

VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

|                                       |   |             |
|---------------------------------------|---|-------------|
| In re:                                | ) |             |
|                                       | ) |             |
|                                       | ) |             |
| The Citizens of the Leesburg District | ) |             |
| Petition this Honorable Court to      | ) | Docket No.: |
| Remove School Board Member            | ) |             |
| Beth Barts, who presently represents  | ) |             |
| These same citizens in Leesburg.      | ) |             |

**PETITION TO REMOVE SCHOOL BOARD MEMBER BETH BARTS FROM OFFICE AND MOTIONS TO SEAL PERSONALLY IDENTIFIABLE INFORMATION AND RECUSE COMMONWEALTH’S ATTORNEY**

**COME NOW** the PETITIONERS, the CITIZENS OF THE LEESBURG DISTRICT, in reliance upon Virginia Code Annotated, Section 24.2-230, *et seq.*:

- (1) To move this Honorable Court to issue a rule to show cause, based upon the charges in the attached Petition (Exhibit 1), compelling School Board Member Beth Barts to show cause why she should not be removed from office,
- (2) To issue a protective order sealing the names and residential addresses of the individuals who signed the Petition to shield those individuals from likely harassment,
- (3) To appoint an independent counsel to prosecute this matter due to the apparent conflict of interest of Loudoun County Commonwealth’s Attorney Buta Biberaj,
- (4) To remove Beth Barts from office, and
- (5) To grant such other relief as this Court deems fit and just.

In support of this petition, Petitioners state further as follows:

**Introduction**

1. It is difficult to believe that Beth Barts has been a Member of the Loudoun County School Board for less than two years given the sheer amount of controversy that she has

singlehandedly generated in that short time. Mrs. Barts (or “Barts”) has repeatedly clashed with her colleagues and constituents; shared misinformation concerning COVID-19 through her personal and official Facebook pages; publicized confidential information from closed Board sessions on social media; misused public assets by encouraging political supporters to email her official account and then forwarding those emails to her colleagues; emailed multiple Board members simultaneously to discuss official business in violation of Virginia’s open meeting law; used her personal social media accounts to discuss official Board business with other Board Members in private Facebook groups that are not equally open to all members of the public; deleted social media posts, comments, and even entire accounts that should have been preserved as public records under the Virginia Freedom of Information Act; and encouraged the harassment of private citizens who have expressed opposition to her preferred policies.

2. This litany of charges will come as no surprise to the members of this community or Mrs. Barts’ colleagues on the School Board. The Board was forced to hold *five* closed sessions over the course of nine months in order to address Barts’ unprofessional conduct, first attempting to temper Barts’ behavior with a November 2020 reprimand and finally resorting to a unanimous censure vote in March 2021 when her violations of the School Board Code of Conduct refused to abate. Had Mrs. Barts altered her behavior in response to *any* of the repeated warnings and sanctions that she has received during her tenure on the Board, then this present removal action would be unnecessary. Unfortunately, she has proven totally recalcitrant, and the only governmental body that can now put an end to her abuse of her office is this Court.

3. The citizens of the Leesburg District deserve a competent representative on the Loudoun County School Board who will treat her colleagues and constituents with respect and pursue policies that will benefit all of the children who attend Loudoun County Public Schools

(“LCPS”). Petitioners present this Complaint and the associated Petition to detail Mrs. Barts’ history of unacceptable behavior and to demonstrate that they have gathered the requisite number of signatures to prompt a judicial decision on her removal from office. Petitioners respectfully request that this Court consider all of the arguments and exhibits that they have included here, and then remove Mrs. Barts from the School Board on the basis of the substantial evidence of misbehavior.

#### **Motion to Seal Petitioners’ Personally Identifiable Information**

4. To preface their request for this Court to remove Beth Barts from office, Petitioners request that the Court seal all personally identifiable information contained in the Petition from public disclosure.

5. Under certain circumstances, Virginia courts are authorized to withhold the identities of parties to an action from public disclosure. Indeed, “[t]he crucial interests served by open judicial proceedings are not compromised by allowing a party to proceed anonymously.” *Doe v. Pittsylvania Cnty.*, 844 F. Supp. 2d 724, 728 (W.D. Va. 2012). Courts generally consider five factors when considering whether to allow parties to proceed anonymously:

- (1) Whether the justification asserted by the requesting party is merely to avoid the annoyance and criticism that may attend any litigation or is to preserve privacy in a matter of sensitive and highly personal nature;
- (2) Whether identification poses a risk of retaliatory physical or mental harm to the requesting party or even more critically, to innocent non-parties;
- (3) The ages of the persons whose privacy interests are sought to be protected;
- (4) Whether the action is against a governmental or private party; and
- (5) The risk of unfairness to an opposing party from allowing an action against it to proceed anonymously.

