kill, and steal; even regarding defenseless children with

disabilities, to maintain their control and power, as have the Powhatan School Board, Superintendent Tiegen, and the Sands Anderson law firm.

It is blatantly clear that Powhatan School Board's, in collusion with Sands Anderson; standard operating procedures and organizational culture not only continue to violate constitutional protections, including the First Amendment right to free speech and the Fourteenth Amendment's equal protection clause, but also reveal deeply embedded racial, disability, and gender hostilities throughout the Powhatan County education system, from the classroom to the boardroom. This is disturbingly depicted below when a white female student was permitted to parade around Powhatan High School with **"I KILL NIGGER"** on her arm written in a black sharpie (pictured below) . She did so with no consequence, despite her actions clearly being a hate crime. PCPS' indifference and inaction resulted in a community outcry and call to action, as also depicted below.



Protect me': Powhatan students, parents plead for school district to respond to racist incidents | WRIC ABC 8News

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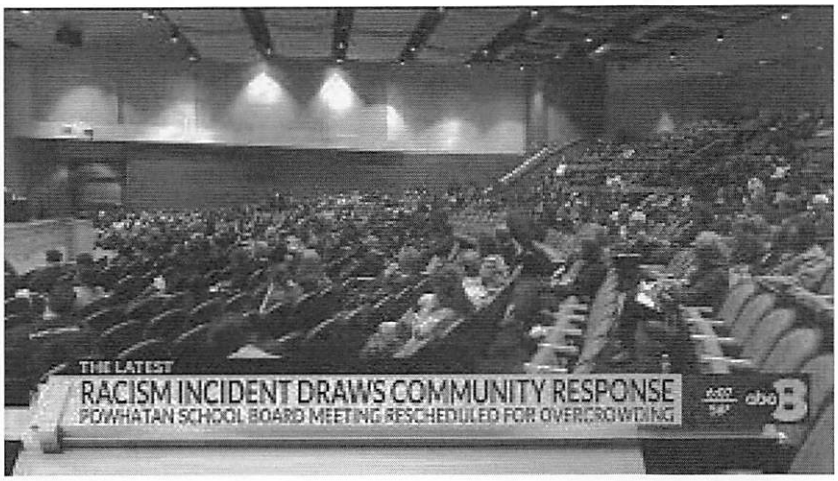
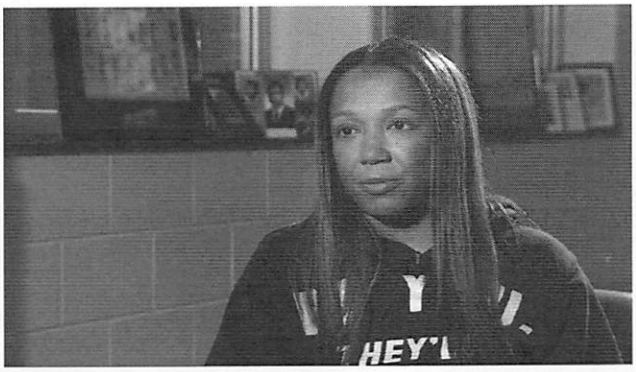


Watch

Uploaded: Mar 19, 2024·739 Views·13 Likes

Addressing racism in schools

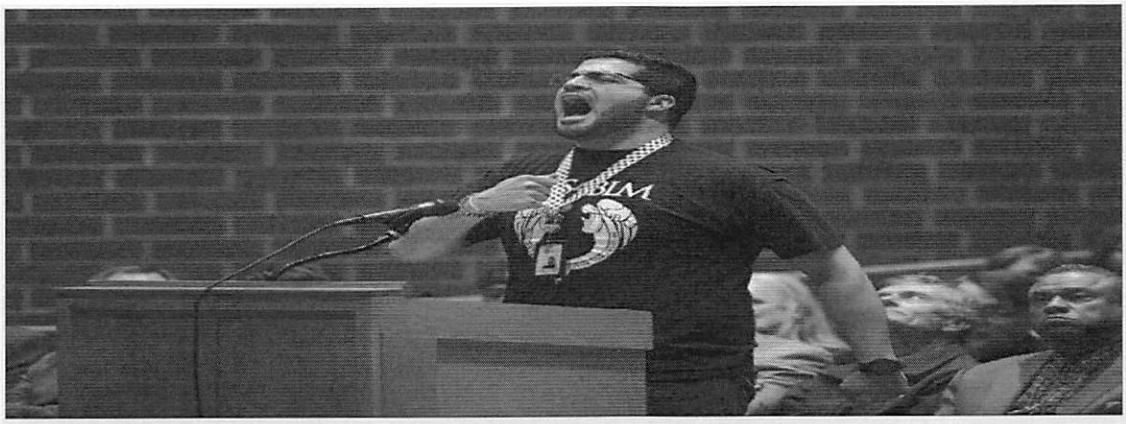
https://www.vpm.org/2024-03-21/addressing-racism-in-schools

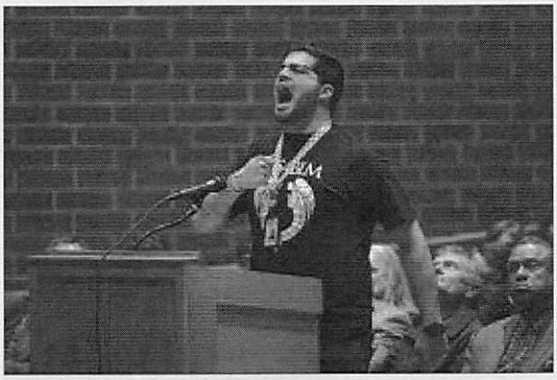


Deone Allen spoke at length with VPM News Focal Point, saying that families have reached their limit and will no longer tolerate their children being mistreated.

Members of Powhatan County's School Board have declined to speak with VPM News Focal Point, following a contentious school board meeting, which addressed issues of racial harassment in the division's schools. Instead, Board members say they will be open to speaking after they've had time to work on a plan for handling the concerns.

But one community member did choose to speak with us, following her forthright comments to the board, describing the many ways her son and other students have been the targets of racial slurs and insults by white students. Deone Allen spoke at length with VPM News Focal Point this week, saying that families have reached their limit and will no longer tolerate their children being mistreated. She is calling for swift and serious consequences for students who subject others to verbal attacks and for the school board as well as the community to take decisive action to remedy the problems.





VA: Powhatan residents rail against racism in county schools

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Powhatan School Board removes the word 'equitable' and hate speech definition from student policy

The plea from parents and community members comes after the school board's proposed changes to the policy removed a definition of hate speech even though the school district gave a suggestion for one and the NAACP called for it to be added.

It is undisputed that the racism, bigotry, and hostility condemned by the Fourth Circuit Court of Appeals in its 1963 ruling against Powhatan County School Board persist today—requiring the same courageous advocacy shown by Edward Alvin Bell then and Dr. Lucas now. On April 8, 2024, less than a month after a white student was allowed to display "I KILL NIR" on her arm at Powhatan High School, Dr. Lucas attempted to support H.S. and her father by ensuring H.S.'s special education services and safety plan were honored at Powhatan Middle School. Instead, then-Principal Courtney Jarmon falsely claimed H.S. was not enrolled and called the sheriff to arrest Dr. Lucas, (committing a hate crime), when she presented enrollment documentation. Dr. Lucas was then permanently banned from all district properties by Director of Student Services Katie Wojicki for allegedly "creating a disturbance." As detailed below, Powhatan School Board and Sands Anderson have escalated their retaliation against Dr. Lucas, imposing harsher restrictions on her than the district imposes on convicted pedophiles.

