

January 15, 2021

Sent via e-mail to [elliotalford@gmail.com](mailto:elliotalford@gmail.com)

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Re: Response to Your December 31, 2020 Letter re: Flagstaff USD (“the District”)

Dear Mr. Alford,

This letter constitutes a response to your letter dated December 31, 2020. Your letter requested information regarding Flagstaff Unified School District’s past and ongoing decisions regarding the re-opening of schools during the COVID-19 pandemic. Please see the information below, which is responsive to your request and addresses the allegations that the District has violated state and federal law by remaining open for distance learning only.

As a preliminary matter, the Governing Board and administration of the District wish to emphasize that the District is aware of the difficulties that children face when they are unable to attend classes in person. All agree that distance learning is not ideal, and as a result, the Governing Board and District administration are working to reopen schools to in-person learning as soon as it is safe to do so. However, health and safety remain the District’s priority.

Both the Arizona State Legislature and Governor Ducey have given Arizona school districts discretion to decide when and how to safely reopen and to balance the needs of all parties, including students, teachers, and parents. Although the Governor, the Arizona Department of Health Services (ADHS), and the Arizona Department of Education have provided guidelines for reopening, these guidelines represent a minimum level of virus containment that should be achieved before reopening. As ADHS Director Cara Christ noted, “[the benchmarks] were developed to provide school leaders with the data and metrics to make informed decisions. But ultimately, as has been the case since the benchmarks were released, local school authorities continue to be the ultimate decision makers when it comes to determining the best instructional model to use.”<sup>1</sup>

There is no legislation or executive order that currently requires school districts to open. To the contrary, Executive Orders 2020-41 and 2020-51 expressly allow Arizona school districts to meet statutory requirements by qualifying as an Arizona Online Instruction program, subject to specific eligibility requirements. Your letter does not claim that the District has not met these

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<sup>1</sup> See Cara M. Christ, Arizona Department of Health Services, “Clarifications Regarding the School Benchmarks”, available at <https://directorsblog.health.azdhs.gov/clarifications-regarding-the-school-benchmarks/>

requirements, and to the best of our knowledge, the District meets all requirements set forth in relevant executive orders.

Importantly, both ADHS and Coconino County currently recommend a “virtual” educational delivery model. See Exhibits 1 and 2. While on December 18, 2020, the ADHS school benchmarks indicated that it may be safe to implement a hybrid model of education, by December 24, the metrics had changed, such that ADHS now recommends a virtual school delivery model for all Arizona counties. See Exhibit 3. Since August, the case count rate has been trending upward. In Coconino County, the weekly case count rate has not been below 75 per 100,000 since August 29. See Exhibit 4.

Considering the rising number of cases of COVID-19 within the county, the Governing Board and District administration did not want to move to a hybrid model of learning, which would increase the risk of further spreading the virus, only to move back to distance learning as the virus further spread. It is not in the best interest of students or teachers to constantly move from one learning modality to another.

Your letter alleges that the District has violated both the Arizona and United States constitutions. We respectfully but strongly disagree with these assertions, because, as noted above, the District has complied with all state laws and executive orders and has not violated the constitutional provisions you reference.

The Governing Board and District administration are closely monitoring the situation. The Governing Board reviews benchmarks and other health information received from State and County sources every month at Governing Board meetings. The goal in all these meetings is to plan for a reopening for in-person learning once it is safe to do so. So far, case trends have not indicated that reopening is safe.

All parents are invited to view Governing Board meetings and participate in the District’s public comment process. The Governing Board and Administration have heard and read hundreds of comments from parents on all sides of the school reopening issue and have carefully considered and weighed the same. As well, parents who have specific concerns about their own student(s) may communicate with their school principal to discuss the same. In accordance with Executive Orders 2020-41 and 2020-51, the District has provided and will continue to provide on-site learning opportunities including teacher-led or paraprofessional support for students participating in distance learning. Parents and students in need of on-site learning opportunities are encouraged to contact their school principal for details and to address specific student needs.

I hope that this letter adequately responds to your concerns. If you have further questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Denise Lowell-Britt". The signature is written in a cursive, flowing style.

Denise Lowell-Britt