*Id.*

6. Here, an evaluation of the five factors decisively supports Petitioners’ interests in keeping their legal names and residential addresses private. Petitioners understand that

“annoyance and criticism” can often result from becoming a party to litigation, but the harassment already suffered by the citizens involved in this removal effort goes far beyond mere annoyance and criticism. The photos and full names of some Petitioners were shared in a private Facebook group where they were attacked as “racists.”<sup>1</sup> Leaders of this removal effort have received hate mail at their homes, and opponents of removal even sent a flyer to one woman’s employer branding her as an “active racist” in an attempt to get her fired.<sup>2</sup>

7. Most worryingly, there has already been an effort to compile a list of individuals opposed to Beth Barts’ policy goals, including collecting personally identifiable information such as residential addresses and the names of minor children. A March 12, 2021 post from Barts in the private “Anti-Racist Parents of Loudoun County” Facebook group alerted the group’s members to the existence of a movement of LCPS parents who were opposed to the teaching of critical race theory (“CRT”) in Loudoun public schools.<sup>3</sup> Members of the Anti-Racist Group responded in an extraordinarily aggressive fashion; one member commented on Barts’ post to ask members to gather information on the individuals involved, infiltrate the anti-CRT group, and even “expose these people publicly[.]”<sup>4</sup> A second member of the group responded to Barts’ post by asking people to “comment below with legal names of these individuals, area of residence and or school board rep, known accounts on social media, and any other info you feel

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<sup>1</sup> Matt Leach, *Virginia Parents Speaking Out Against Critical Race Theory Face Retaliation*, Fox News (June 3, 2021), <https://www.foxnews.com/us/virginia-parents-face-retaliation-speaking-out-against-crt>.

<sup>2</sup> Spencer Lindquist, *Loudoun County Mom Targeted by Left-Wing Activists for Fighting Against Racist Curriculum*, The Federalist, (July 13, 2021), <https://thefederalist.com/2021/07/13/loudoun-county-mom-targeted-by-left-wing-activists-for-fighting-against-racist-curriculum/>.

<sup>3</sup> Beth Barts post in Anti-Racist Parents of Loudoun County group, Facebook, (Mar. 12, 2021, 8:23 AM) (Exhibit 2).

<sup>4</sup> Loudoun Cnty. Sheriff’s Off., *Official Law Enforcement Document SO210004217* at (Exhibit 3).

is relevant.”<sup>5</sup> These posts ultimately prompted an investigation by the Loudoun County Sheriff’s Office.<sup>6</sup>

8. The risk of retaliatory harm remains particularly high because Petitioners reside in the same neighborhoods as the most vociferous opponents of this removal effort. Individuals involved with gathering signatures for this Petition have already been subjected to obscene gestures from their neighbors while out on the street.<sup>7</sup> Tensions have risen so high that many Petitioners feel unsafe publicly sharing their opinions on pressing community issues, and upon information and belief other citizens—including LCPS staff—declined to sign the Petition due to their fear of suffering public backlash. Although Petitioners themselves are all over the age of 18, they are naturally worried about the safety of their minor children in the volatile political environment that currently exists in Loudoun County.

9. Furthermore, the sealing of Petitioners’ names and addresses would not result in any unfairness to the opposing party, Beth Barts. Mrs. Barts has an interest in verifying the names and addresses of Petitioners to ensure that they have submitted the requisite number of signatures of registered voters residing within her district, but she does not have a justifiable interest in releasing that information to the general public, and unfortunately her prior conduct detailed *infra* makes it foreseeable that she would indeed ensure that any information she receives is released. So long as Mrs. Barts and her attorney have access to the unredacted Petition for verification of signatures her interests will be satisfied, but the release of Petitioners’ names for public consumption presents substantial risks to their personal safety and that of their families, and that is a risk that this Court should not be willing to bear.

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<sup>5</sup> *Id.* at 6.

<sup>6</sup> No criminal charges were ultimately brought against the participants because no personally identifiable information was supplied in response to their requests.

<sup>7</sup> Lindquist, *supra* note 2.

10. Given the threats and harassment that Petitioners have already suffered and the likelihood that the filing of this Petition will result in an increase in such attacks, Petitioners respectfully request that this Court seal the portion of Petition containing the names and residential addresses of Petitioners. The public will be adequately informed as to the specific charges contained in the Petition by the release of this and future pleadings in this action. The individual names and addresses of Petitioners, however, as opposed to the quantity of verified names submitted, will not add anything to the public's understanding of this case.

### **Statutory Authority for Removal**

11. Unlike most other states, Virginia does not authorize recall elections for local officials who fail to perform their duties. Rather, Virginia allows members of the public to register their dissatisfaction with a public official by filing a petition with the court, but leaves the ultimate decision concerning removal to judicial discretion.

12. The relevant statute holds that, “[u]pon petition, a circuit court may remove from office any elected officer . . . residing within the jurisdiction of the court [f]or neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse impact upon the conduct of the office[.]” Va. Code Ann. § 24.2-233.

13. Beth Barts, the subject of this removal petition, is an elected officer of the Loudoun County School Board representing the Leesburg District and resides within the jurisdiction of this Court.

14. In order to present a valid removal petition to the Court, petitioners must collect signatures from “a number of registered voters who reside within the jurisdiction of the officer equal to ten percent of votes cast at the last election for the office that officer holds.” *Id.*<sup>8</sup>

15. Here, 11,751 total votes were cast in the 2019 election for the Leesburg District of the Loudoun County School Board.<sup>9</sup> Therefore, 1,175 signatures are required to state a valid removal petition for Beth Barts.