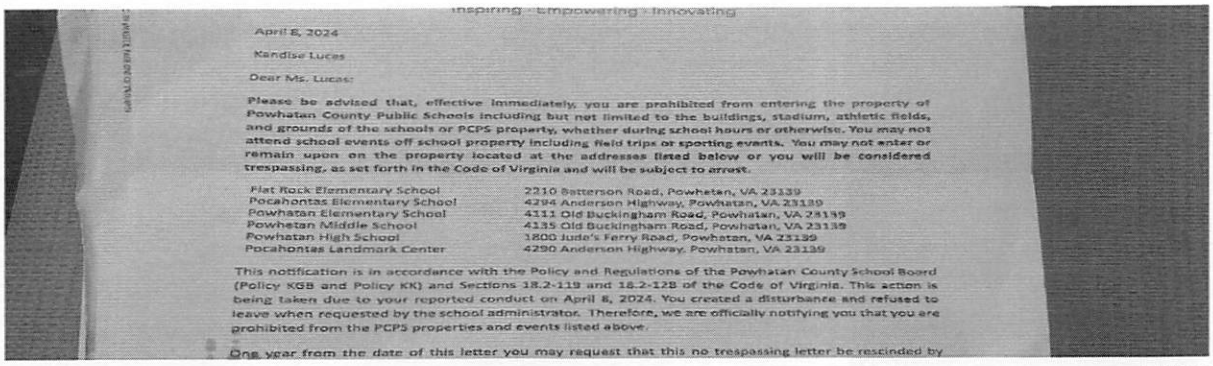
7:44 LTE

Ethiopian Epiphany
Just now ·

ONLY IN POWHATAN, CAN YOU TATOO "I KILL NIGG##" ON YOUR ARM AT THE HIGH SCHOOL AND RECEIVE COUNSELING, THREE DAYS OF IN-SCHOOL SUSPENSION, AND A PERSONAL ESCORT IN THE HALLS....BUT, IF YOU ARE A BLACK WOMAN THAT FIGHTS TO PROTECT A STUDENT WITH A DISABILITY, YOU ARE ARRESTED AND BANNED FROM ALL SCHOOL PROPERTY AND ACTIVITIES BY THE SCHOOL BOARD, SUPERINTENDENT TIEGEN, DIRECTOR KATIE WOJICKI, AND MIDDLE SCHOOL PRINCIPAL COURTNEY JARMON...#PowhatanKarenzStrikeAgain..

This is what our families go through...please share. I was arrested Monday for taking a student with a disability to school for her father, who was threatened with arrest for demanding that the klan be addressed in the school.

Listen here..4/8/24....NOT 4/8/54...
https://rs0796.freeconferencecall.com/fcc/cgi-bin/play.mp3/6054754700-403630-1749.mp3



Inspiring · Empowering · Innovating

April 8, 2024

Kandise Lucas

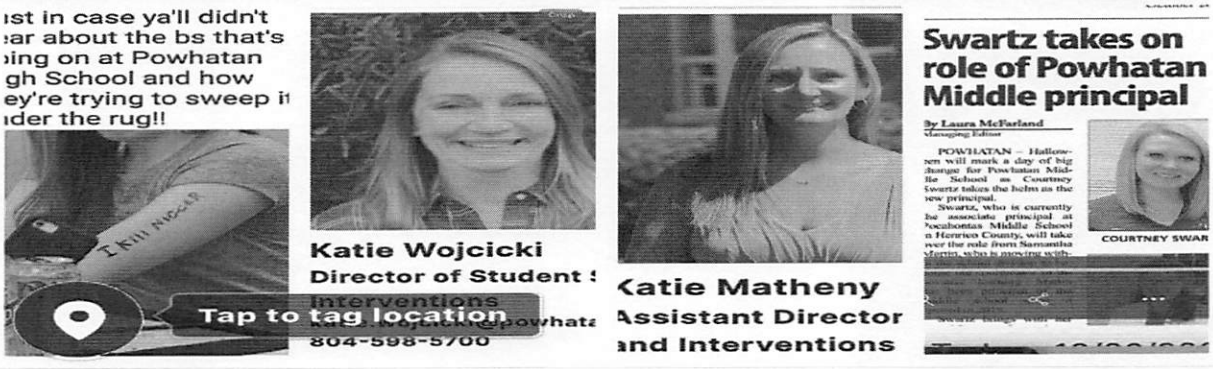
Dear Ms. Lucas:

Please be advised that, effective immediately, you are prohibited from entering the property of Powhatan County Public Schools including but not limited to the buildings, stadium, athletic fields, and grounds of the schools or PCPS property, whether during school hours or otherwise. You may not attend school events off school property including field trips or sporting events. You may not enter or remain upon on the property located at the addresses listed below or you will be considered trespassing, as set forth in the Code of Virginia and will be subject to arrest.

Flat Rock Elementary School	2210 Batterson Road, Powhatan, VA 23139
Pocahontas Elementary School	4294 Anderson Highway, Powhatan, VA 23139
Powhatan Elementary School	4111 Old Buckingham Road, Powhatan, VA 23139
Powhatan Middle School	4135 Old Buckingham Road, Powhatan, VA 23139
Powhatan High School	1800 Jude's Ferry Road, Powhatan, VA 23139
Pocahontas Landmark Center	4290 Anderson Highway, Powhatan, VA 23139

This notification is in accordance with the Policy and Regulations of the Powhatan County School Board (Policy KGB and Policy KK) and Sections 18.2-119 and 18.2-128 of the Code of Virginia. This action is being taken due to your reported conduct on April 8, 2024. You created a disturbance and refused to leave when requested by the school administrator. Therefore, we are officially notifying you that you are prohibited from the PCPS properties and events listed above.

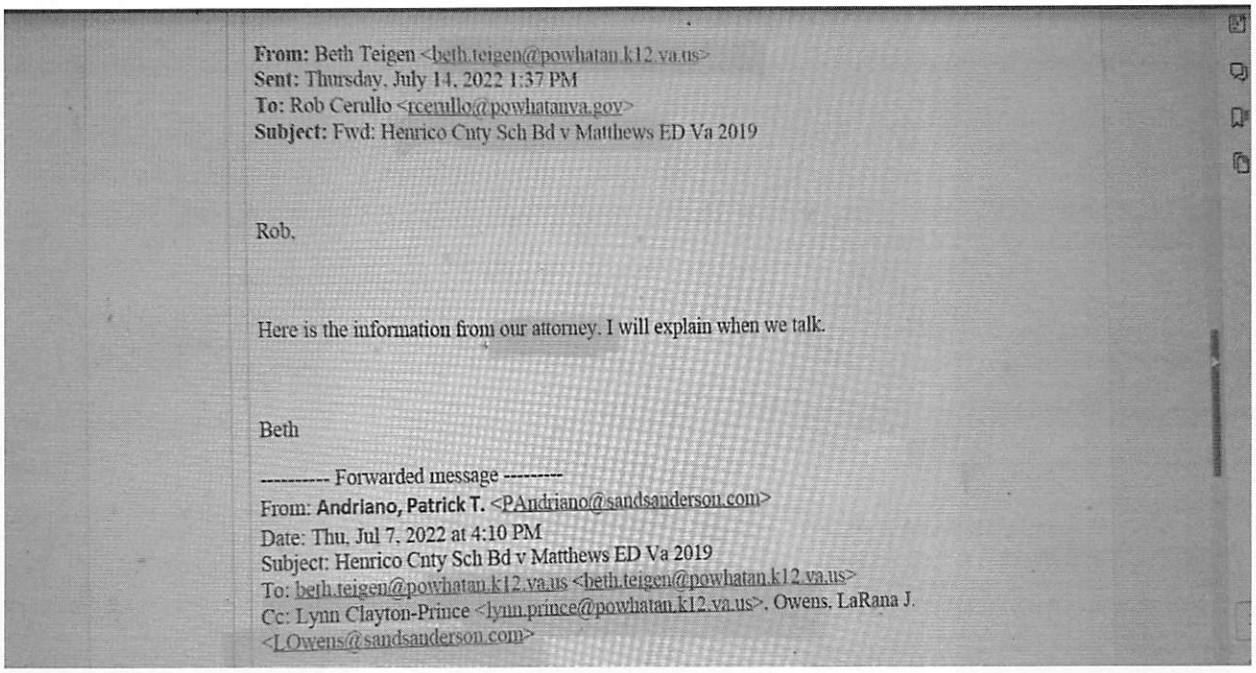
One year from the date of this letter you may request that this no trespassing letter be rescinded by



The depth of retaliation and targeting against Lucas continues to expand to include the Powhatan County Commonwealth Attorney's Office, where on July 14, 2022, via the email included below; Commonwealth Attorney Robert Cerullo ***conspired*** with Powhatan County Public Schools' Superintendent Beth Tiegen, Director of Special Education Lynn Prince, Sands Anderson Shareholder/Attorney Patrick Andriano, and Sands Anderson Counsel LaRana Owens to maliciously prosecute Dr. Lucas, as a means of neutralizing her advocacy, based upon fabricated criminal charges. When Cerullo was confronted about being a co-conspirator A Commonwealth's Attorney conspired with Powhatan County Public Schools and their counsel (Sands Anderson) to falsely accuse and criminally charge a special education advocate, Dr. Kandise Lucas, in retaliation for protected advocacy under IDEA and civil rights law.

