Loudoun County
VIRGINIA

Phyllis J. Randall
Chair At-Large
Board of Supervisors
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Chairman, Loudoun County School Board
21000 Education Court
Ashburn, Virginia 20148

Dear Chairman Serotkin,

Please consider this a formal request for the release of the internal report commissioned by Loudoun County Public Schools regarding the sexual assaults that took place on May 28, 2021. My colleague, Vice Chair Koran Saines, and I have made this request multiple times from the dais of the Loudoun County Board of Supervisors. However, having received no response – whether formal or informal – I now feel it is necessary to make this request formally and in writing.

Please understand this is not a request from the full Loudoun County Board of Supervisors as we have not taken a vote on this matter. This request is from the Office of the Chair at-Large, and of the Vice Chair. However, the full Board of Supervisors will be made aware of this request.

If, as Chair of the Loudoun School Board, you are unable to convince a majority of your Board to release the entire report, Vice Chair Saines and I request that an executive summary and a redacted report be made available.

There is not only intense public interest, but intense interest on the Board of Supervisors as to just how these incidents were able to occur, how Loudoun County Public Schools administration has addressed the cracks in the system, and how the public can have confidence that systems have been changed to a degree that incidents like this will be prevented in the future. Until the public has access to the findings of your internal report, it will be difficult to restore confidence in LCPS and turn the page from this unconscionable episode.

I look forward to hearing from you by February 1st.

Thank you,

Phyllis J. Randall
Chair At-Large
Loudoun County Board of Supervisors

Koran Saines
Vice Chair
Loudoun County Board of Supervisors

LOUDOUN COUNTY PUBLIC SCHOOLS

21000 Education Court
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Ian Serotkin, Chairman, Loudoun County School Board
Blue Ridge District

Harris Mahedavi, Vice Chairman, Loudoun County School Board
Ashburn District

Chair Phyllis Randall, Loudoun County Board of Supervisors
1 Harrison Street, SE, PO Box 7000
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Dear Chair Randall and Vice Chair Saines,

Thank you for your letter requesting release of the report written by Blankingship & Keith ("the B&K report") in response to the sexual assaults that occurred at Stone Bridge and Broad Run High Schools in 2021.

We fully appreciate the public's understandable interest in these incidents, and the Loudoun County School Board ("the School Board") is committed to taking all appropriate steps to ensure that such incidents do not happen in the future.

Since the release of the Special Grand Jury report in December, the School Board has been considering whether it is advisable to release the B&K report. As the report was prepared for the School Board in anticipation of litigation, it is a confidential record that contains attorney work product and that is wholly covered by the attorney-client privilege. Customarily, such reports, when prepared by attorneys under those circumstances, would remain attorney-client privileged. Waiving the privilege by releasing the report in some form or another raises complex issues beyond just the contents of the report itself and would have implications for ongoing or future legal matters involving the school division and its employees. These include potential disclosure of other attorney-client privileged communications or attorney work product, setting precedent wherein a public body and/or elected officials waive privilege for their successors, and an impact on the ability to receive frank and open communications in the future between the School Board and its attorneys.

Although many of the details concerning the incidents and Loudoun County Public Schools' (LCPS) response to them have already been made public via the Special Grand Jury report and other means, following the release of the Special Grand Jury report, the School Board has faced intense pressure from the community to waive the attorney-client privilege and release the B&K report to the public. Given this renewed interest in the B&K report, the School Board has recently asked a law firm – one that has never worked with LCPS in any capacity previously – to provide legal guidance to the School Board on the best course of action to ensure that the School Board has a complete understanding of the options available to it and the implications of any decision to waive applicable privileges in this circumstance. We expect the

School Board to receive that legal advice in early February and to make a decision regarding whether to release the B&K report after that time.

Part of your letter indicates a desire to understand the degree to which systems within LCPS have been changed to prevent incidents like those that occurred in 2021 from happening again. What follows is a summary of the relevant changes LCPS has made since October 2021 in response to those incidents, in roughly chronological order:

- In October 2021, LCPS revised and expanded its alternative school placement process to better serve students who may pose a safety risk to themselves or others. This includes using the North Star School, distance learning, or other alternative settings for disciplinary placements. In fall of 2022, LCPS added additional staff members at the North Star School to even better serve students who transfer to that location from another school. LCPS has also created a Division-wide Student Support Placement Team and a Placement Review Team to better support students going into and coming out of alternative placement settings to ensure that proper transition and support structures are in place.

- In October 2021, the School Board added an item to our legislative agenda supporting further changes to Title IX to strengthen and restore protections against sexual harassment, sexual violence, and sex-based discrimination.

- From November of 2021 through August of 2022, LCPS provided several training sessions for LCPS administrators regarding the timely reporting of disciplinary data to the Virginia Department of Education (VDOE) in response to concerns that disciplinary data had not been accurately reported in the summer of 2021.