16. The Virginia Freedom of Information Act (“FOIA”) was enacted to “ensure[] the people of the Commonwealth ready access to public records in the custody of a public body *or its officers and employees.*” *Id.* § 2.2-3700(B) (emphasis added). Courts are required to “liberally construe[]” the statute “to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government.” *Id.* Exemptions to FOIA are therefore “narrowly construed.” *Id.*

17. FOIA defines “public body” to include, in relevant part, “any legislative body . . . of any political subdivision of the Commonwealth, including . . . *school boards*[,]” *Id.* § 2.2-3701. (emphasis added). “Public records” are defined as “all writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, . . . mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a

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<sup>8</sup> The Virginia removal statute sets forth no requirements concerning the identity or qualification of the circulators of a removal petition. All circulators utilized to gather signatures for this Petition were qualified voters and residents of the Commonwealth of Virginia and signed affidavits attesting to those facts, which are the only statutory requirements for candidate petition circulators. *See* Va. Code § 24.2-506(A). Any attempt to analogize to the requirements for referendum petition circulators, Va. Code § 24.2-684.1, a section of the Code which contains different provisions such as a pre-circulation filing requirement and nine-month deadline for signature gathering which are clearly not applicable in the removal context, is totally inapposite to this case. *See also, Libertarian Party v. Judd*, 718 F.3d 308 (4th Cir. 2013) (residency requirements for petition circulators are unconstitutional).

<sup>9</sup> Va. Dep’t of Elections, *2019 November General*, <https://results.elections.virginia.gov/vaelections/2019%20November%20General/Site/Locality/LOUDOUN%20COUNTY/Index.html> (*see* “Member School Board (LEESBURG DISTRICT)”).

public body or its officers, employees or agents in the transaction of public business.” *Id.* Furthermore, “meeting” is defined, in relevant part, as “an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.” *Id.*

18. FOIA allows public bodies to hold closed (non-public) meetings for certain defined purposes detailed in Section 2.2-3711, most of which concern the protection of individual privacy. If a given scenario does not fit within one of the enumerated exemptions, then a closed meeting to discuss such matters is prohibited. *Id.* § 2.2-3711. Members of a public body are also authorized to meet “at a public forum, candidate appearance, or debate” or “at any place or function where no part of the purpose of such gathering is the discussion or transaction of any public business.” *Id.* § 2.2-3701.

19. Loudoun County has its own laws governing the conduct of local elected officials like School Board Members, including an ordinance prohibiting the misuse of public assets. This provision holds, in relevant part, that no “elected official of the county, without lawful authorization, shall use . . . public assets for private or personal purposes unrelated to the duties and office of such . . . elected official, or any other legitimate governmental interest, when the value of such use exceeds \$1,000 in any 12-month period.” Loudoun Cnty. Ord. 253.04.

20. Finally, the Loudoun County School Board has its own Code of Conduct that all Members are obligated to follow. This Code of Conduct (“LCPS Policy 1030”) includes the following provisions that are relevant to this action:

- 1030(A)(2): That the public expects my first and greatest concern to be in the best interest of each and every one of these young people without distinction as to who they are or what their background may be.
- 1030(B)(4): To respect the stated purpose for, and maintain the confidentiality of, discussions that are held pursuant to the Code of Virginia as closed meetings or executive sessions.



- 1030(B)(3): To show respect for and work with my fellow board members and staff in a spirit of harmony and cooperation in spite of differences of opinion that arise during vigorous debate of points at issue.
- 1030(B)(9): To welcome and encourage active cooperation by Loudoun County residents, organizations, and the media of communication in the district with respect to establishing policy on current school operations and proposed future developments.
- 1030(B)(10): Finally, to strive step by step toward ideal conditions for most effective school board service to my community, in a spirit of teamwork and devotion to public education as the greatest instrument for the preservation of perpetuation of our representative democracy.

### **Events Leading Up to School Board Censure of Mrs. Barts**

21. Over the course of the last year, the Loudoun County School Board has been forced to convene five times in closed session to address Mrs. Barts’ public conduct.<sup>10</sup>

22. On June 2, 2020, the Board met to discuss “the performance or disciplining of a specific public officer”<sup>11</sup>—Beth Barts. On June 20, 2020, School Board Vice-Chair Atoosa Reaser (“Vice-Chair Reaser”) noted that the Board had offered legal advice to Mrs. Barts to stop her from “sharing unverified information that creates a liability[.]”<sup>12</sup> This was in reference to Barts’ standard practice of sharing confidential information from closed sessions publicly on her Facebook page in violation of LCPS Policy 1030(B)(4)’s requirement that all Board Members protect the confidentiality of those discussions.

23. Vice-Chair Reaser’s notes indicate that Barts’ violation of the Board’s confidentiality policy was not the only activity causing concern among her colleagues during the summer of 2020; they were also troubled by her apparent ignorance of Virginia’s FOIA requirements concerning open meetings and the preservation of public records. On July 21, 2020, the Board was again forced to provide legal advice to Mrs. Barts concerning “not deleting

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<sup>10</sup> John Battison, *School Board Censures Barts for Controversial Social Media Activity*, Loudoun Times-Mirror (Mar. 8, 2021), [https://www.loudountimes.com/news/school-board-censures-barts-for-controversial-social-media-activity/article\\_2b3abfdc-803b-11eb-bd44-73b6408d2f56.html](https://www.loudountimes.com/news/school-board-censures-barts-for-controversial-social-media-activity/article_2b3abfdc-803b-11eb-bd44-73b6408d2f56.html).

<sup>11</sup> Loudoun Cnty. Sch. Bd., *Agenda Item Details*, (June 2, 2020) (Ex. 4).