No action was taken despite the egregious nature of their conduct in the violation of 18 U.S.C. § 241 (Conspiracy Against Rights) and 18 U.S.C. § 242 (Deprivation of Rights Under Color of Law), as it represents a coordinated effort to intimidate and retaliate against an individual for exercising federally protected advocacy. It further violates the Individuals with Disabilities Education Act (IDEA) under 20 U.S.C. § 1415(b)(1) and § 1415(f), which guarantee procedural safeguards and protection for those advocating for students' rights, as well as 42 U.S.C. § 12203(a) under the ADA and 29 U.S.C. § 794 under Section 504, both of which prohibit retaliation. The false criminal charge also constitutes malicious prosecution and abuse of process under Virginia common law and may amount to obstruction of justice and witness tampering under 18 U.S.C. § 1512(b). These actions infringe upon Dr. Lucas's First Amendment rights and the Equal Protection Clause of the Fourteenth Amendment. Furthermore, the Commonwealth's Attorney may have violated Virginia Code § 18.2-434 by participating in or endorsing false statements or filings. Professionally, these actions violate the Virginia Rules of Professional

Conduct, including Rule 3.1 (prohibiting frivolous proceedings), Rule 3.8 (special responsibilities of prosecutors), Rule 4.4 (interference with rights of others), and Rule 8.4 (misconduct involving dishonesty, fraud, or conduct prejudicial to justice). These combined violations expose the Commonwealth's Attorney and school officials to criminal penalties, civil liability under 42 U.S.C. § 1983, and potential disciplinary action by the Virginia State Bar. Jane Fletcher, of the Virginia State Bar was notified of the conspiracy and provided the email documentation below, but did not respond.



From: Beth Teigen <beth.teigen@powhatan.k12.va.us>
Sent: Thursday, July 14, 2022 1:37 PM
To: Rob Cerullo <rcerullo@powhatanva.gov>
Subject: Fwd: Henrico Cnty Sch Bd v Matthews ED Va 2019

Rob,

Here is the information from our attorney. I will explain when we talk.

Beth

---------- Forwarded message ---------
From: **Andriano, Patrick T.** <PAndriano@sandsanderson.com>
Date: Thu, Jul 7, 2022 at 4:10 PM
Subject: Henrico Cnty Sch Bd v Matthews ED Va 2019
To: beth.teigen@powhatan.k12.va.us <beth.teigen@powhatan.k12.va.us>
Cc: Lynn Clayton-Prince <lynn.prince@powhatan.k12.va.us>, Owens, LaRana J. <LOwens@sandsanderson.com>

I. LACK OF FEDERAL JURISDICTION OVER STATE ADMINISTRATIVE PROCEEDINGS

Having failed in every attempt to neutralize Dr. Lucas' highly effective advocacy and growing influence of empowering of families, PCPS and Sands Anderson now seek to circumvent the

well-established administrative due process mechanisms of the Individuals with Disabilities Education Act (IDEA) by imposing a judicial pre-approval requirement before the filing of due process complaints. However, federal courts lack jurisdiction to preemptively regulate state administrative processes, particularly those governed by IDEA. The Fourth Circuit and Supreme Court have repeatedly held that administrative hearings ***must*** remain independent and free from undue judicial interference. See *Schaffer v. Weast*, 546 U.S. 49 (2005).

The first and most critical issue is whether this Court has jurisdiction to issue the requested relief, **which it does not by its own admission in *Matthews* (2018).** Courts have consistently upheld the necessity of exhaustion of administrative remedies before resorting to federal court intervention in IDEA matters. **"The exhaustion of administrative remedies under IDEA is mandatory unless exhaustion would be futile or inadequate."** *Hoeft v. Tucson Unified Sch. Dist.*, 967 F.2d 1298, 1303 (9th Cir. 1992). As the Plaintiff has not shown that any administrative process has been exhausted, the Court lacks jurisdiction to intervene at this stage. The IDEA requires that parents and advocates like the Defendants go through the proper administrative processes before seeking federal court intervention. The same exhaustion protocols are required of PCPS and Sands Anderson, who failed to assert frivolous, improper, and vexatious claims at the administrative level; rendering their claims improper at the federal level.

Additionally, in *Matthews v. Henrico County School Board,* No. 3:18cv110, 2019 WL 4860936 (E.D. Va. Oct. 2, 2019), **Judge Robert Payne held that preliminary injunctions in IDEA-related matters are inappropriate when the Plaintiff has not exhausted administrative remedies.** This case highlights that Judge Payne himself has consistently ruled against intervening in IDEA cases prior to the exhaustion of state administrative remedies, further supporting the Defendants' position that the Plaintiff's motion for injunctive relief should

have been denied. Lucas can only conclude that Judge Payne reversed himself regarding the Court's jurisdiction out of increased animus and bias against Lucas and her advocacy work. The school board and Sands Anderson have failed to establish that the Court has jurisdiction over this action in the first place. This is particularly critical because the relief sought relates to an ongoing dispute within the realm of IDEA, which mandates specific procedural requirements, including exhaustion of administrative remedies. The federal courts have consistently held that they are not to intervene in the IDEA process prematurely, as administrative procedures are designed to resolve these issues without the need for judicial intervention at an early stage.

2. Vexatious and Frivolous Claims at the Administrative Level

The school board and Sands Anderson's motion is grounded in claims of vexatious, frivolous, and harassing litigation. However, these claims are unfounded. The Defendants have filed multiple due process complaints under the IDEA, each supported by evidence of violations of educational rights and filed in good faith after repeated efforts to resolve the disputes at the district, state, and federal levels unsuccessfully.

Courts have held that filing due process complaints within the framework of the IDEA ***is a protected activity and should not be subject to frivolous claims***. **"The filing of IDEA complaints cannot be punished as harassment or vexatious litigation simply because they challenge the adequacy of the educational services provided."** *Fitzgerald v. Fairfax County Sch. Bd.*, 556 F.3d 736, 742 (4th Cir. 2009). The Plaintiff has not provided any credible evidence of harassment or bad faith on the part of the Defendants. Therefore, the request for an injunction based on these grounds must fail.

3. Federalism and Comity Considerations

In light of the federalism principles, this Court must respect the proper allocation of authority between state and federal systems. The IDEA itself recognizes the primacy of state-administered procedures in resolving special education disputes. As such, it is ***inappropriate as well as impermissible*** for this Court to issue an injunction that undermines the state's role in managing the administrative process. The notion of comity compels federal courts to defer to state processes unless there is a clear federal interest that overrides state authority. **This action does not rise to such a level and must be dismissed for its failure to respect the role of the administrative bodies**. The Court must respect the division of responsibilities between state and federal jurisdictions under federalism principles. The Individuals with Disabilities Education Act (IDEA) prioritizes resolving special education disputes at the state level. In Fry v. Napoleon Community Schools, 137 S. Ct. 743 (2017), the U.S. Supreme Court reaffirmed that federal courts should defer to state systems for handling IDEA disputes unless a compelling federal interest exists. The motion by the school board and Sands Anderson seeks to ***disrupt*** the state's authority to manage administrative processes, violating these federalism principles. Additionally, the defense of vexatious or frivolous claims was not raised by the school board or its counsel during the administrative proceedings, nor by any administrative hearing officers. Therefore, the federal court lacks authority to entertain such defenses.

