

SOMERSET COUNTY
Rev. Charles Bagley
P.O. Box 151
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VIA ELECTRONIC MAIL

August 11, 2025

Mr. Matthew Lankford, Chair
Mr. Andrew Gleason, Vice Chair
Mr. William McInturff
Ms. Mary Beth Bozman
Somerset County Board of Education
7982A Tawes Campus Drive
Westover, MD 21871

Dear Chairman Lankford and Members of the Somerset County Board of Education:

We write on behalf of the American Civil Liberties Union of Maryland, the Caucus of African American Leaders, the Somerset County Branch of the NAACP, Watchmen with One Voice Ministerial Alliance and impacted Somerset County public school families to challenge recent conduct of the Board of Education that imperils the education of Somerset County public school children. The Board's actions and inactions – already called into question by both the Maryland State School Superintendent and Maryland Office of the Inspector General for Education as violative of state and federal laws – unlawfully threaten the funding of the school system and the constitutional rights of Somerset students to learn freely.

Below, we review the tangled web of controversies the Board has generated in just the last seven months – actions that have frayed the bonds of trust and cooperation among Somerset parents, schools, and students. Then we detail our legal concerns under the First Amendment, the Maryland Freedom to Read Act, and public transparency laws, based on the facts known to us at this time. We recognize that the Board's persistent lack of transparency renders our information incomplete; thus we include with this correspondence a formal request for information and documents under the Maryland Public Information Act, Md. Ann. Code, Gen. Prov., §§ 4-101 *et seq.*¹

As detailed, our concerns about the Board's conduct fall into three primary categories, all of which raise serious alarm about the discriminatory impact of the newly all-white Board's actions in a school system where over 65 percent are students of color. The Board's conduct is not only racially discriminatory in impact, particularly harming Black students, but also reflects a clear pattern of hostility toward LGBTQIA+ students, staff, and community members. These categories are:

- 1) Enactment of vague and unlawful book removal policies and procedures over objections of school administration and staff;

¹ We ask that you please respond to our MPIA request within 30 days, as required by Md. Code Ann., Gen. Prov. § 4-203(a).

- 2) Failure to timely approve a school curriculum, as recommended by school administrators and staff, for reasons seemingly grounded in censorship;
- 3) Lack of transparency, disrespect for school staff, and threats of removal and arrest of parents and community members during Board of Education operations.

As the new school year looms, the need for the Board to elucidate its positions and to take action to address these concerns is increasingly urgent, and thus we request your prompt response.

I. Timeline and Facts Underlying our Concerns

In November of 2024, two new members were elected to the five-member Somerset Board of Education: Matthew Lankford and Mary Beth Bozman. Mr. Lankford and Ms. Bozman took office in January 2025 alongside three existing members of the board whose terms continue for two more years, making the Board all white for the first time in recent years. Mr. Lankford was named Chair of the new Board, and Andrew Gleason was named Vice Chair.²

On January 21, 2025, the new Board (operating with just four members) questioned continued retention of its existing legal counsel and recommended a full process to vet the possibility of new counsel. The Board touted the importance of adherence to Board Policy 100-18, which governed the procurement process for engaging counsel, including advertising to ensure transparency, vetting of attorney qualifications in the specialized field of school law, and a structured interview process involving a Board quorum. Then, records show, on February 7, 2025, in direct violation of Policy 100-18 and contrary to their January 21 statements about this policy's importance, the School Board secretly and seemingly without any procedural vetting, entered into a new contract with political colleagues of Mr. Lankford, Gordana Schifanelli and her husband. Mrs. Schifanelli was the former running mate of failed 2024 Republican gubernatorial candidate Daniel Cox, and evidence shows she and Mr. Lankford have worked together on partisan political activities, including anti-diversity, equity and inclusion actions. In contrast to the recently-fired Board counsel, the Schifanellis do not appear to have prior experience as counsel advising school systems.