<sup>12</sup> Atoosa Reaser, *Notes on Closed Sessions Topics*, (June 20, 2020) (Ex. 5).

comments or emailing multiple board members simultaneously to decide issues[,]” a regular practice of Mrs. Barts which violated state law requiring public business to be discussed in public meetings unless subject to a statutory exemption.<sup>13</sup>

24. Apparently, Barts did not get the message despite the repeated Board interventions (and it is not clear whether the other Members of the Board fully understand their obligations under Virginia open meeting law either). On October 10, 2020, Barts posted in the private “Loudoun for Evidence-Based Safe and Equitable Schooling” Facebook group (hereinafter the “Evidence-Based Group”) to discuss school board distance learning policies.<sup>14</sup> She proceeded to engage with members of the group and answer constituent questions concerning the policy.<sup>15</sup> Upon information and belief, private Facebook groups are by definition not open to the public; requests for admission must be approved by a moderator of the group. Six other Members of the Board were members of this particular private group: Denise Corbo, Ian Serotkin, Brenda Sheridan, Atoosa Reaser, Jeff Morse, and Harris Mahedavi. Pursuant to LCPS Policy 1040(B), “a majority of the members shall constitute a quorum” for the purposes of a meeting. Hence, the participation of seven of the nine Members of the Board in this private group (a clear majority) qualified the group as a closed meeting of the Board, and Barts’ discussion of non-exempt public business with members of the group constituted a violation of Section 2.2-3711’s closed meeting requirements.

25. On October 30, 2020, former Board Member Debbie Rose emailed LCPS Division Counsel Stephen DeVita to notify him that Mrs. Barts was using her personal Facebook

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<sup>13</sup> Atoosa Reaser, *Notes on Closed Sessions Topics*, (July 21, 2020) (Ex. 6).

<sup>14</sup> Beth Barts post on Loudoun for Evidence-Based Safe and Equitable Schooling page, Facebook, (Oct. 10, 2020) (Ex. 7).

<sup>15</sup> *Id.*

page to discuss public business in the private Evidence-Based Group.<sup>16</sup> Ms. Rose correctly recognized that Barts was improperly using her personal Facebook account under the mistaken assumption that this exempted any comments she posted from FOIA’s public records preservation requirement, when in fact she was openly using the personal account to discuss public business in groups where public access to her comments was restricted. As evidence for this claim, Ms. Rose provided a screenshot of Barts claiming that she was “speaking as a member of the LCSB” while using her personal Facebook page to post in the private Evidence-Based Group.<sup>17</sup>

26. On November 1, 2020, a different Loudoun County resident messaged a moderator for one of the private Facebook groups in which Mrs. Barts regularly engaged in her official capacity to request that the moderator prevent Barts from deleting her comments on the page. The moderator responded that, “I can’t prevent her from deleting her own comments.”<sup>18</sup> This is an acknowledgement that Barts repeatedly deleted posts and comments that should have been preserved as “public records . . . open to citizens of the Commonwealth” under FOIA. Va. Code Ann. § 2.2-3704(A).

27. After no change in Mrs. Barts’ online activity, Ms. Rose emailed the LCPS Superintendent and Board Chair on November 6, 2020 to notify them that Barts was evading Virginia open meeting law by using her personal Facebook page to comment on Board business in a variety of private forums.<sup>19</sup> In other words, Mrs. Barts deliberately evaded FOIA requirements by using her personal account to opine in her official capacity upon School Board business in a variety of private Facebook groups that were not open to all members of the public.

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<sup>16</sup> E-Mail from Debbie Rose to Stephen DeVita, (Oct. 30, 2020, 9:47 PM) (Ex. 8).

<sup>17</sup> E-Mail from Debbie Rose to Stephen DeVita, (Oct. 31, 2020, 11:27 PM) (Ex. 9).

<sup>18</sup> Private messages from Amanda Bean to Melissa North, Facebook, (Nov. 1, 2020, 2:41 PM) (Ex. 10).

<sup>19</sup> E-Mail from Debbie Rose to Eric Williams & Brenda Sheridan, (Nov. 6, 2020, 4:53 PM) (Ex. 11).

Moreover, she made a practice of deleting her comments—*i.e.*, destroying public records—whenever she received a negative response from others. This is a clear violation of FOIA’s mandate that “all public records shall be open to citizens of the Commonwealth” because Barts deleted her posts without making any attempt at preservation. Va. Code Ann. § 2.2-3704(A).

28. On the same day, Barts posted an update to her official School Board Facebook page announcing that her previous official page (and all of the posts and comments associated with that page) “has been archived and it is not coming back.”<sup>20</sup> Barts specifically noted that this announcement was made “[f]or everyone who is trying to FOIA my old page,” indicating that she *did* understand her Facebook comments constituted public records and that she deleted her official page despite that understanding.<sup>21</sup> This demonstrates a knowing and willful violation of Section 2.2-3204(A).

29. Mrs. Barts was no more diligent in observing her duty to preserve public records on other social media platforms. As recently as November 11, 2020, Mrs. Barts maintained an active Twitter account which she used to post about School Board business.<sup>22</sup> That Twitter account has since been deleted in yet another violation of FOIA.

30. On November 17, 2020, the Board finally took action to address Mrs. Barts’ erratic conduct. The Board formally reprimanded Barts in response to evidence that Mrs. Barts had disclosed confidential attorney-client privileged information that was shared in a closed session of the Board without authorization.<sup>23</sup> The motion to reprimand Mrs. Barts passed 6-2, with Barts absent and not voting.<sup>24</sup>

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<sup>20</sup> Beth Barts post on Beth Barts School Outreach-Leesburg District page, Facebook, (Nov. 6, 2020) (Ex. 12).