Since this Court has erroneously raised what is clearly a retaliatory and fabricated vexatious and frivolous defense, that was not raised by the school board during the administrative proceedings, several penalties must be considered based on the following violations initiated and perpetuated by the Court:

- **Violation of Procedural Due Process**:

20 U.S.C. § 1415 (IDEA) and the Fourteenth Amendment guarantee that individuals have the right to participate in administrative proceedings **before** the school board or other relevant bodies **before** federal courts intervene. If a federal court raises a defense that was not part of the administrative process, this constitutes a severe violation of due process rights, denying Skinger and Lucas an opportunity to address the claim at the state level.

- **Preclusion of New Defenses**:

The doctrine of exhaustion of administrative remedies under IDEA **mandates** that issues be resolved at the state or local level before federal intervention. If the school board failed to raise the vexatious or frivolous defense at the administrative level, the federal court is prohibited from considering it due to the exhaustion requirement. Raising the defense at the federal level constitutes an improper expansion of the case, undermining the procedural fairness and integrity of the process.

- **Judicial Misconduct**:

In this instant case, Judge Payne raised such a defense without proper grounds as well as the proper understanding of the Parent/Guardian's dispute rights under the IDEA, which not only allow for daily due process filings to dispute daily IDEA violations, but indicate that this is required to establish systemic denials of the IDEA that impact millions of our most vulnerable students. Based on his own bias and animus toward Dr. Lucas; resulting in clear judicial overreach and impropriety, Judge Payne relegates Dr. Lucas to a scorch earther who wants to get

her way. On the contrary, Dr. Lucas demands that those that do not have a legitimate educational interest in our students, families, and educators get out of the way so as not to continue to cause irreparable harm. This could open the judge up to judicial review or disciplinary action by the relevant judicial oversight bodies.

Judge Payne's claim that Dr. Lucas files due process complaints to drive up legal costs for school divisions is legally unfounded and illogical when her advocacy on behalf of her families is centered in the financial resources being allocated to the students that they are intended; not Sands Anderson shareholders or the professional organizations of central office administrators. Under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1415, parents and advocates, including Dr. Lucas, have the right to file complaints and pursue due process hearings to ensure that students with disabilities receive the services they are entitled to. **Filing complaints is a remedial action, not a tactic to increase costs.** Dr. Lucas is advocating for children whose educational rights under IDEA have been violated, such as failure to provide appropriate accommodations, services, or placement. The assertion that Dr. Lucas files complaints to drive up legal costs ignores the fact that these complaints are necessary to remedy systemic failures and ensure compliance with federal law. It also distracts from the extensive reform that is currently underway regarding Virginia's broken special education system.

Dr. Lucas, as a qualified advocate and expert in special education law as well as service delivery, is fulfilling her duty to hold school divisions, who are her professional colleagues, accountable for failing to meet the educational needs of students with disabilities. If the school division does not provide services as required by IDEA, the only recourse for parents and advocates is filing due process complaints. The costs incurred are a result of the school division's failure to comply with the law, not the actions of the advocate. Penalizing Dr. Lucas for utilizing the due process

system undermines the very protections IDEA affords to students with disabilities. In addition, penalizing Lucas for the refusal of the school board and Sands Anderson to engage in authentic collaboration with our students' "village" inside as well as outside of the school clears the path for the school board and Sands Anderson to continue their mass production of boilerplate, pre-determined special education services that are neither "special," individualized," nor "meeting the unique needs" of our students and families. Judge Payne has also condoned the unauthorized practice of special education without the proper licensure, as well as approved the illegal outsourcing of special education service delivery to unlicensed and uncertified individuals, to the detriment of our children.

While Judge Payne has latched on to the claim that Dr. Lucas files complaints with the sole intent to escalate costs, his claim fails to be applicable for school divisions that have salary capped school board attorneys, like Henrico County Public Schools referenced in the ***Matthews*** case. **Filing due process complaints is a legal right,** and there is no statutory requirement limiting the number of complaints an advocate may file. Legal precedent, such as in Fry v. Napoleon Community Schools, 137 S. Ct. 743 (2017), affirms the right of parents and advocates to seek remedies under IDEA **when they believe a student's rights are being violated**. Multiple complaints, including those filed by Dr. Lucas, are not aimed at increasing legal costs but are a necessary response to ongoing and increasingly egregious violations of students' and families' rights that go unaddressed by the Virginia Department of Education and the Board of Education

> The costs associated with these proceedings reflect the school division's failure to adhere to IDEA requirements, not Dr. Lucas's actions. Legal precedent, including *Schaffer v. Weast, 546 U.S. 49* (2005), supports the filing of multiple due process complaints **as a**

lawful and necessary part of enforcing IDEA. Judge Payne's focus must shift from penalizing legitimate complaints based on harm to students, to ensuring school divisions comply with the law and provide students with the services they are entitled to under IDEA. The claim that Dr. Lucas is filing complaints to drive up legal costs is a distraction from the systemic violations that must be addressed.

- **Sanctions for Abuse of Process**:

When the federal court improperly raised a defense not addressed by the school board, this constitutes an abuse of judicial process. Under Federal Rule of Civil Procedure 11, the Court must face penalties for failing to adhere to appropriate procedural norms or for sanctioning actions that cause unjust delays or inefficiency.

- **Dismissal of the Case**:

In this instance, the federal court must dismiss this petition as raising a new defense at the federal level violates procedural fairness and preempts the state's authority to address the dispute. This dismissal would be based on the principle that all issues should **must** resolved at the state level, as required by IDEA and principles of federalism. Judge Payne raising and permitting a defense not introduced during the administrative proceedings violates due process, undermines the exhaustion of remedies requirement, and subjects the Court to sanctions and judicial review for overstepping its role in the legal process in rendering a decision that is not regularly made.

Furthermore, the comity doctrine requires that federal courts defer to state processes to avoid unnecessary interference. This principle is particularly relevant here, as the administrative process established by the IDEA is designed to address disputes without the need for federal court intervention. The school board and Sands Anderson's self-serving motion disregards the role of state administrative bodies and seeks to avoid accountability at the administrative level due to their claims being indefensible.

4. IDEA Does Not Allow for Prior Restraint

It is fundamental under the IDEA that parents and advocates like the Defendants retain the right to seek due process hearings without undue interference from state or federal courts. The IDEA **explicitly prohibits prior restraint by courts on the exercise of these rights.** Any effort to impose such a restraint, **particularly through an injunction,** would violate the intent and spirit of IDEA. Precedent further supports the view that IDEA hearings must remain unimpeded, **with no judicial intervention unless all administrative avenues have been exhausted. "The IDEA was designed to allow parents and advocates to challenge decisions they believe violate the rights of students with disabilities, and no court can impose a prior restraint on this right."** *Winkelman v. Parma City School District*, 550 U.S. 516, 522 (2007).

In *Hoeft v. Tucson Unified School District,* 967 F.2d 1298, 1303 (9th Cir. 1992), the Ninth Circuit clarified that federal courts cannot intervene in the IDEA process unless all administrative remedies have been exhausted. The Plaintiff's request for a pre-filing injunction, which would restrict the Defendants from filing future IDEA complaints, would constitute an unlawful prior restraint in violation of the IDEA. Courts have consistently refused to issue such injunctions in IDEA cases unless extraordinary circumstances exist—circumstances which the Plaintiff has

failed to establish here must fail, as it seeks to impose a prior restraint that is incompatible with the IDEA.

5. Judicial Precedent Opposing Preliminary Injunctions in IDEA Cases

Judge Robert Payne has consistently ruled against granting preliminary injunctions in IDEA-related cases. In *Henrico County School Board v. Matthews,* 2019 WL 4860936 (E.D. Va. Oct. 2, 2019), **Judge Payne denied a motion for a preliminary injunction, stating that such relief is inappropriate in the absence of compelling reasons and exhaustion of administrative remedies.** His reversal in the present case to grant the pre-filing injunction is inconsistent with his own prior rulings and demonstrates legal overreach as well as an abuse of discretion and bias.