- In December 2021, LCPS collaboratively resolved ostensible gaps in the arrest-notification process with the Juvenile Court Service Unit, to ensure that notifications from the court system are sent to the proper LCPS office and receipt is confirmed. Additionally, discussions are currently underway to pilot a new e-notification system which would further streamline the notification process.

- On January 21, 2022, LCPS' Title IX Coordinator was replaced and an interim Title IX Coordinator was appointed.

- Also in January 2022, the School Board's adopted budget included expansion of the size and scope of the Title IX Office from one, part-time responsibility of the Chief of Staff to a full-time Title IX Coordinator and two Title IX investigators, in order to increase capacity in processing allegations and complaints, as well as performing investigations.

- In January and February of 2022, Division Counsel and the Interim Title IX Coordinator conducted a review of incidents reported by staff that potentially implicated Title IX during the 2021-22 school year to discern whether all Title IX processes were followed and complaints were appropriately

addressed, and our Interim Title IX Coordinator took corrective action where appropriate.

- In March 2022, LCPS hired a permanent, full-time Title IX Coordinator and followed that up with two Deputy Coordinators later in the year to help ensure that any incidents that should be investigated under Title IX were promptly and appropriately investigated.

- In March 2022, LCPS completed providing additional mandatory training to all school administrators to reinforce the understanding of their obligations regarding allegations of sexual harassment and assault, and there was additional training for staff on this issue again at the beginning of the school year.

- In the summer of 2022, LCPS staff contacted the Loudoun County Sheriff's Office, in order to update the parties' School Resource Officer Memorandum of Understanding to better coordinate investigation and reporting regarding Title IX incidents. That process remains ongoing.

- In October 2022, the School Board added an item to LCPS' legislative agenda supporting changes to state code to clarify that law enforcement agencies are required to verifiably communicate a report on any arrest of a school division student or employee within 24 hours or the next business day.

- Throughout late 2021 and 2022, the School Board revised numerous policies relating to discipline, student behavior, and Title IX. Specifically, these included revisions to:
    - Policy 8030 (Student Discrimination and Harassment) was revised to clarify and expand protections for students against discrimination and harassment in schools;
    - Policy 8035 (Title IX, Sex-Based Discrimination, Sexual Harassment) was revised to provide more detail and clarity to families regarding the Title IX process;
    - Policy 8220 (Student Disciplinary Consequences) was revised to provide more detail regarding alternative educational placements when students are charged with criminal offenses.

- Additionally, during late 2022, LCPS began the process to propose a regulation to accompany Policy 8225 (Re-Admission, Exclusion or Admission of Students), concerning the procedures for the re-admission or exclusion of LCPS students who have been long-term suspended or expelled, as well as the procedures for the admission or exclusion of students of non-LCPS students who have either been expelled or long-term suspended from other school divisions, school districts in other states, or from private schools. It is anticipated that this regulation will include and track language from any updated/amended policies, regarding any transition meeting among various stakeholders for the purpose of discussing any relevant safety/security considerations prior to a student's re-admission/admission.

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- On December 6, 2022, the day after receiving the Special Grand Jury report, the School Board terminated the employment of the Superintendent.

- On December 13, 2022, the School Board held a public work session to discuss the eight recommendations in the Special Grand Jury report.

    - Changes to seven different LCPS policies were proposed by staff to be responsive to those recommendations:
        - Policy 1030 (A Code of Conduct for School Board Members) [Responsive to Recommendation 5]. The purpose of this change was to include the expectation for School Board members to generally conduct business publicly, after the Special Grand Jury report recommended that the School Board use the attorney-client privilege less often.
        - Policy 2430 (School Board Agenda) [Responsive to Recommendation 8]. Recommendation 8 requested that the nonrenewal of a teacher's contract not be placed on the School Board consent agenda, and this proposed change in policy will codify that recommendation.
        - Policy 3070 (Safety- and Emergency-Related Communications) [Responsive to Recommendation 1]. Recommendation 1 requested that the School Board include as much information as possible regarding significant incidents on school property, and this proposed amendment to policy will codify that recommendation.
        - Policy 8155 (School Assignment) [Responsive to Recommendations 2, 3, and 6]. Recommendation 2 requested LCPS to re-examine its transfer process, and the proposed amendments to this policy are designed to ensure that student transfers are done with more oversight and with more involvement from the School Administration. Recommendation 3 recommended that the Director of Safety and Security be more involved in transfers of students who present potential safety issues in a school. Additionally, Recommendation 6 emphasized the need for improved cooperation and coordination across agencies in ensuring student safety and security. The proposed amendments encourage and require more collaboration with partner agencies and calls for the LCPS Director of Safety and Security to be involved in transfers of students who present potential safety issues in a school.
        - Policy 8290 (Threat Assessment for the Protection of Schools) [Responsive to Recommendations 2 and 3]. Recommendation 3 was for the LCPS Director of Safety and Security to be more involved, and this proposed amendment to policy would ensure that the Director of Safety and Security would play a more direct role in transfers for safety reasons and in situations in which a student presented a potential safety issue.
        - Policy 8640 (Disclosure of Personally Identifiable Information) [Responsive to Recommendation 1]. This proposed amendment is recommended to reinforce the recommendation that the community is better informed regarding significant incidents that take place on school property.