<sup>21</sup> *Id.*

<sup>22</sup> See Screenshots of @beth\_barts Twitter account (Ex. 13).

<sup>23</sup> Loudoun Cnty. Sch. Bd., *Agenda Item Details*, (Nov. 17, 2020) (Ex. 14).

<sup>24</sup> *Id.*

31. On November 30, 2020, a Loudoun County resident emailed the Superintendent and Board Chair to complain about Mrs. Barts' fearmongering public remarks online concerning the dangers of school reopening. The constituent explained that Barts "now has parents on social media freaking out that doctors are saying their kids and the teacher will be dead if they return to school."<sup>25</sup> Concerningly, they also reported that Barts "is encouraging people to call her so the info cannot be FOIA'd."<sup>26</sup>

32. The next day, on December 1, 2020, the Board was again forced to address Mrs. Barts' unprofessional behavior only two weeks after her formal reprimand. This time, the issue was Barts' threat to hold a solo press conference to demand that Loudoun County Public Schools return to remote learning.<sup>27</sup> Board Chair Brenda Sheridan said that "a press conference by one individual would be highly inappropriate" and that "[t]he threats . . . must stop now."<sup>28</sup> This ultimatum was a clear violation of Mrs. Barts' duty under LCPS Policy 1030(B)3) to "show respect for and work with" her fellow Board Members "in a spirit of harmony and cooperation."

33. In response to a perceptive constituent question as to whether the membership of seven members of the Board in a private Facebook group constituted a violation of Virginia's open meeting rules, Mrs. Barts incorrectly claimed that an open meeting only resulted when "MORE than 2 elected representatives are having a conversation in real time on social media or in person about school business."<sup>29</sup> This is incorrect; a gathering of Board Members constitutes a "meeting" for the purposes of FOIA when at least three members are involved in a gathering where "part of the purpose of such gathering is the discussion or transaction of any public business." Va. Code

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<sup>25</sup> E-Mail from Melissa North to Eric Williams & Brenda Sheridan, (Nov. 30, 2020, 10:36 AM) (Ex. 15).

<sup>26</sup> *Id.*

<sup>27</sup> Atoosa Reaser, *Notes on Closed Sessions Topics*, (Dec. 1, 2020) (Ex. 16).

<sup>28</sup> E-Mail from Brenda Sheridan, Chair, to School Board (Dec. 10, 2020, 12:01 PM) (Ex. 17).

<sup>29</sup> E-Mail from Beth Barts to Peter Livingston (Dec. 2, 2020, 6:51 PM) (Ex. 18).

Ann. § 2.2-3701. As previously explained, seven members of the Board—a clear majority and a quorum—were members of the private Facebook group in question. The group describes itself as “a group for Loudoun County Public Schools parents, teachers, staff, and policy makers to discuss local education issues[.]”<sup>30</sup> Therefore, the group expressly holds itself out as a private forum for the discussion of public business. Participation in such a group by three or more Board members is therefore flatly impermissible under FOIA.

34. Furthermore, even if Mrs. Barts’ understanding of the law was correct, it is not true that no more than two elected officials have discussed public business in the private Evidence-Based Group. For example, on one occasion Member Morse tagged six of his Board colleagues in a comment asking for their thoughts on feedback from LCPS teachers, thereby openly conducting public business in a private forum and violating FOIA’s open meeting requirements.

35. Mrs. Barts has also used her social media accounts to misrepresent to the general public the policy positions of her colleagues on the Board. On December 2, 2020, Mrs. Barts shared a post on her official School Board Facebook page that omitted key information concerning a proposal by Member Morse that would have required students to keep cameras on during class. Barts did not communicate that Mr. Morse would have allowed students to “opt out” of this policy, and she solicited public comment on the proposal via Facebook, saying that “I would like to hear thoughts on this from the community.”<sup>31</sup> Mr. Morse texted Mrs. Barts to complain about her actions, saying “Can you see the frenzy you just created? . . . Beth, this is sooo unnecessary! You have created angst beyond belief by the way you phrased this!!!”. This was a violation of Barts’ obligation under LCPS Policy 1030(B)(9) to work amicably with her fellow Board Members.

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<sup>30</sup> Loudoun for Evidence-Based Safe and Equitable Schooling, Facebook (retrieved Aug. 19, 2021) (Ex. 19).

<sup>31</sup> Beth Barts post, Facebook, (Dec. 1, 2020) (Ex. 20).

36. Barts has frequently shared confidential information from closed Board meetings in order to stir up public anger against her colleagues, and in particular has repeatedly targeted her fellow School Board Member John Beatty. On January 5, 2021, Mrs. Barts shared information in a private Facebook group concerning Mr. Beatty's actions in a closed meeting.<sup>32</sup> Barts did not have Board authorization to share this confidential information and has been repeatedly warned about the consequences of unauthorized disclosure. Nevertheless, she again attacked Member Beatty using her official Facebook page on February 24, 2021, both disclosing confidential information and gratuitously highlighting a prior controversy in an effort to stoke public ire against her colleague.<sup>33</sup>

37. Mrs. Barts' online harassment has not been confined to her colleagues on the School Board but has even extended to other Loudoun County local officials. On January 17, 2021, Barts posted a screenshot of a private Facebook post from Phyllis Randall, Chair of the Loudoun County Board of Supervisors, advocating for school reopening. Barts denigrated Ms. Randall's sincerely expressed concerns and indicated that she did not take them seriously.<sup>34</sup> By seeking out a member of the community for public ridicule, Mrs. Barts violated her obligation under LCPS Policy 1030(B)(9) to "welcome and encourage active cooperation by Loudoun County residents."