Furthermore, *Fitzgerald v. Fairfax County School Board,* 556 F.3d 736 (4th Cir. 2009), confirms that federal courts **must not** intervene in IDEA matters unless there is a clear violation of federal law and the exhaustion requirement has been met. In this case, the school board and Sands Anderson have not demonstrated any such violation or failure of the administrative process.

6. Consistency in Court Rulings and Lack of Bias Fails To Be Demonstrated By This Court

The Court's decisions must be impartial, free from bias, and based on legal principles, not personal or extraneous considerations. Judge Payne's decision to grant the pre-filing injunction against Dr. Lucas is inconsistent with his ***prior r***ulings and appears to be influenced by improper motivations, including retaliation against Dr. Lucas for her advocacy work. During the April 2, 2025 hearing, Judge Payne asked Dr. Lucas if she would refrain from filing due process complaints. When Dr. Lucas indicated that she would continue to document violations of the

IDEA and assist families in asserting their dispute resolution rights; Judge Payne retaliated by granting what he knew to be an unconstitutional injunction that in no way protects children. This conduct constitutes an abuse of discretion and violates the Due Process Clause of the U.S. Constitution, which guarantees fairness and impartiality in legal proceedings. **See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009)**, which established that a judge must recuse themselves if their impartiality might reasonably be questioned.

II. FEDERAL COURT CANNOT USURP ADMINISTRATIVE AUTHORITY

The IDEA outlines a clear procedural framework for resolving disputes, granting parents the unequivocal right to file due process complaints without prior restraint (20 U.S.C. § 1415(b)(6)). A hearing officer, not a federal court, is the appropriate authority to determine whether a complaint is frivolous. The school board and Sands Anderson's motion seeks to strip hearing officers of their statutory role, undermining due process protections and improperly centralizing control within the judiciary because the school board and Sands Anderson cannot ***"get their way"*** and avoid accountability to the public.

III. *REPEATED* VIOLATIONS OF FEDERALISM AND COMITY PRINCIPLES BY THIS COURT'S ABUSE OF POWER

Under the Younger abstention doctrine (*Younger v. Harris,* 401 U.S. 37 (1971)), federal courts are prohibited from interfering in ongoing state proceedings ***absent extraordinary circumstances.*** The school board and Sands Anderosn fail to meet any recognized exception to Younger, as it does not present an ongoing criminal prosecution or a compelling federal interest necessitating intervention, the their and the Court's own admission. Instead, they seek an unconstitutional prior restraint on the right of parents and advocates to access administrative due

process, to include basic resolution meetings aimed as resolving the complaint without an expensive hearing.

IV. VIOLATION OF CONSTITUTIONAL RIGHTS

The school board and Sands Anderson's proposed injunctive relief directly infringes upon multiple constitutional rights:

- **First Amendment**: The right to petition the government extends to filing due process complaints without judicial pre-approval (*BE & K Constr. Co. v. NLRB*, 536 U.S. 516 (2002)).

- **Due Process Clause**: The IDEA guarantees procedural safeguards that allow parents and advocates to initiate complaints without undue restrictions (*Goss v. Lopez,* 419 U.S. 565 (1975)).

- **Equal Protection Clause**: Imposing additional burdens on parents and advocates for students with disabilities creates a disparate impact, violating equal protection principles.

IDEA also explicitly authorizes parents and advocates to file due process complaints against "public agencies," (not solely the LEA), to include any individuals obstructing access to a Free Appropriate Public Education (FAPE). As a result of Dr. Lucas' advocacy at the federal level, on March 29, 2024; the Virginia Department of Education and Board of Education were required to correct state code to reflect an expansion of parties that can be and must be held accountable for the provision of FAPE. The following entities and individuals have enforceable responsibilities under IDEA and Section 504:

https://www.doe.virginia.gov/home/showpublisheddocument/53245/638463484814473182

https://virginiamercury.com/2024/03/29/virginia-adopts-regulatory-changes-for-special-education-amid-federal-review/

2. Mediation	2.1 OSEP finds that the State's procedure requiring parties to sign a confidentiality pledge prior to the commencement of mediation, as permitted in 8VAC20-81-190.E.3, is inconsistent with 34 C.F.R. § 300.506(b)(8) and OSEP guidance.
3. Due Process	3.1 OSEP finds that the State's regulation at 8VAC20-81-210.A and due process complaint procedures apply only to "LEAs" or "school divisions" rather than all of the entities listed under IDEA's "public agency" definition as required by 34 C.F.R. §§ 300.33 and 300.507. 3.2 OSEP finds that the State's regulation at 8VAC20-81-210.P.9.b. permits the SEA to provide approval for an extension of the due process hearing timeline when neither party requests an extension of time which is inconsistent with the requirements in 34 C.F.R. § 300.515(a) and (c).
4. Prior Written Notice	4.1 OSEP finds that the State's guidance indicating that prior written notice is not required after an individualized education program (IEP) team meeting if the child's IEP has not been finalized is inconsistent with the requirements in 34 C.F.R. § 300.503(a)

7:01 LTE 73

	guidance on this issue. As a follow up to OSEP's onsite visit, on October 5, 2023, VDOE sent electronic mail (email) correspondence to the State's IDEA mediators alerting them of OSEP's guidance that "parties cannot be required to sign a confidentiality agreement as a condition for participation in mediation."		
DUE PROCESS			
3.1 Filing a Due Process Complaint Under 34 C.F.R. § 300.507(a), a parent or a *public agency* may file a due process complaint on any of the matters	*The State's regulation and due process procedures restrict the parties subject to the due process complaint. By using the term "LEA" or "school division" individuals and organizations do not have notice that the IDEA due process procedures are available to resolve allegations against not only LEAs, but also the SEA and other agencies included in*	OSEP's analysis is based on the documents and information provided by the State, and interviews with State staff and other interested parties. Based on this analysis, OSEP finds that:	Policies and Procedures—within 90 days of the date of this monitoring report, but not later than when the State submits its FFY 2024 IDEA Part B grant

Legal Requirements	Noncompliant Policy, Procedure, or Practice and OSEP Analysis	OSEP Conclusion/Finding	Next Steps/Required Actions
described in 34 C.F.R. § 300.503(a)(1) and (2) (relating to the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child). (Emphasis added). The due process complaint must allege a violation that occurred not more than two years before the date the parent or *public agency* knew or should have known about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under Part B of the IDEA regulations, in the time allowed by that State law, except that the exceptions to the timeline described in 34 C.F.R. § 300.511(f) of the regulations apply. (Emphasis added). Under 34 C.F.R. § 300.33, the definition of public agency includes the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school	*the definition of public agency at 34 C.F.R. § 300.33.* The State's regulation at 8VAC20-81-210.A states: The Virginia Department of Education provides for an impartial special education due process hearing system to resolve disputes between parents and *local educational agencies* with respect to any matter relating to: (22-214 of the Code of Virginia; 34 C.F.R. §§ 300.121 and 300.507 through 300.518)... (Emphasis added). The State's regulation and VDOE's guidance document, Navigating the Maze of the Due Process Requirements, (Sept. 2020), state: Either a parent(s) or the *local school division (LEA)* may file a request for a due process hearing when a disagreement arises regarding the identification of a child with a disability, evaluation of a child with a disability (including disagreements regarding payment for an independent educational evaluation), educational placement and services of the child, and the provision of a free appropriate public education. (Emphasis added). p. 2. IDEA's due process complaint and hearing procedures are available to resolve allegations that a *public agency* violated a requirement of Part B of IDEA or its implementing	The State's regulation at 8VAC20-81-210.A and due process complaint procedures apply only to "LEAs" or "school divisions" rather than all of the entities listed under IDEA's "public agency" definition as required by 34 C.F.R. §§ 300.33 and 300.507.	application the State must submit to OSEP: 1. A specific written assurance from the State that shows— (1) The State will revise its regulation at 8VAC20-81-210.A, as soon as possible but in no case later than one year from the date of OSEP's 2024 DMS report to be consistent with the requirements in 34 C.F.R. §§ 300.33 and 300.507; (2) The State will issue a memorandum or other directive to all LEAs, parent advocacy groups, and other interested parties advising them of the changes proposed to the State regulations and due process procedures and guidance to ensure they are consistent with the IDEA requirements as described above and provide a copy to OSEP; and (3) The State will comply with 34 C.F.R. §§ 300.33 and 300.507 throughout