Mr. and Mrs. Schifanelli attended the Open Budget Work Session and Special Emergency Board Meeting on February 13, 2025, where they were identified as "Board Counsel" in the meeting minutes. The Board's previous counsel was not present. A top order of business at this Special Emergency Board Meeting was the Board's *rescission* of Policy 100-18 – the policy governing hiring of legal counsel. Immediately following the vote rescinding the policy, the Board went into closed session to "discuss confidential personnel matters." When they returned to adjourn the meeting, no announcement was made regarding the hiring of the Schifanellis nor the firing of the Board's prior counsel. No prior notice nor formal process appears to have been undertaken surrounding any of these actions.

Next, the new Board, in consultation with the Schifanellis, proposed and introduced amendments to the school system's policy governing selection and removal of books in school

² Notably, at some point in 2025, Board member Allen Ford appears to have resigned, although this has not been well publicized and the Somerset Board website continues to identify Mr. Ford as a member even as recently as August. But, throughout much of 2025, the Board has operated with only four members, with no representation for District 5.

libraries, Policy No. 500-19. The proposed amendments sought to enhance Board control over library collections, limit the role of educators, and tighten restrictions on materials that are properly included and retained. This new policy was spearheaded by Board Chair Lankford, continuing longstanding advocacy he engaged in as a private citizen to promote school censorship. Prior to Chairman Lankford's ascendancy to the school board and during the campaign, he lobbied to remove several award-winning books from school libraries. Chairman Lankford created and presented videos to school boards on the Lower Shore calling for the removal of these books and promoting discrimination through stigmatizing language and harmful stereotypes targeting Black and LGBTQ+ individuals.³ His extreme views were also formally raised in a complaint he unsuccessfully pursued with the local and state boards of education seeking to remove materials from Somerset schools when his son was a high school student.⁴

In advance of their adoption, the proposed changes to Policy 500-19 were actively opposed by many parents and educators, including the Maryland Association of School Librarians, who submitted testimony raising concerns about illegal censorship the changes endorse. With little discussion, those concerns were dismissed, and the policy was adopted on April 15, 2025.

A key provision of the revised policy is the following:

The SCBOE approves the use of textbooks and materials that are free of bias, which enlighten, inspire, encourage, motivate, instill hope and foster good decision-making, as in comparison to those which discourage, convey a sense of futility, affirm or promote negative or destructive character traits such as victimhood, rebellion, lawlessness, anarchy, obscenity, profanity, vulgarity, violence, vandalism, bullying, gang activity, drugs, alcohol, smoking, sexuality, anti-religion, theft, lying, and cheating.

Sometime following its enactment, a complaint was filed with the Maryland Office of Inspector General for Education challenging the Board's revision to Policy 500-19 as unlawful and ill-advised.

In the months immediately following the Board's adoption of this policy, a long series of related disputes have arisen between the Board, school administrators and staff, and the general public.

- In May, the School Board proposed layoffs of school librarians from the system – purportedly as a budgetary matter but serving the clear purpose of removing them from the book review process, although the FTRA requires their involvement. This outraged residents and educators

³ Of the books Mr. Lankford has targeted, the vast majority are by Black authors and address the theme of racism. One, which he disparagingly describes as including “vulgar homosexual sex stories” in his presentation, is widely recognized as a groundbreaking work in LGBTQ+ young adult literature.

⁴ Specifically, Mr. Lankford's complaint challenged as unacceptable under then-existing policy 500-19:

Anything that even hints on social injustice, identity, activism, sexual orientation, sexuality, BLM (Black Liberation Movement), Antifa, anti-Semitism, categorization of people, discrimination, shaming, racism, anti-racism, quality, equity, socialism, Marxism, communism, anti-capitalism, fascism, collective responsibility, wealth distribution, reparations, the 1619 Project, victimhood, or anything of the sort.

The local board ruled that the complaint was not governed by policy 500-19, but policy 500-4, because it related to curriculum, not library materials. See *Matthew L. v. Somerset County Bd. of Educ.*, No. 21-33, 1-2 (Md. State Bd. of Educ. May 25, 2021) (describing factual and procedural background of complaint and disposition before the local board). Upon information and belief, the complaint was rejected on the merits, because it effectively sought to remove from the curriculum an unacceptably broad teaching of history and current affairs.

and ultimately seems to have been overridden when the County Commission awarded funding to the school system with some specifically earmarked for librarians, despite Chairman Lankford's objections that the schools didn't need the money.