38. Barts also publicly shared private correspondence from constituents and LCPS parents to hold these private citizens out for online ridicule. On January 31, 2021, Barts shared the text of an email on her personal Facebook page in which a constituent had expressed concerns over school reopening policies, thereby effectively inviting Mrs. Barts' followers to

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<sup>32</sup> Beth Barts post on Anti-Racist Parents of Loudoun County page, Facebook, (Jan. 17, 2021) (Ex. 21).

<sup>33</sup> Beth Barts-Leesburg District School Board Member post, Facebook (Feb. 24, 2021) (Ex. 22).

<sup>34</sup> Beth Barts, Facebook, (Jan. 17, 2021) (Ex. 23).

ridicule and attack community members who shared similar concerns.<sup>35</sup> This constituent subsequently emailed Barts to complain that “[s]haring emails from a parent (me) in a public forum (where no one can reply) and bashing me is completely appalling and unbecoming of an elected official.”<sup>36</sup> Again, this action constituted a violation of LCPS Policy 1030(B)(9) requiring Members “[t]o welcome and encourage active cooperation by Loudoun County residents.”

39. By early 2021, as Mrs. Barts’ behavior began to affect her colleagues’ ability to do their own work, their patience with her antics wore thin. On January 11, 2021, Barts posted a message concerning an earlier removal effort on her official Facebook page and asked voters who “want me to continue to represent our community” to email her official School Board email address Beth.barts@lcps.org with messages of support.<sup>37</sup> For some reason, Barts also forwarded many of the emails that she received in response to this public appeal to Chair Sheridan and Vice-Chair Reaser.

40. Vice-Chair Reaser’s private notes indicate that she was not only annoyed by this conduct, but considered the “copying of [Reaser’s] LCPS email on her messages related to the political recall effort” to be a “misuse of [Reaser’s] time [and] *misuse of a division resource*.”<sup>38</sup> After failing to convince Barts to cease this practice by repeated private interventions, Reaser emailed the full Board to complain that Barts’ forwarding of supportive constituent emails to other members of the Board was distracting and unnecessary.<sup>39</sup> Reaser claimed that Barts’ incessant forwarding of praise from constituents was “impacting my ability to do my work,” and noted that this was her “fourth request” for Mrs. Barts to stop harassing her.<sup>40</sup> Eventually, this

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<sup>35</sup> Beth Barts, Facebook, (Jan. 31, 2021) (Ex. 24).

<sup>36</sup> E-Mail from Elizabeth Boyko to Beth Barts (Jan. 31, 2021, 4:32 PM) (Ex. 25).

<sup>37</sup> Beth Barts-Leesburg District School Board Member post, Facebook (Jan. 11, 2021) (Ex. 26).

<sup>38</sup> Atoosa Reaser, *Notes on Closed Sessions Topics*, (Feb. 9, 2021) (Ex. 27).

<sup>39</sup> E-Mail from Atoosa Reaser, Member, to School Board (Jan. 2, 2021, 1:19 PM) (Ex. 28).

<sup>40</sup> E-Mail from Atoosa Reaser, Member, to Beth Barts (Jan. 9, 2021, 1:18 PM) (Ex. 29).



practice of forwarding irrelevant emails to her colleagues—even after Vice-Chair Reaser had repeatedly asked her to stop—became so distracting that the Board was forced to hold yet another closed meeting on February 9, 2021 to address the problem.<sup>41</sup> By asking constituents to email her official address concerning a political matter and then forwarding those emails to her Board colleagues, Barts twice violated Loudoun County’s ordinance criminalizing the misuse of public assets. *See* Loudoun Cnty. Ord. 253.04.

41. After months of unceasing unprofessional behavior from Mrs. Barts, the Board finally censured her at its meeting on March 4, 2021 by a 7-0 vote. The Board cited four separate provisions of School Board Policy 1030 that it found Barts violated: (1) failure to put student interests first; (2) failure to show respect for fellow board members in a spirit of harmony and cooperation; (3) failure to welcome and encourage active cooperation of Loudoun County residents in the district; and (4) failure to work in a spirit of teamwork in service to the community.<sup>42</sup>

42. When introducing the censure motion, Board Chair Sheridan explained that it was “not a reaction to any one event,” but rather a “response to a culmination of behaviors over the last 14 months.”<sup>43</sup> Vice-Chair Reaser added that the censure “has only to do with your own misconduct,” and Member Ian Serotkin expressed that he felt censure was warranted because “[n]othing else we’ve tried has worked.”<sup>44</sup> Clearly, by March 2021 Mrs. Barts’ unprofessional behavior had escalated to the point that the full Board felt obligated to publicly punish her.

43. Unsurprisingly, Mrs. Barts was not dissuaded from her aggressive course of conduct. Rather than responding to formal censure by the full Board with contrition, she shared

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<sup>41</sup> Ex. 27.

<sup>42</sup> Loudoun Cnty. Sch. Bd., *Agenda Item Details*, (Mar. 4, 2021) (Ex. 30).