Legal Requirements	Noncompliant Policy, Procedure, or Practice and OSEP Analysis	OSEP Conclusion/Finding	Next Steps/Required Actions
of an LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to children with disabilities.	regulations. (Emphasis added). The term public agency as defined in 34 C.F.R. § 300.33, includes not only LEAs, but also the SEA and other agencies.		the FFYs 2023 and 2024 grant periods. Evidence of Implementation—as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP: 1. A copy of the finalized changes to the State's regulation and documentation of the revisions.
3.2 Due Process Timelines and Convenience of Hearings and Reviews Under 34 C.F.R. § 300.515(a) the public agency must ensure that not later than 45 days after the expiration of the 30 day period under 34 C.F.R. § 300.510(b), or the adjusted time periods described in 34 C.F.R. § 300.510(c)— (1) A final decision is reached in the hearing; and (2) A copy of the decision is mailed to each of the parties. Under 34 C.F.R. § 300.515(c) a hearing officer may grant	*The State's regulation at 8VAC20-81-210.P.9.b., and due process hearing procedures, permit the SEA to provide approval for an extension of the due process hearing timeline when neither party requests an extension of time, which is inconsistent with the requirements in 34 C.F.R. § 300.515(a) and (c).* The State's regulation at 8VAC20-81-210.P.9.b. states: In instances where neither party requests an extension of time beyond the period set forth in this chapter, and mitigating circumstances warrant an extension, the special education hearing officer shall review the specific circumstances and obtain the approval of the [VDOE] to the extension[.] The State's regulation, which permits the SEA to provide approval for an extension of the due	OSEP's analysis is based on the documents and information provided by the State, and interviews with State staff and other interested parties. Based on this analysis, OSEP finds that: The State's regulation at 8VAC20-81-210.P.9.b. permits the SEA to provide approval for an extension of the due process hearing timeline when neither party requests an extension of time, which is inconsistent with the requirements in 34 C.F.R. § 300.515(a) and (c).	Policies and Procedures—within 90 days of the date of this monitoring report, but not later than when the State submits its FFY 2024 IDEA Part B grant application the State must submit to OSEP: 1. A specific written assurance from the State that shows— (1) The State will revise its regulation at 8VAC20-81-210.P.9.b., as soon as possible but in no case later than one year from the date of OSEP's 2024 DMS report to be consistent with the requirements in 34 C.F.R. §§ 300.515(a) and (c);

doe.virginia.gov — Private

Entity/Individual	Responsibilities Under IDEA & Section 504	Penalties for Violation
School Principal	Implement IEP/504 plans, prevent discrimination	OCR investigation, legal liability
School Nurse	Administer accommodations in IEP/504	Loss of license, liability for neglect
School Resource Officer	De-escalate properly, avoid criminalization of disabilities	DOJ action, civil rights complaints
School Board Attorneys	Ensure compliance with special education laws	Disbarment, malpractice claims
Superintendents	Oversee FAPE implementation	State/federal audits, removal
School Board Members	Approve policies aligning with IDEA and Section 504	OCR penalties, legal action
Judges	Adhere to federal special education laws	Appeals, misconduct complaints
Guardian ad Litems	Advocate per IDEA requirements	Removal, legal sanctions
Private Providers	Deliver services per IEP	Contract termination, legal liability

Volunteers & Paraprofessionals	Follow IEPs, report discrimination	Removal, legal action

V. THE PUBLIC INTEREST IN TRANSPARENCY AND ACCOUNTABILITY

Imposing a prior restraint and/or sealing any component of this proceeding, as the school board and Sands Anderson demand, would be a direct disservice to the public interest. The public's right to access legal proceedings is fundamental to the principles of transparency, accountability, and the integrity of the judicial process, specifically as it pertains to our most vulnerable children with disabilities. Sealing these proceedings would undermine the credibility of the legal system and hinder public oversight of matters involving the rights of students with disabilities, particularly in cases involving systemic violations of the Individuals with Disabilities Education Act (IDEA). Moreover, limiting public access to the full record of these proceedings could further shield misconduct by public entities, thereby enabling a pattern of rights violations to continue unchecked. Dr. Lucas has repeatedly filed due process complaints regarding this very issue of fraudulent concealment and obstruction of transparency by the school board and Sands Anderson. The Court must not join in this massive effort to cover up and conceal the atrocities associated with Special Education Student Trafficking, (SEST). It is undisputed that the Supreme Court has long recognized the public's right to access judicial records, especially when the case involves public entities and the enforcement of constitutional and statutory rights *(Press-Enterprise Co. v. Superior Court,* 464 U.S. 501 (1984)). As such, the public's right to access the full proceedings must be preserved, and any motion to seal must be denied in the interest of justice and accountability.

1. Repeated Due Process Complaints in Powhatan County School Board v. Halvorsen and Lucas Cases Were Required And Not Vextious, Improper, or Intended to Harass the LEA

- Under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq. , parents have the right to file multiple due process complaints when a school district repeatedly violates a child's rights to a Free Appropriate Public Education (FAPE). In **Halvorsen v. Powhatan County School Board** and related matters involving Dr. Kandise Lucas, the necessity for multiple due process filings arises from ongoing, separate violations by Powhatan County Schools, its Superintendent Beth Teigen, and its legal representatives, Sands Anderson.
- Each Violation of IDEA Constitutes a Separate, Actionable Wrong

Under 20 U.S.C. § 1415(b)(6) , parents have the right to file a due process complaint for **each and any** alleged violation regarding:

1. Identification, evaluation, or placement of a child with a disability,

and

2. Denial of FAPE.

- **Each** failure to implement an IEP, provide required accommodations, or comply with procedural safeguards is a separate legal violation .

- **Case Law Supporting Multiple Complaints for Ongoing Violations:**

- *G.L. v. Ligonier Valley School Distric*t, 802 F.3d 601 (3rd Cir. 2015) – The court ruled that parents may challenge each individual failure to provide FAPE , even if it arises from the same issue. **The School Board's repeated noncompliance in *Halvorsen* justifies multiple due process filings.**

- *D.K. v. Abington School District, 696* F.3d 233 (3rd Cir. 2012) – The court held that continuing IDEA violations reset the statute of limitations for each new failure to comply. Powhatan's repeated violations allow for new complaints each time a procedural or substantive right is denied.

- *Bell v. Powhatan School Board,* 29 IDELR 634 (4th Cir. 1999) – The Fourth Circuit found that Powhatan County Schools engaged in systemic IDEA violations and improperly obstructed parental due process rights—exactly the type of pattern seen in Halvorsen and Lucas.

- Since each new instance of noncompliance is a distinct violation , parents are legally permitted to file a new due process complaint for each failure , whether it involves:

- Repeated failures to implement an IEP (e.g., denying placement in a private school),
- Ongoing refusals to provide services , or
- Systematic procedural violations, such as obstructing parental rights under IDEA.

- **Virginia Cannot Impose Additional Barriers to Due Process Complaints**

The attempt to require pre-approval of due process complaints is illegal under federal law. The U.S. Supreme Court has repeatedly ruled that states may not create additional hurdles to due process beyond those in IDEA :

- *Honig v. Doe, 484 U.S. 305* (1988) – The Supreme Court ruled that procedural safeguards under IDEA must be preserved and that states may not create additional preconditions before parents can file for due process.
- *Smith v. Robinson, 468 U.S. 992 (*1984) – The Court reinforced that IDEA provides specific procedures that states must follow , and states cannot impose exhaustion requirements that are not in federal law .
- *Fry v. Napoleon Community Schools*, 580 U.S. 154 (2017) – The Court ruled that parents are not required to exhaust other appeals before filing an IDEA complaint.

