



January 30, 2023

VIA ELECTRONIC MAIL AND FIRST-CLASS MAIL

Dr. George Parker, III
Superintendent
Newport News Public Schools
12465 Warwick Blvd.
Newport News, VA 23606

RE: [REDACTED]
DOCUMENT PRESERVATION NOTICE AND REQUEST FOR RECORDS

Dear Dr. Parker:

This firm represents Mr. and Mrs. [REDACTED] regarding the education of their daughter, [REDACTED]. Enclosed please find a Consent and Authorization allowing Newport News Public Schools ("NNPS") to communicate with our firm.

[REDACTED] is a first-grade student at Richneck Elementary School ("Richneck"). [REDACTED] was subjected to numerous incidents of bullying, harassment, assault, and battery during the 2022-23 school year in connection with enrollment and attendance at NNPS. The student's parents repeatedly notified NNPS personnel of these incidents and concerns about [REDACTED] physical and emotional safety and well-being. Nonetheless, NNPS did not take reasonable and appropriate actions to protect [REDACTED] and ensure [REDACTED] opportunity to attend a safe school environment. In addition, [REDACTED] was present in the classroom when the January 6, 2023, shooting occurred and suffered emotional harm as a result.

NNPS is hereby placed on notice of possible claims against it. Please take all actions necessary to ensure that all relevant documents, information, video recordings, audio recordings, and other materials (whether in paper, electronic, or other format) arising from or relating to the foregoing possible claims are safeguarded and preserved indefinitely. This includes, but is not limited to:

1. [REDACTED] education record as that term is defined by the Family Educational Rights and Privacy Act ("FERPA") and the Individuals with Disabilities Education Act ("IDEA"), including Virginia's IDEA regulations;
2. Any and all emails regarding any matter associated with [REDACTED];
3. Any and all emails regarding any matter associated with any student who allegedly bullied, harassed, assaulted, or battered [REDACTED] during the 2022-23 school year;

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4. All communications, reports, interviews, and investigations relating to each incident of alleged bullying, harassment, assault, or battery reported to any NNPS employee or School Board member by Mr. and Mrs. [REDACTED]
5. All communications, reports, interviews, and investigations relating to any incident of alleged bullying, harassment, assault, or battery reported to any NNPS employee or School Board member involving any student (either as a victim or as a perpetrator) who was assigned to [REDACTED] classroom during the 2022-23 school year;
6. All communications, reports, interviews, or investigations relating to any alleged incident of bullying, harassment, assault, or battery (regardless of the date) involving any student who was assigned to [REDACTED] classroom during the 2022-23 school year;
7. All materials relating to any discipline referrals or discipline (regardless of the date) involving any student who was assigned to [REDACTED] classroom at any point during the 2022-23 school year;
8. All logs or other documents identifying parents or other non-NNPS staff who visited [REDACTED] classroom at any point during the 2022-23 school year;
9. All materials arising from or relating to the January 6, 2023, shooting incident;
10. All employment or employment-related files regarding any principal, assistant principal, counselor, or school social worker who worked at Richneck Elementary School during the 2022-23 school year; and
11. All employment or employment-related files regarding Superintendent Dr. George Parker, III, including all documents relating to his separation and severance agreement.

Please be advised that the laws and rules prohibiting destruction of evidence apply to electronically stored information in the same manner that they apply to other evidence. NNPS must take every reasonable step to preserve this information until the final resolution of this matter. The failure to comply with this request could be considered destruction of evidence, spoliation of evidence, or obstruction of justice.

In addition, please provide us with an electronic copy of all of the student's education records arising from or relating to the student's enrollment in your school district. We are entitled to these records under FERPA. Please include all records of this student maintained by the school system, which include, but are not limited to:

1. Documentation pertaining to the educational growth and development of the student (including, but not limited to, report cards, Section 504 accommodations, aids or services, IEP services and supports, IEP progress reports, attendance records, and school clinic/nurse records) and the underlying data or information upon which such documents are based;
2. Any functional behavior assessment and the underlying data or information gathered in connection with performing the FBA;
3. Disciplinary records;
4. Achievement and test data;
5. Cumulative health records;
6. School counseling records;
7. Incident reports;
8. Reports of assessments for eligibility for special education services (including psychological testing evaluations, reports of independent evaluations, group achievement and ability tests, medical records, intervention plans, behavior management plans, functional behavior assessments, and eligibility committee meeting reports);

9. Individualized Education Programs or Section 504 Plans, including audio records of these meetings;
10. Mediation agreements and state complaint proceedings; and
11. Test booklets, protocols, interpretive reports, and other such documents that contain or relate to child-specific or personally identifiable information, that reflects the child's level of functioning in the five major developmental areas reflected in IDEA sections 632(5)(A)(i) and 636(d)(1), and 34 CFR §§ 303.322 and 303.344(a), and that were used in connection with the identification, eligibility and/or determination of IDEA services and supports for the student or other such materials deemed "education records" per Letter to Price, 57 IDELR 50 (Office of Special Education Programs, Oct. 13, 2010).

The records being requested include those recorded or maintained in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. The records include emails regarding any matter associated with the child, which are considered part of the child's education pursuant to 8 VAC 20-81-170(G)(11)(b).

Please include any records sent to the school division or obtained by it from any source (including any correspondence retained between parents, guardians, and/or student and school staff or notes or letters written in connection with any planning or discussions) or any other records in connection with this student.

Thank you for your immediate attention to this matter. This letter is sent without prejudice to any and all available legal and equitable rights and remedies available.

Very truly yours,



Cheri Belkowitz

Enclosure

cc: Mr. and Mrs. [REDACTED] (by e-mail, only)
Dr. Michele Mitchell (by e-mail and first-class mail)
Ms. Karen Lynch, Administrator, Richneck Elementary School (by e-mail and first-class mail)