<sup>43</sup> Battison, *School Board Censures Barts for Controversial Social Media Activity*.

<sup>44</sup> *Id.*

an unapologetic statement from her attorney criticizing the “judgment” of her fellow Board Members.<sup>45</sup>

### **Beth Barts’ Continuing Violations of School Board Policy Since Censure**

44. Mrs. Barts has not ceased her unacceptable behavior since her censure in March 2021. Instead, her harassment of her colleagues and of private citizens in Loudoun County has only escalated.

45. On March 11, 2021, only days after her formal censure by the Board, Barts joined yet another private Facebook group: “Anti-Racist Parents of Loudoun County” (hereinafter the “Anti-Racist Group”). In addition to Barts, this private Facebook group which exists for the purpose of discussing LCPS equity policies included six other School Board members<sup>46</sup>, thereby making it a “meeting” under FOIA. As discussed *supra* in the Motion to Seal, Barts’ post in this group on the morning of March 12<sup>th</sup> highlighting anti-CRT efforts in Loudoun County prompted demands for personally identifiable information of supporters and a Loudoun County Sheriff’s Office investigation.

46. On March 24, 2021, Barts was interviewed by law enforcement and told them that, after her initial post, she did not return to the Anti-Racist Group until the next morning.<sup>47</sup> That statement was false; Barts commented numerous times following her initial post and posted a message that very evening thanking the Anti-Racist Group for the advocacy. She also deleted one of her comments at some point before being interviewed, and once again violated her FOIA obligation to preserve records created in her official capacity as a Board Member.

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<sup>45</sup> Statement from Barts Attorney Charles King (Mar. 5, 2021) (Ex. 31).

<sup>46</sup> Chair Brenda Sheridan (Member since before September 5, 2020), Vice-Chair Atoosa Reaser (Member since before September 5, 2020), Ian Serotkin (Member since September 4, 2020), Denise Corbo (Member since September 6, 2020), and Leslee King (Member since before September 5, 2020).

<sup>47</sup> Ex. 3 at 1.

47. On March 26, 2021, shortly after being interviewed by law enforcement concerning her activity in private Facebook groups, Barts shared a post on both her official and personal Facebook pages from “LCPS Minority Student Achievement Advisory Committee – MSAACC” that read, in part, “we can and will silence the opposition.”<sup>48</sup> Not only was this a clear threat to Loudoun County parents who had expressed concern over LCPS equity policies, but Barts later deleted this post on both pages in yet another violation of her FOIA obligation to preserve records created in her official capacity as a Board Member.

48. On May 26, 2021, after a Board vote on a resolution recognizing LGBTQ+ Month, Mrs. Barts emailed her Board colleagues to express her dissatisfaction with some of their votes and blind copied several interest groups that supported the resolution.<sup>49</sup> Not only was this yet another example of Barts’ flagrant disregard for the confidentiality of deliberations in closed Board meetings, but it also contained a threat of public retaliation: “I encourage you to have an answer ready for your constituents who are advocates and allies of our LGBTQ families. I have absolutely no doubt they will be coming for it.”<sup>50</sup> Board Member Harris Mahedavi expressed in a subsequent email to a constituent that he was afraid to work towards a modification of the resolution because Barts’ conduct led him to believe that “he “would not have been heard.”<sup>51</sup> This was a violation of LCPS Policy 1030(B)(3) requiring Members “[t]o show respect for and work with [their] fellow board members and staff in a spirit of harmony and cooperation in spite of differences of opinion that may arise during vigorous debate of points at issue.”

49. The Anti-Racist Group, of which Mrs. Barts remains a member as of the filing of this Petition, has been a hotbed of coordinated harassment campaigns against parents and

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<sup>48</sup> Beth Barts-Leesburg District School Board Member, Facebook, (Mar. 26, 2021) (Ex. 32).

<sup>49</sup> E-Mail from Beth Barts to School Board, (May 26, 2021, 10:03 AM) (Ex. 33).

<sup>50</sup> *Id.*

<sup>51</sup> E-Mail from Harris Mahedavi to Charlotte McConnell, (May 27, 2021, 7:38 PM) (Ex. 34).

teachers who have expressed unpopular political views. On June 1, 2021, one member posted in the group to encourage members to call Leesburg Elementary School to complain about teacher Tanner Cross, who had been the subject of public attention after he delivered a speech at a Board meeting concerning the use of gender pronouns, explaining that they had received a confidential tip that “DISRUPTION OF SCHOOL ACTIVITIES due to his employment can help keep Cross on leave.”<sup>52</sup> Shortly thereafter, on June 3, 2021, Barts posted again in her Leesburg Outreach Facebook group to say, “Thank you. I appreciate everyone who took action today. #leesburg.”<sup>53</sup>

50. On August 5, 2021, the Board was again forced to consult with legal counsel in a closed meeting for a sixth time concerning “specific legal matters pertaining to Board members involving . . . social media and advisory groups,” a clear reference to the problems that Barts’ ongoing recalcitrant conduct online has caused for the ability of the Board to conduct normal operations.<sup>54</sup>

51. On August 7, 2021, Mrs. Barts again posted from her personal account in the private Evidence-Based Group to request feedback on proposed LCPS dress code revisions.<sup>55</sup> This is yet another example of how Barts has continued to use her personal Facebook account to engage in public business in private Facebook groups, even after being repeatedly informed that this practice is inappropriate and a violation of FOIA.