- Serious public concern with the Board's actions has resulted in standing-room-only meeting attendance and outspoken public opposition to the Board's actions. Parents, staff, community leaders, and even students have given public comment, written letters, sent Maryland Public Information Act requests, circulated petitions, filed complaints with the Open Meetings Compliance Board, and recorded Board members during and immediately after Board meetings – all legally-protected First Amendment protected activity. Through these protests, the public is raising concerns about the disrespect shown to the Superintendent and school staff by Board members, the book policy, targeting of librarians, and improper hiring of legal counsel for political reasons. Some Board members have found this community advocacy objectionable, demanding that recordings be stopped, falsely accusing the public of engaging in threatening conduct or violating the law, and even calling the police on parent Joseph Hylton.
- For example, at the May 20 Board meeting, Chairman Lankford began by condemning the public outcry, citing “a recent rally by organized education groups” that he characterized as intimidation. He baselessly claimed that residents objecting to Board actions were acting “under false pretenses, fueled by misinformation, rumors, and political motivations.” He assailed the public's exercise of First Amendment rights through organized protest and cell phone recording of public officials' actions as “disruptive behavior” and “illegal recordings.” Board members would not be influenced by public opposition to their actions, Lankford declared, and would stay focused on their duties, such as “removing DEI initiatives” from Somerset schools.⁵
- On June 3, the date of an announced school board meeting at which budgetary issues were to be discussed, residents arrived to a locked building and then were informed by police who arrived on the scene that the meeting was canceled due to an emergency administrative matter that the board was meeting about in closed session. In contravention of Maryland Open Meetings Act requirements, no advance notice or explanation about this was provided by the School Board – at least not that any of these residents received.
- The public later learned from media reports that the Board had convened in secret and fired Superintendent Ava-Tasker Mitchell. No official explanation or information was provided to school families about this action.
- A few days later, Somerset residents learned – again from television reports, not from the School Board – that Superintendent Tasker-Mitchell had been reinstated. Information gleaned through various sources indicates that this is because the Maryland State School Superintendent overrode the Somerset Board's decision on a temporary basis – initially for 60 days, then pursuant to emergency action for 180 days – while Dr. Tasker-Mitchell appeals the termination.
- Amid the controversy over the Superintendent's firing and reinstatement, the Board introduced Policy 100-6, seeking to shift power over internal school operations from the School Superintendent to the Board. The School Superintendent raised concerns about the proposed

⁵ Minutes of May 20, 2025 Board meeting at p.1, available at <https://www.somerset.k12.md.us/documents/board--of-education/board-meeting-agendas-and-minutes/2024-2025/may-20%2C-2025-boe-meeting/16853731>

changes, which she said would interfere with her ability to do her job. It is our understanding that shortly after introduction of Policy 100-6, the School Board was contacted by State education officials and informed that this policy would conflict with Maryland law. This policy was still pending before the Board as of the July 15 Board meeting.