Violation	Statute/Case Law	Remedies for Lucas and Skinger
Lack of Jurisdiction	*Hoeft v. Tucson Unified Sch. Dist.*, 967 F.2d 1298 (9th Cir. 1992); *Matthews v. Henrico County School Board*, 2019 WL 4860936 (E.D. Va. Oct. 2, 2019)	Dismissal of Plaintiff's motion for injunction and dismissal of any action seeking to obstruct Defendants' right to file due process complaints.
Federalism and Comity	*Fry v. Napoleon Community Schools*, 137 S. Ct. 743 (2017); *Hoeft v. Tucson Unified Sch. Dist.*, 967 F.2d 1298 (9th Cir. 1992)	Court should respect state administrative processes and deny the Plaintiff's motion.

Vexatious and Frivolous Claims	*Fitzgerald v. Fairfax County Sch. Bd.*, 556 F.3d 736 (4th Cir. 2009)	Plaintiff's claims should be dismissed as vexatious and without merit.
Prior Restraint Under IDEA	*Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516 (2007); *Hoeft v. Tucson Unified Sch. Dist.*, 967 F.2d 1298 (9th Cir. 1992)	Denial of injunction; affirmation of Defendants' right to file due process complaints without interference.
Abuse of Discretion and Bias	*Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009)	Immediate recusal of Judge Payne from all matters involving Dr. Lucas and Skinger.
Due Process Violation	14th Amendment; *Matthews v. Eldridge*, 424 U.S. 319 (1976)	Remedy: Corrective actions to ensure due process is not violated, including reconsideration by a fair and impartial judge.

Legal Grounds for Filing Repeated Due Process Complaints in IDEA Cases

Legal Issue	Legal Grounds	Case Law / Statutes / IDEA Grounds

1. Repeated Due Process Complaints are Not Vexatious or Frivolous	The IDEA explicitly allows parents and advocates to file complaints when there are violations of the student's rights to Free Appropriate Public Education (FAPE). Each complaint represents a distinct failure to provide services as required by law. Repeated complaints reflect an ongoing failure to meet IDEA standards, not improper litigation.	***Fitzgerald v. Fairfax County School Board*, 556 F.3d 736, 742 (4th Cir. 2009)**: The IDEA protects parents' and advocates' right to file complaints without harassment or reprisal. Repeated filings are permitted where violations are ongoing. ***Winkelman v. Parma City School District*, 550 U.S. 516, 522 (2007)**: Parents have a right to enforce IDEA protections and can file complaints without the risk of them being considered vexatious or frivolous if supported by the law. **IDEA Section 615(b)(6), 20 U.S.C. § 1415(b)(6)**: Provides clear guidance that the process for filing complaints is open to all parents who have concerns regarding their child's FAPE.

2. Filing Complaints Does Not Imply an Improper Purpose	The IDEA allows for the filing of complaints in response to an ongoing failure to provide services and accommodations required under FAPE. There is no evidence that filing due process complaints in accordance with IDEA's framework reflects an improper or malicious purpose.	***Eugene v. Kettle Moraine School District*, 212 F.3d 1062 (7th Cir. 2000)**: Reaffirmed that filing repeated IDEA complaints is not inherently retaliatory or improper, so long as the complaints are based on real, substantive issues related to the child's education. ***M.R. v. Ridley School District*, 744 F.3d 112 (3rd Cir. 2014)**: A parent's filing of complaints based on legitimate concerns about FAPE violations does not imply improper motives.

3. Res Judicata and Collateral Estoppel Do Not Apply to Daily Violations of IDEA	Res judicata and collateral estoppel are doctrines designed to prevent repetitive litigation of the same issue. However, in IDEA cases, res judicata cannot apply where the violations of FAPE are ongoing, as each day a child does not receive the appropriate education constitutes a separate violation.	***R.M. v. Board of Education of the New York City School District*, 2013 WL 1245512 (S.D.N.Y. Mar. 27, 2013)**: Res judicata and collateral estoppel do not apply in IDEA cases where the issue in dispute—such as a denial of FAPE—is ongoing. Each denial of FAPE constitutes a new violation and must be evaluated separately. ***T.G. v. New York City Dept. of Education*, 2016 WL 1086792 (E.D.N.Y. Mar. 21, 2016)**: Collateral estoppel does not bar IDEA claims for ongoing denials of FAPE, particularly where each failure to comply with an IEP is a new violation.

4. A Hearing Officer's Determination of No Denial of FAPE Cannot Be Used to Retaliate Against Families	A determination that there has been no denial of FAPE in one case does not prevent families from filing future complaints if the violations continue or if there are new issues. The IDEA ensures that families can seek due process protections without facing retaliation.	***Shapiro v. Paradise Valley Unified School District*, 374 F.3d 857 (9th Cir. 2004)**: A determination that a school did not deny FAPE in one proceeding does not preclude parents from filing future complaints if the child continues to experience a denial of FAPE. The IDEA guarantees parents' procedural safeguards, and retaliation for exercising these rights is prohibited. ***Doe v. Board of Education of Tullahoma City Schools*, 9 F. Supp. 2d 1032 (M.D. Tenn. 1998)**: Courts must protect families from retaliation when filing complaints under IDEA, especially when the complaints are grounded in real and ongoing violations.

5. IDEA Safeguards Against Retaliation	The IDEA's procedural safeguards prevent retaliation against parents or advocates for asserting their rights. These safeguards ensure that families cannot be penalized or retaliated against for seeking remedy through the due process system.	***20 U.S.C. § 1415(l) (IDEA's anti-retaliation provision)**: "No State shall deny or delay a child's right to a free appropriate public education because of a parent's assertion of their right to due process." This provision explicitly protects against retaliation for asserting IDEA rights. ***Gonzalez v. New York City Dept. of Education*, 2012 WL 1712244 (S.D.N.Y. May 15, 2012)**: Holding that retaliation against parents for filing complaints under IDEA violates their rights, and legal protections under IDEA safeguard against such actions.

- **Res Judicata**:

Res judicata generally prohibits the relitigation of claims that have already been decided in a final judgment. However, in IDEA cases, res judicata cannot apply to daily or ongoing violations

of the child and/or Parents' rights to FAPE. ***Each*** failure to provide services under IDEA is a new violation, **not** a continuation of prior claims.

- **Case law**: In **T.G. v. New York City Dept. of Education**, 2016 WL 1086792 (E.D.N.Y. Mar. 21, 2016), the court ruled that a prior judgment did not preclude future complaints under IDEA when the issues in dispute, particularly regarding FAPE, were ongoing or renewed.
- **Collateral Estoppel**:

Collateral estoppel bars relitigation of issues that were already decided in prior legal proceedings. However, **collateral estoppel cannot apply to IDEA cases where the circumstances or facts are continuously evolving**, such as new violations or ongoing failures to provide necessary accommodations.

- **Case law**: In **R.M. v. Board of Education of the New York City School District**, 2013 WL 1245512 (S.D.N.Y. Mar. 27, 2013), the court ruled that each new denial of FAPE is a distinct violation that can be litigated separately, thus preventing collateral estoppel from applying to IDEA cases.

VII. Argument Against Attorneys' Fees Under the IDEA for Attorneys Engaging in School Board Employee Duties

Under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., public agencies are responsible for ensuring that all eligible children with disabilities receive a Free

Appropriate Public Education (FAPE). While the statute allows for the reasonable award of attorneys' fees to prevailing parents (20 U.S.C. § 1415(i)(3)(B)), it does not contemplate reimbursement of fees for legal services that are improperly substituted for core educational duties of school staff. Awarding fees in such instances violates the purpose and structure of the IDEA, undermines educational accountability, and creates unlawful financial incentives for circumventing the Act's procedural safeguards.