52. At the Board’s most recent meeting on August 13, 2021, Board Member Morse expressed concern over harassment campaigns that had been undertaken in private Facebook groups and tacitly supported by incumbent Board members. Mr. Morse said it well: It is

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<sup>52</sup> Hilary HL post on Anti-Racist Parents of Loudoun County page, Facebook, (June 1, 2021) (Ex. 35).

<sup>53</sup> Beth Rae post on Leesburg Outreach page, Facebook, (June 3, 2021) (Ex. 36).

<sup>54</sup> Loudoun Cnty. Sch. Bd., *Agenda Item Details*, (Aug. 5, 2021) (Ex. 37).

<sup>55</sup> Beth Barts post on Loudoun for Evidence-Based Safe and Equitable Schooling page, Facebook, (Aug. 7, 2021) (Ex. 38).

“divisive when a Facebook group starts a hit list against their own community members, asking for information on spouses, on jobs, even information on children of their neighbors so that they can plot against them. And when School Board members are in that Facebook group but don’t have the courage to stand here on the dais, apologize to the community members that were flagged, unequivocally denounce the attacks, and condemn the community members who participated[,]” then the community is left in a very dangerous place.<sup>56</sup>

53. In short, Mrs. Barts has flagrantly and repeatedly violated Virginia public records law and multiple policies of the Loudoun County School Board and encouraged online harassment campaigns of community members who object to her policy goals. Barts’ behavior has been so extreme that she has been repeatedly disciplined by her colleagues on the Board: First reprimanded, then censured, and finally stripped of her committee assignments. None of these actions have sufficed to compel Barts to comply with School Board policies or to conform her actions to state law. Therefore, the only option remaining open to the residents of the Leesburg District is to respectfully request that this Court remove Mrs. Barts from office for “neglect of duty, misuse of office, [and] incompetence in the performance of duties” for the reasons detailed in this Complaint. Va. Code Ann. § 24.2-233. It is long past time that the Leesburg District had competent representation on the School Board; a return to normal Board operations, focused only on the best interests of Loudoun County students and unimpeded by Mrs. Barts’ repeated violations of the law and Board policies, is overdue.

**Motion to Recuse Loudoun County Commonwealth’s Attorney Buta Biberaj**

54. Virginia law designates the Commonwealth’s Attorney in the relevant jurisdiction as the prosecutor of a removal case against an elected official. *See* Va. Code Ann. § 24.2-237.

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<sup>56</sup> Ian Prior, Twitter, (Aug. 13, 2021), <https://twitter.com/iandprior/status/1426314679283032072>.

The Commonwealth's Attorney effectively steps into petitioners' shoes for the purposes of the trial and represents their interests and those of the Commonwealth.

55. However, the state removal statute also provides for the court to appoint an independent prosecutor in cases where there is reason to believe the Commonwealth's Attorney cannot be sufficiently impartial (for example, if the officer subject to a removal petition is the Commonwealth's Attorney herself, in which case a different prosecutor would be necessary). *Id.*

56. Here, there is compelling evidence indicating that Loudoun County Commonwealth's Attorney Buta Biberaj does not share Petitioners' interest in removing Beth Barts from office and, in fact, is actively opposed to the success of this Petition. On August 10, 2021, Biberaj shared a Loudoun Now opinion piece on her Twitter account that criticized the group organizing this removal effort by name.<sup>57</sup> That op-ed alleged that Petitioners have fabricated charges against members of the School Board and erroneously claimed that the same Petitioners involved in the Barts removal effort are also circulating a petition supporting the removal of Ms. Biberaj herself<sup>58</sup> (they are not; even if some Loudoun County residents have signed both petitions, they are separate efforts undertaken by different groups).

57. Moreover, according to an email sent by Beth Barts to a constituent in December 2020, she is personal friends with the incumbent Loudoun County Commonwealth's Attorney. According to Barts, "she and I campaigned together last year and I know her personally to be a great CA for our community."<sup>59</sup>

58. If Commonwealth's Attorney Biberaj is predisposed to believe that Petitioners' claims are meritless, or is otherwise biased in favor of the subject of this removal petition due to

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<sup>57</sup> See @biberajbb, Twitter (Aug. 10, 2021, 9:24 PM), <https://twitter.com/biberajbb/status/1425266752225751043>.

<sup>58</sup> One of the stated reason for the removal petition against Attorney Biberaj is her membership and activities in the Anti-Racist Parents Facebook group.

<sup>59</sup> Ex. 18.

her personal friendship with Mrs. Barts, then it is imperative for this Court to appoint an independent counsel who can vigorously prosecute this case. Petitioners respectfully request that this Court appoint a prosecutor who does not have a disqualifying conflict of interest and who has not publicly expressed antagonism towards Petitioners' cause.

**WHEREFORE**, based upon the pleadings and charges contained herein, Petitioners seek the removal of Loudoun County School Board Member Beth Barts and such other relief as this Court deems fit and just.

Respectfully submitted,

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On behalf of Citizens of Leesburg District,  
Petitioners

**Certificate of Service**

I hereby certify that a true and accurate copy of the foregoing was delivered this 25<sup>th</sup> day of August, 2021, by overnight mail, to the Honorable Beth Barts, Loudoun County School Board – Leesburg District, located at 21000 Education Court, Ashburn, VA 20148. This is a courtesy to give Mrs. Barts adequate notice of our filing with this Court.

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