

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

C [REDACTED] and T [REDACTED] [REDACTED];

R.I. and V.I., minors, by and through their parents, C [REDACTED] and T [REDACTED] [REDACTED], as the minors' next friend;

M [REDACTED] and M [REDACTED]
M [REDACTED];

P.M., a minor, by and through the minor's parents, M [REDACTED] and M [REDACTED]
M [REDACTED], as the minor's next friend;

K [REDACTED] and M [REDACTED] G [REDACTED];

T.G. and N.G., minors, by and through their parents, K [REDACTED] and M [REDACTED]
G [REDACTED], as the minors' next friend;

E [REDACTED] and T [REDACTED] D. T [REDACTED];

D.T. and H.T., minors, by and through their parents, E [REDACTED] and D [REDACTED] T [REDACTED], as the minors' next friend;

M [REDACTED] R [REDACTED]; and

L.R., a minor, by and through the minor's parent, M [REDACTED] R [REDACTED], as the minor's next friend;

Plaintiffs,

v.

ALBEMARLE COUNTY SCHOOL BOARD,

Serve: Albemarle County School Board
401 McIntire Rd, Room 345
Charlottesville, VA 22902

Case No. CL21001737-00

**PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

MATTHEW S. HAAS, Superintendent, in his official capacity; and

Serve: Matthew S. Haas
401 McIntire Rd, Room 345
Charlottesville, VA 22902

BERNARD HAIRSTON, Assistant Superintendent for School Community Empowerment, in his official capacity;

Serve: Bernard Hairston
401 McIntire Rd, Room 345
Charlottesville, VA 22902

Defendants.

Plaintiffs move this Honorable Court for a preliminary injunction against Defendants Albemarle County School Board and its agents, officers, directors, employees, and representatives, including Defendants Matthew S. Haas and Bernard Hairston.

In support of this motion, Plaintiffs will file a Memorandum in Support of Plaintiffs' Motion for Preliminary Injunction, with accompanying documents.

Plaintiffs also state as follows:

1. In 2019, Defendants adopted their "Anti-Racism" Policy (Policy), which redefines "racism" as a social malady that can only afflict persons of a certain race; that calls for different racial groups to be treated differently based solely on race; and that is built on an ideology calling for the dismantling of the family and Christianity.
2. To advance its goals, Defendants mandated staff training on the Policy, which included urging teachers to implement and incorporate into their classroom instruction an ideology (sometimes called critical theory, critical

race theory, or ideology) that is intolerant of dissent, advances racial stereotypes, and treats students unequally based on their race or religious beliefs.

3. Defendants also implemented the Policy in the classroom and incorporated it into the school environment as follows:

- a. Defendants ran an “anti-racism” pilot program at Henley Middle School in Spring 2021. The program told students to view everyone and everything through a distorted racial lens. It classified students based on racial groups and told students that all people are either perpetually privileged oppressors or perpetually victimized members of the oppressed group, denying agency to both. For example, the program said that white, Christian students are “dominant” and that the “dominant culture” oppresses students of color and non-Christian students who are dismissively classified as “subordinate.” The program instructed all students that to stop racism, they must work daily to dismantle the dominant white, Christian culture.
- b. Defendants have mandated, and they have already begun, making changes to curriculum in every subject and grade level to teach children the same tenants that were taught in the pilot program. For example, English Language Arts teachers were told to focus students on whiteness, white privilege, and white-dominant culture when teaching literature in their classrooms. And in Social Studies, Defendants have begun using books that tell students to view history through a critical theory lens.
- c. Both the pilot program instruction, and the instruction being implemented in every subject and grade, is designed to indoctrinate students in “anti-racism” ideology, which actually promotes racism.

The ideology is not being taught to students as one possible worldview but rather as an objective description of the world. Students are expected to conform their thoughts, words, and actions to the new “anti-racism” ideology.