- **Improper Delegation of Non-Legal Duties to Attorneys**

The IDEA assigns specific obligations to Local Educational Agencies (LEAs), including the development, implementation, and monitoring of Individualized Education Programs (IEPs), appropriate placement decisions, and procedural safeguards (20 U.S.C. § 1414(d); 34 C.F.R. § 300.321, § 300.501).

When attorneys are paid to perform these core functions—such as:

- Determining or influencing IEP content
- Denying or negotiating related services
- Making placement recommendations or decisions
- Communicating directly with families about service implementation

—these duties cease to be legal representation and instead constitute administrative, procedural, and educational functions reserved for trained special education personnel.

- **Attorneys Are Not Qualified to Provide Specialized Instruction**

IDEA mandates that services be provided by personnel who are "appropriately and adequately prepared and trained" (20 U.S.C. § 1412(a)(14); 34 C.F.R. § 300.156). Attorneys who have no training or licensure in special education, psychology, speech-language pathology, or behavioral intervention are not legally or ethically qualified to design, deliver, or oversee FAPE-related services.

- **Legal Precedents and Relevant Case Law**

1. Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy, 548 U.S. 291 (2006)

The U.S. Supreme Court held that **IDEA does not authorize the recovery of expert fees** unless explicitly permitted by statute. By analogy, **when an attorney engages in educational or administrative tasks outside the practice of law, fees for such services fall outside what Congress intended under 20 U.S.C. § 1415(i)(3)(B).**

> "The fact that Congress thought it appropriate to authorize attorneys' fees—and not expert fees—strongly suggests that it did not envision an open-ended right to recover all costs associated with IDEA litigation." – *Murphy*, 548 U.S. at 297.

Just as expert witness fees are not reimbursable under IDEA, neither should fees be awarded for attorneys performing non-legal duties that duplicate administrative roles.

2. *Burlington* and *Carter* Standards: School Districts Must Provide FAPE

In *School Committee of Burlington v. Department of Education*, 471 U.S. 359 (1985), and *Florence County Sch. Dist. Four v. Carter*, 510 U.S. 7 (1993), the Supreme Court emphasized the **duty of the school system—not its lawyers—to ensure a free appropriate public education.** Where a school board outsources this duty to legal counsel who are not qualified

educators, it breaches its statutory obligations and cannot justify billing taxpayers for legal work cloaked as educational policy-making.

- **Illegal Outsourcing of Special Education Functions to Attorneys**

A. Violation of Ethical and Legal Boundaries

When school boards outsource core IDEA compliance functions to attorneys—particularly during IEP meetings, eligibility decisions, and service denials—they:

- Bypass required IEP team composition under 34 C.F.R. § 300.321
- Suppress parental participation rights under 20 U.S.C. § 1415(b)(1)
- Create conflicts of interest, especially when attorneys act in adversarial roles
- Engage in **unauthorized practice of special education**, potentially violating state education codes and professional ethics rules

B. Waste of Public Funds and Inflation of Legal Fees

Legal billing for tasks such as:

- Reviewing or drafting IEPs
- Advising on student service levels
- Writing disciplinary recommendations
- Blocking independent evaluations

…artificially inflates legal costs and undermines the statute's intent to encourage collaborative and educational—not litigious—resolution of disputes. Courts have recognized this risk in rejecting "excessive, redundant, or otherwise unnecessary" fee claims. (*Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983)).

- **Disallow attorneys' fees** under the IDEA for any services that:
  - Fall outside the scope of legal representation
  - Are improperly substituted for LEA compliance duties
  - Were performed by attorneys unqualified to engage in educational assessments or decisions
- **Order restitution or reimbursement to public agencies** for misappropriated legal fees
- **Issue an injunction against school boards engaging in systemic outsourcing** of FAPE-related decision-making to law firms or attorneys without proper educational credentials

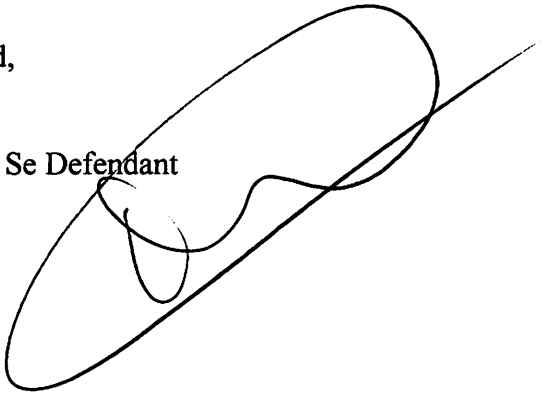
Allowing Sands Anderson to bill for services they are not legally or educationally qualified to perform—***under the guise of legal work***—violates both the spirit and the letter of the IDEA. It enables a dangerous precedent in which school boards shift accountability away from educators and into the hands of unqualified legal actors, often to the detriment of students with disabilities. The courts should bar such practices and deny attorneys' fees in all such circumstances.

VII. CONCLUSION

For the foregoing reasons, Defendant Dr. Kandise Lucas respectfully requests that this Court **DENY/RECONSIDER** the school board and Sands Anderson's self-serving and self-preserving retaliatory motion for injunctive relief, and any motion to seal any component of this proceeding. Each of the administrative hearings referenced in this action were open to the public. Consequently, sealing any part of these proceedings would violate the Parent/Guardian's right to an open adjudication, as well as contravene the public interest in maintaining transparency and ensuring accountability in legal proceedings. The requested relief also exceeds the Court's jurisdiction, violates fundamental constitutional rights, and undermines the statutory framework of IDEA. Moreover, the IDEA does not support the kind of prior restraint the school board and Sands Anderson seek, and the Court's own precedents strongly oppose such intervention. Moreover, IDEA's procedural safeguards empower families to file complaints when there are ***ongoing or new violations*** of a child's right to FAPE. **Repeated due process complaints, in this context, are not vexatious or frivolous but rather reflect the need to address continuing failures.** Res judicata and collateral estoppel cannot apply to daily violations of IDEA, and a hearing officer's determination cannot be used to retaliate against families for asserting their rights. Legal protections under IDEA ensure that families are free from retaliation for seeking redress, and the courts have upheld these protections in numerous cases. **Therefore, any attempt to preclude or retaliate against the filing of such complaints must be rejected.**

Respectfully submitted,

Dr. Kandise Lucas, Pro Se Defendant

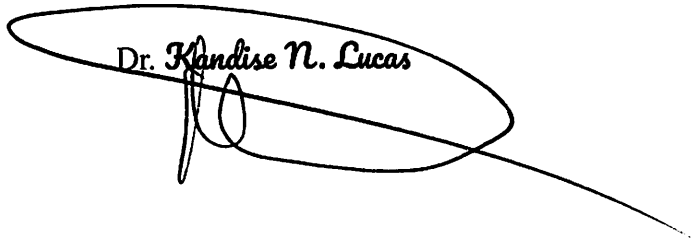


CERTIFICATE OF SERVICE

I certify that a copy of the above-referenced motion was hand delivered to the federal court and emailed to the following parties on April 4, 2025:

1) Matthew Green, purported counsel for PCPS

mgreen@sandsanderson.com



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond DIVISION

Pamunkey Regional Jail
Plaintiff(s),

v.

Todd Skinner
Kandise Lucas
Defendant(s),

Civil Action Number: 3:24-cv-874

LOCAL RULE 83.1 (N) CERTIFICATION

I declare under penalty of perjury that:

No attorney has prepared or assisted in the preparation of Motion For Reconsideration Lucas motion in opposition of Seal / Motion to Dismiss
(Title of Document)

Kandise Lucas
Name of *Pro Se* Party (Print or Type)

Signature of *Pro Se* Party

Executed on: Apr. 14, 2025 (Date)

OR

The following attorney(s) prepared or assisted me in preparation of _____.
(Title of Document)

_____
(Name of Attorney)

_____
(Address of Attorney)

_____
(Telephone Number of Attorney)
Prepared, or assisted in the preparation of, this document.

_____
(Name of *Pro Se* Party (Print or Type)

_____
Signature of *Pro Se* Party

Executed on: _____(Date)