- At the Board’s meeting on July 15, 2025, the Superintendent and staff presented for final Board approval the state-endorsed English Language Arts (ELA) curriculum Somerset educators have worked with state education officials on for a year and a half, endeavoring to bring the Somerset program up to state educational standards. Two of the four Board members, Mr. Lankford and Mr. Gleason, refused to grant approval, thus vetoing the curriculum, just a month before the start of school.
- A complaint was filed about the Board’s failure to approve the school curriculum with the Maryland Office of the Inspector General for Education and, on July 24, 2025, the OIG issued a strongly-worded report referring the matter to the State Board and suggesting that millions of dollars in Somerset school funding be withheld unless the Board approves a legally compliant curriculum by August 30, 2025. See https://oige.maryland.gov/wp-content/uploads/sites/18/2025/07/MAR-Somerset-Co-25_0263_C-07242025.pdf
- The following day, on July 25, 2025, the Maryland Office of the Inspector General for Education issued its report finding that the Board’s book removal policy, 500-19, risks violation of students’ rights under the Constitution and Maryland Freedom to Read Act. See https://oige.maryland.gov/wp-content/uploads/sites/18/2025/07/MAR-Somerset-Co-25_0263_C-07242025.pdf
- We understand that, also in July, Mr. Lankford contacted the State School Superintendent questioning the State’s power to reinstate Superintendent Tasker-Mitchell for a period beyond 60 days, and seeking approval for appointment of her replacement, who appears to have been considered for hire in secret, Dr. David Bromwell. The State rejected this request.
- When the Board nevertheless persisted in demanding that Dr. Tasker-Mitchell vacate her office effective August 5, 2025, the State Superintendent ordered the Board to comply with her prior ruling that Dr. Tasker-Mitchell is to remain in office until the State Board has heard her appeal, on threat that millions of dollars in school funding could be withheld and Board members removed from office if they defy the State’s decision.

II. Students’ Freedom to Read is Protected by the Constitution and Maryland Law

“Our Constitution does not permit the official suppression of *ideas*.” *Board of Educ. of Island Trees v. Pico*, 457 U.S. 853, 871 (1982) (plurality op.). When the government singles out specific ideas for suppression, just for the sake of suppressing disfavored views, courts are required to intervene. See, e.g., *Nat’l Rifle Ass’n of Am. v. Vullo*, 602 U.S. 175, 198 (2024) (“[T]he First Amendment prohibits government officials from wielding their power selectively to punish or suppress speech[.]”); *Associated Press v. Budowich*, No. 25-CV-00532, 2025 WL 1039572, at *8 (D.D.C. Apr. 8, 2025) (recognizing the government cannot wield its discretionary powers as “a subterfuge ‘to suppress expression merely because public officials oppose the speaker’s view’”) (quoting *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995)).

As a part of the First Amendment’s protection against government censorship of speech, it also protects listening and learning. *Pac. Gas & Elec. Co. v. Pub. Utils. Comm’n*, 475 U.S. 1, 8 (1965). It is long-established that the Government may not infringe on “the right to receive information and

ideas,” which is “fundamental to our scheme of individual liberty.” *Stanley v. Georgia*, 394 U.S. 557, 564 (1969); *see also Lamont v. Postmaster Gen.*, 381 U.S. 301, 306–07 (1965) (holding that the First Amendment protects Americans’ right to receive “communist political propaganda” through the mail); *Griswold v. Connecticut*, 381 U.S. 479, 482 (1965) (“The right of freedom of speech . . . includes not only the right to utter or to print, but the right to distribute, the right to receive, [and] the right to read.”). Since students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate,” *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969), it follows that students also maintain their First Amendment right to access information at school. Indeed, while “all First Amendment rights accorded to students must be construed in light of the special characteristics of the school environment,” *Pico*, 457 U.S. at 868, the “vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.” *Tinker*, 393 U.S. at 512 (citing *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).

Undergirding these constitutional protections, in 2024 the Maryland General Assembly enacted the Maryland Freedom to Read Act (FTRA), Md. Ann Code, Educ. Art. §4-142. This state law was the legislature’s response to problematic partisan efforts like those now under way in Somerset County seeking to censor materials available to Maryland school children. The FTRA integrates the underpinnings of the Supreme Court’s holding in *Pico* by prohibiting the removal of books due to personal disapproval of the content and establishing procedures guided by professional educators to guard against such censorship.

A. Student Access to School Library Collections is Legally Protected

For more than 40 years, the First Amendment has restrained public school libraries from removing books based on political disagreements. In its only case addressing materials in public school libraries, the Supreme Court made clear that “school officials may not remove books for the purpose of restricting access to the political ideas or social perspectives discussed in them, when that action is motivated simply by the officials’ disapproval of the ideas involved.” *Pico*, 457 U.S. at 879–80 (J. Blackmun, concurring) (emphasis added); *id.* at 872 (plurality op.). In *Pico*, parents in a New York school district had obtained a list of “objectionable” books at a conservative education conference. *Id.* at 856. Upon learning that some of the listed books were present in the district’s libraries, members of the school board aligned with the concerned parents directed the removal of nine books. *Id.* at 857. Students who had been denied access to the library books sued to vindicate their First Amendment rights.