- d. Defendants’ disciplinary policies and procedures further this indoctrination. These include punishment for any student who engages in racism. While everyone should agree that opposing actual racism is necessary, Defendants’ Policy poses a constitutional problem because it redefines “racism” in a new way. According to the Policy-based instruction to students, any person who does not affirm and engage in “anti-racist” activism is a racist. The Policy-based curriculum also explains that it is racist to advocate for “colorblindness,” deny having “white privilege,” challenge racial stereotypes, remain apolitical, or disagree with Defendants’ political positions on certain topics. Defendants’ policies then permit punishment up to expulsion for these and other purportedly “racist” behaviors. This further compels students to speak and believe in accord with Defendants’ anti-racist” ideology and Policy.
4. Plaintiffs are current District students and parents, and former District parents who withdrew their children because of the Policy. They have already been harmed by the Policy and will experience ongoing harm if Policy implementation continues. Plaintiffs have experienced impermissible racial and religious hostility, pressure to affirm and embrace the Policy as truth, and interference with their parental rights because of the Policy.
 - a. Plaintiff V.I., who is Latina, has found the curriculum confusing and upsetting because it taught she is oppressed by white students because of her race, but also that she oppresses other students because she is

Christian. As part of the curriculum, she was shown a video that was hostile to her Catholic faith.

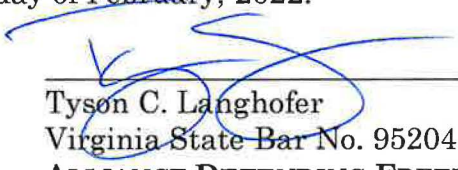
- b. Plaintiff L.R., who is white, Native American, and Black, is uncomfortable with the intense focus on race. When his mother raised these concerns, she was told the school would create a “safe space” for children of color separate from white students—in other words the school would segregate them based on race.
 - c. When Plaintiff P.M. respectfully expressed his religious views in class, he was confronted by other students who expressed hostility towards his beliefs. His parents brought the incident to Principal Costa’s attention, but nothing was ever done and no action was taken against the other students.
 - d. Plaintiffs T [REDACTED] and M [REDACTED] have pulled children from District schools because of the racially and religiously hostile curriculum.
 - e. And Plaintiffs G [REDACTED] are ready to remove their children if this racially and religiously hostile curriculum continues at the grade-school level.
5. Because of this, the Policy and its implementation violate the Virginia Constitution in at least the following ways:
- a. It violates the constitution’s guarantee that Virginia citizens have “the right to be free from any governmental discrimination upon the basis of religious conviction, race, color, sex, or national origin....” Va. Const. art. I, § 11.
 - b. It violates the constitution’s guarantee that Virginia citizens have “the freedoms of speech...that any citizen may freely speak, write, and publish his sentiments on all subjects.” Va. Const. art. I, § 12.

- c. It violates the constitution's guarantee that Virginia citizens are "equally entitled to the free exercise of religion, according to the dictates of [their] conscience." Va. Const. art. I, § 16.
 - d. It violates the constitution's guarantee that Virginia citizens have the "fundamental right" of parents "to make decisions concerning the upbringing, education, and care of the parent's child." Va. Code § 1-240.1; *see also* Va. Const. art I, § 11.
6. To stop the ongoing harm stemming from Defendants' constitutional violations, Plaintiffs move for a preliminary injunction. Specifically, Plaintiffs request the following preliminary relief:
- a. A preliminary injunction directing Defendants and any other persons acting on their behalf to refrain from implementing, enforcing, or engaging in policies, practices, and conduct that 1) inculcate racial stereotypes and treat students differently based on race; 2) demean, punish, and threaten to punish students for articulating viewpoints that differ or dissent from the ideology imposed by the "Anti-Racism" Policy; 3) require students to adopt and affirm the ideology imposed by the Policy, including racially discriminatory views; 4) inculcate religious stereotypes and treat students differently based on religion; or 5) are hostile toward Plaintiffs' religious beliefs.
 - b. A preliminary injunction ordering Defendants and persons acting on their behalf to provide Plaintiffs notice and opportunity to review Policy-based instruction at least a week before it is taught and to opt their children out of that instruction without a penalty of any kind. Such instruction and programming includes that which inculcate racial stereotypes, engage in disparate treatment based on race, or is hostile or discriminatory toward religion.

7. Absent the requested relief, Plaintiffs will suffer irreparable injury, in particular, the loss of rights and freedoms guaranteed by the Virginia Constitution. Plaintiffs are likely to succeed on the merits, the balance of equities weighs in favor of granting an injunction to secure these rights, and it is in the public interest to enjoin the enforcement of a Policy that likely infringes constitutional rights. *Leaders of a Beautiful Struggle v. Balt. Police Dep't*, 2 F.4th 330, 346 (4th Cir. 2021) (en banc).

Plaintiffs request a hearing on Plaintiffs' motion for preliminary injunction. Plaintiffs have conferred with opposing counsel and are working to establish a briefing schedule and anticipate filing a praecipe with that agreed schedule and a hearing date request.

Respectfully submitted this 3rd day of February, 2022.



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