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- Policy 8650 (Student Technology Acceptable/Responsible Use Policy) [Responsive to Recommendation 4]. Recommendation 4 was for LCPS to tighten security policies regarding access to web applications on school-issued devices. The School Board will consider whether policy revisions should be incorporated to help ensure that programs or applications that are used to bypass content filtering applications cannot be accessed on school devices or on the LCPS wireless network.

  - Those policy changes are undergoing an expedited review process to allow for public and advisory committee feedback, and we anticipate the School Board finalizing changes to those policies in the next few months.

  - Additionally, as also discussed during the December 13, 2022 work session, LCPS plans to consult with outside agencies and experts on how to implement some of the report's recommendations, such as customized training from a third-party agency on FERPA disclosures in times of emergency and transparency best practices to help improve communications with the community when safety incidents take place in the schools.

- The Superintendent's FY24 Estimate of Needs includes funding for Student Support Advisors, a new position at secondary schools, to further support students transitioning to and/or from alternative education settings.

The School Board will continue to consider other actions in the areas of policy changes, personnel actions, process improvements, legislative proposals, and improving communications with partner agencies to be responsive to recommendations as appropriate.

Please let us know if you have any questions regarding the information in this letter.

Sincerely,



Ian Serotkin
Chairman
Loudoun County School Board



Harris Mahedavi
Vice Chairman
Loudoun County School Board

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February 6, 2023

Chairman Loudoun County Public Schools
21000 Education Court
Ashburn, Virginia 20148

Chairman Serotkin & Vice Chair Mahedavi,

Thank you for responding to the request from Vice Chair Saines and I regarding the release of the entire Blankingship & Keith report in response to the sexual assaults that occurred at Stone Bridge and Broad Run High Schools in 2021. I also appreciate the list of reforms that LCPS has instituted since these incidents were uncovered, particularly the effort to strengthen Title IX and to resolve gaps around the arrest-notification process with the Juvenile Court Service Unit.

As we both know — or should know — "attorney-client" privilege belongs to the client and not the attorney. Any client at any time can waive the privilege. It's important to point that out before going any further. Any claim of or allusion to a failure to release this report on this basis should be accurately framed as a *choice* and not a *requirement.*

There is understandable sensitivity around the release of attorney-client work product. However, I reiterate that LCPS could redact portions of the report containing legal advice and produce the remainder for public consumption. Furthermore, as waiving of attorney-client privilege is done on a case-by-case basis, there is no "precedent" that one would be required to adhere to in the future. There is no precedential value in LCPS, the client to whom the privilege belongs, waiving this privilege in this singular case.

Some have said that the Special Grand Jury's work and report were politically motivated. However, in the absence of any comprehensive disclosure of details by Loudoun County Public Schools, it stands alone as the public's only comprehensive view into the details of this case and that does not help LCPS or the County at large begin to heal and improve as it leaves open questions regarding the ongoing leadership. One of those very concerns — highlighted in the report — is an excessive dependence and mis-applicaiton of "attorney-client privilege" to shield the public from pertinent details regarding this matter.

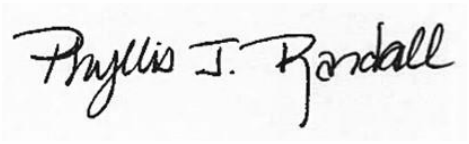
As stated in the report, *"School board members seem to labor under the belief that every discussion that takes place in the presence of division counsel, whether or not division counsel is even involved in the discussion, is subject to the attorney-client privilege, whether or not the communication is seeking legal advice or not, and whether or not circumstances of the discussion should even appropriately be considered confidential."* Attorney-client privilege *"should not be used as a shield that impedes transparency, accountability, and openness, especially when it comes to the operations of a public body."*

It is my fervent hope that LCPS reconsiders this stance and decides to release either the entire report with redactions regarding matters truly necessary to be shielded under attorney-client privilege or an executive summary the accomplishes the same goal. Anything less will leave the public and — frankly the Board of Supervisors — with grave concerns.

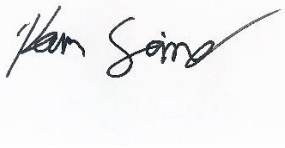
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Sincerely,



Phyllis J. Randall
Chair At-Large
Loudoun County Board of Supervisors



Koran Saines
Vice Chair
Loudoun County Board of Supervisors



Tony Buffington
Supervisor, Blue Ridge District
Loudoun County Board of Supervisors



Kristen Umstattd
Supervisor, Leesburg District
Loudoun County Board of Supervisors



Caleb Kershner
Supervisor, Catoctin District
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Mike Turner
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Matt LeTourneau
Supervisor, Dulles District
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Sylvia Glass
Supervisor, Broad Run District
Loudoun County Board of Supervisors