A plurality of the Supreme Court held that “local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to ‘prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.’” *Id.* at 872 (plurality opinion) (quoting *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943)). In so doing, the plurality made clear that “the First Amendment rights of students may be directly and sharply implicated by the removal of books from the shelves of a school library.” *Pico*, 457 U.S. at 866. The plurality opinion recognized that “just as access to ideas makes it possible for citizens generally to exercise their rights of free speech and press in a meaningful manner, such access prepares students for active and effective participation in the pluralistic, often contentious society in which they will soon be adult members.” *Id.* at 868.

It is hard to overstate the reverence for school libraries held by the members of the *Pico* Court. The plurality highlighted that “the special characteristics of the school *library* make that environment especially appropriate for the recognition of the First Amendment rights of students.” *Id.* It recognized that “[a] school library, no less than any other public library, is ‘a place dedicated to quiet, to knowledge, and to beauty.’” *Id.* (quoting *Brown v. Louisiana*, 383 U.S. 131, 142 (1966)). The plurality

further emphasized that “students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding” and that “[t]he school library is the principal locus of such freedom.” *Pico*, 457 U.S. at 868–69 (quoting *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967)). In a school library “a student can literally explore the unknown, and discover areas of interest and thought not covered by the prescribed curriculum The student learns that a library is a place to test or expand upon ideas presented to him, in or out of the classroom.” *Pico*, 457 U.S. at 869 (quoting *Right to Read Def. Comm. v. Sch. Comm.*, 454 F. Supp. 703, 715 (Mass. 1978)).

The State of Maryland endorsed and built on the principles lauded by the *Pico* plurality in its 2024 enactment of the Maryland Freedom to Read Act and its implementing regulations. The FTRA expressly mandates that materials cannot be excluded from school library collections because of “partisan, ideological or religious disapproval” nor “solely because of the origin, background, or views of the individual who created the material.”

Further, the FTRA sets forth a state policy that requires local school systems to operate school library media programs in accordance with specified standards, to develop and implement policies and procedures to review objections to materials included in school library media programs, and to prohibit the county board of education from retaliating against library media program personnel for performing their jobs consistent with the Act’s standards. To be compliant with the FTRA, local school systems must (i) establish a uniform process for students, parents, or guardians enrolled in the local school system, or school personnel, to object to included materials; (ii) allow the materials under review to remain available for use until the process had concluded; and (iii) establish a reasonable timeline to conduct and conclude the review process in a timely manner. The FTRA and its implementing regulations further mandate that school librarians and staff be integrally involved in review and resolution of book removal requests.

Policy 500-19 violates the FTRA both substantively and procedurally. First, this policy is impermissibly motivated by Board antipathy against materials inconsistent with members’ personal partisan, ideological and religious positions. Moreover, with its sweeping condemnation of any and all library materials that might somehow “discourage, convey a sense of futility, affirm or promote negative or destructive character traits such as victimhood, rebellion, lawlessness,” the policy lacks any “sufficiently definite and objective” standards “to prevent arbitrary or discriminatory enforcement” of “the policy as a pretext for censorship.” *Amalgamated Transit Union Loc. 1015 v. Spokane Transit Auth.*, 929 F.3d 643, 654 (9th Cir. 2019). This vague and overbroad language means there is significant risk of viewpoint discrimination, especially where decisions are made by political figures who are “the object of political pressures” that often “run contrary to the protections that the First Amendment affords political and other controversial forms of expression.” *Cinevision Corp. v. City of Burbank*, 745 F.2d 560, 575 (9th Cir. 1984).

Federal courts have routinely overturned book removals grounded in such policies and motivations. *See, e.g., Case v. Unified Sch. Dist. No. 233*, 908 F. Supp. 864, 877 (D. Kan. 1995) (granting injunction to restore to school library a book about a romantic relationship between teenage girls); *Sheck v. Baileyville Sch. Comm.*, 530 F. Supp. 679, 693 (D. Me. 1982) (granting preliminary injunction to restore to high school library a book with objectionable language). In granting summary judgment to students in one such case, the court recognized that “[r]egardless of the personal distaste with which [school board members] regard ‘witchcraft,’ it is not properly within their power and authority . . . to prevent the students at Cedarville from reading about it.” *Counts v. Cedarville Sch. Dist.*, 295 F. Supp. 2d 996, 1004–05 (W.D. Ark. 2003). And, just this year, the District of Colorado ordered the “immediate[] return” of 19 books to library shelves, after a school board had deemed them “too sensitive” to display. *Crookshanks as parent and next friend of C.C. v. Elizabeth Sch. Dist.*, No. 24-CV-03512, 2025 WL 863544, at *1 (D. Colo. Mar. 19, 2025).

Policy 500-19 is, on its face, violative of both the First Amendment and the Maryland Freedom to Read Act. We strongly urge you to repeal it.

B. The Board's Disapproval of the ELA Curriculum is Unlawful Censorship

First Amendment protections for students extend beyond access to library books, limiting governmental efforts “to control even the curriculum and classroom.” *Pico*, 457 U.S. at 861. While historically, courts have acknowledged that “[b]y and large, public education in our Nation is committed to the control of state and local authorities.” *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968), the “state’s power to prescribe a curriculum” must still be constitutionally “reasonable.” *Meyer v. Nebraska*, 262 U.S. 390, 402 (1923).

For example, generations ago, the Supreme Court held that a state cannot, consistent with the Constitution, “forbid[] the teaching in school of any subject except in English[.]” *See id.* at 400. Similarly, the Court has held that “the First Amendment does not permit the State” to prohibit teaching the theory of evolution “for the sole reason that it is deemed to conflict with a particular religious doctrine” held by those in power. *See Epperson*, 393 U.S. at 103, 106. The Supreme Court explained in *Hazelwood School District v. Kuhlmeier* that “educators do not offend the First Amendment by exercising editorial control” over school-sponsored curriculum “so long as their actions are reasonably related to legitimate pedagogical concerns.” 484 U.S. 260, 273 (1988). Federal courts applying this principle have repeatedly reaffirmed that public school students possess a First Amendment right to receive curricular information, safeguarding them from official acts of curricular censorship that are unjustified by legitimate pedagogical concerns. *See, e.g., Arce v. Douglas*, 793 F.3d 968 (9th Cir. 2015); *Virgil v. Sch. Bd. of Columbia Cnty., Fla.*, 862 F.2d 1517 (11th Cir. 1989); *Pratt v. Indep. Sch. Dist. No. 831, Forest Lake, Minn.*, 670 F.2d 771 (8th Cir. 1982).

In *Arce*, public school students challenged a statute barring school districts from providing curriculum that, *inter alia*, “[is] designed primarily for pupils of a particular ethnic group” and the resulting elimination of a school district’s Mexican American Studies program. 793 F.3d at 973. The Ninth Circuit concluded that the students’ First Amendment right to receive information barred the state from removing “materials otherwise available in a . . . classroom unless its actions are reasonably related to legitimate pedagogical concerns.” *Id.* at 983. On remand, the challenged statute was invalidated as violative of students’ First Amendment right to receive curricular information. *Gonzalez v. Douglas*, 269 F. Supp. 3d 948 (D. Ariz. 2017). The district court held that the statute’s stated goal of “reduc[ing] racism in schools” was “a legitimate pedagogical objective,” but the court concluded that the statute in fact amounted to unconstitutional curricular censorship “enacted and enforced for narrowly political, partisan, and racist reasons.” *Id.* at 973.

Likewise, the Eleventh Circuit in *Virgil* applied *Hazelwood* to determine that the First Amendment requires public school officials to advance legitimate pedagogical interests where they remove material from school classrooms. *Virgil*, 862 F.2d at 1521–22. While legitimate pedagogical interests may include ensuring curricular materials are age appropriate, *id.* at 1522–23, mere objections to the ideological or political viewpoint cannot justify removal.

Board officials have made clear that their censorship efforts are grounded in a political, anti-diversity, equity and inclusion agenda and that they are dedicated to the removal of books and curricula that values the experiences, stories and histories of traditionally underrepresented groups – specifically targeting the inclusion of materials that affirm Black and LGBTQIA+ communities. Because this effort casts a pall of political orthodoxy over the schools, it is unlawful.

C. The Board's Actions Likely Violate Transparency Laws.

As United States Supreme Court Justice Louis D. Brandeis famously said, “sunlight is said to be the best of disinfectants.” To actualize this core value, Maryland decades ago enacted the Open Meetings Act, which was designed to ensure that members of the public are aware of and involved in the critical decisions made on their behalf. Under the Open Meetings Act, members of a public body must give “reasonable advance notice” of its meetings, make an agenda available in advance, hold meetings openly, adopt minutes, and retain records for five years. Md. Code Ann., Gen. Prov. § 3-302–306. While public bodies may discuss certain enumerated topics behind closed doors, they must disclose those topics and the basis for their decision to exclude the public in order to close the meeting *before* voting in public on whether to close a meeting. Md. Code Ann, Gen. Prov. § 3-305(d). Closing statements “must disclose three types of information: the citation to the section of the Act that authorizes the exclusion of the public (the statutory ‘exception’); a description of the topic to be discussed; and a statement of the reason for excluding the public.” 9 OMCB Opinions 29, 32 (2013). “The presiding officer should disclose as much information as he or she can without compromising the confidentiality of the session,” and “[m]ere repetition of the words of the statutory exception is almost always insufficient.” *Id.* Those written statements must be a matter of public record. Md. Code Ann., Gen. Prov. § 3-305(d).

Many of the actions underlying the controversies consuming Somerset County schools this summer have been carried out by the School Board without fair public notice and/or in closed session, with some clearly failing to meet the requirements of public transparency laws, including the Open Meetings Act. These actions include:

- The Board’s clandestine hiring of political allies as counsel without a proper vetting process under then-existing Policy 100-18;
- The attempt to cover up this policy violation through subsequent repeal of Policy 100-18;
- Failure to provide adequate advance notice about multiple closed sessions as required by the Maryland Open Meetings Act;
- Failure to advise the public about major actions it is undertaking, such as its attempted firing of the School Superintendent and hiring of a new Superintendent through a secret process in defiance of orders from the State School Superintendent, placing millions of dollars in school funding at risk; and
- Suppression of constitutionally protected public protest, civic participation in Board meetings, and other forms of First Amendment expression aimed at ensuring transparency and holding public officials accountable.

These actions are all seemingly designed hide Board actions from the public so as to permit the Board to run roughshod over the rights of Somerset County residents, to diminish the role of professional educators, and to allow indoctrination of Somerset schoolchildren with political orthodoxy endorsed by Board members. It is unacceptable.

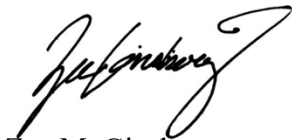
The Somerset County School Board has violated state and federal law at every step, jeopardizing the long-term learning outcomes of Somerset students and the independence of our teachers and librarians. We urge you to cease future illegal actions by rescinding Board Policy 500-19, adopting an updated curriculum for SY 2025-2026 in compliance with Maryland law, disclosing critical information from improperly closed sessions including about the hiring of Schifanelli Law LLP and other matters, and altering Board practices to conduct proceedings in strict compliance with the Open Meetings Act going forward.

Thank you for your time and attention to this matter and for your timely response to the attached Maryland Public Information Act request.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah A. Jeon".

Deborah A. Jeon, Legal Director

A handwritten signature in black ink, appearing to read "Zoe M. Ginsberg".

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Cc: Dr. Ava Tasker-Mitchell
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Victoria Green

Enclosure: Maryland Public Information Act Request