

**STATE OF RHODE ISLAND,
PROVIDENCE, SC.**

SUPERIOR COURT

**NATIONAL EDUCATION ASSOCIATION
OF RHODE ISLAND, and NATIONAL
EDUCATION ASSOCIATION – SOUTH
KINGSTOWN,**

Plaintiffs,

vs.

**SOUTH KINGSTOWN SCHOOL
COMMITTEE, by and through its
Members, Christie Fish, Kate McMahon
Macinanti, Melissa Boyd, Michelle
Brousseau and Paula Whitford, SOUTH
KINGSTOWN SCHOOL DEPARTMENT,
By and through its Acting Interim
Superintendent Ginamarie Massiello,
NICOLE SOLAS, and JOHN DOE
HARTMAN,**

Defendants.

C.A. No. PC21-05116

**PARENTS' RESPONSE TO MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Defendants Nicole Solas and Adam Hartman ("Parents") hereby respond to Plaintiffs National Education Association Rhode Island's ("NEARI") and National Education Association South Kingstown's ("NEASK") (collectively, "Plaintiffs") Motion for a Temporary Restraining Order and Preliminary Injunction. Plaintiffs lack standing under the Access to Public Records Act ("APRA"), R.I. Gen. Laws § 38-2-1, *et seq.*, have presented no evidence of any harm to themselves, and the public policy considerations weigh strongly in favor of the Parents. Plaintiffs' Motion should therefore be immediately denied.

INTRODUCTION

This lawsuit, apparently without precedent in Rhode Island, asks this Court to enjoin the statutory public records process and stop citizens from seeking public information in good faith about the operations of their government under public records statutes that were written for that purpose. This extraordinary case is brought by a party without standing, disregards the entire statutory scheme under the APRA, and is an affront to Parents' rights to open and transparent government under state law.¹

Defendant Nicole Solas simply wanted to know what her kindergarten-age daughter would be taught. After she asked questions regarding classroom instruction of Defendants South Kingstown School Committee and Kingstown School Department ("School Committee"), School Committee personnel directed Nicole to file official records requests under the APRA instead. So, she did. In response, the School Committee obstructed her at every turn. First, they told her she needed to pay thousands of dollars for the information she requested. May 14, 2021 Letter attached as Exhibit 1. Then, after she narrowed her requests and paid certain fees demanded by the School Committee, the School Committee turned over hundreds of pages of entirely redacted documents. Records attached as Exhibit 2². Next, the School Committee then threatened

¹ As will be set out in a Motion for Summary Judgment which will be filed subsequent to this Response, Parents are also immune from suit under Rhode Island's anti-SLAPP statute, R.I. Gen. Laws § 9-33-1, *et seq* ("anti-SLAPP statute").

² Parents have included only a smaller representative sample of the nearly complete redactions that were provided in response to Parents' public records requests referenced in Exhibit 3.

to sue Nicole. June 2, 2021 School Committee Special Meeting Agenda attached as Exhibit 3.

Then Plaintiffs, part of one of the largest and wealthiest labor organizations in the country, then filed this legally baseless lawsuit against her.

An unbroken line of Rhode Island Supreme Court cases, dating back to 1991, make it clear that Plaintiffs have no standing to challenge Nicole's APRA requests to the School Committee. This case is also a prototypical "strategic lawsuit against public participation" (SLAPP) that seeks to prevent citizens from exercising their legal rights—in this case, accessing public information in good faith under laws adopted for that purpose. This case therefore violates the plain language of Rhode Island's anti-SLAPP statute. Additionally, Plaintiffs' Complaint makes only speculative, unsubstantiated allegations of harm for which they have provided no factual basis. The evidence, in fact, shows that the School Committee has been aggressively applying the APRA and its exemptions to the requests made by Parents, often to the point of obstructionism. Finally, the balance of hardships tilts strongly in favor of Parents and other members of the public who have a right to seek public information about the operations of government and the education being offered to their children in the schools their tax dollars pay for.

BACKGROUND

This lawsuit was brought because Nicole Solas wanted to know what her public school would be teaching her daughter in kindergarten. So, Nicole did what any responsible parent would do, and asked the principal what her daughter would be taught in the upcoming school year. Compl. ¶ 13.

Rather than answer the questions of a concerned parent, school officials directed Nicole to submit formal public records requests instead. *Id.* at ¶ 14. So she did. School officials and attorneys then told her it would cost thousands of dollars to comply with the records requests. Ex. 1. Unable to pay that price, Nicole resubmitted narrower requests. May 21, 2021, June 26, 2021 & July 14, 2021 Responses to narrowed requests attached as Exhibit 4.

Nicole then paid for some of the records to get answers to questions the School Committee had up until that point refused to provide. Instead of receiving answers to her questions, however, let alone comprehensive record responses, what she received instead was page after page of heavily (and often completely) redacted documents. *See* Ex. 2.

Unsatisfied with the inadequate answers she was receiving to her basic questions about her daughter's education, Nicole and her husband, Adam Hartman, submitted additional records requests. Because of the onerous fees the School Committee assessed for receiving records, rather than submitting several large requests with small requests included, the Parents often submitted individual requests that were narrower. *See, e.g.*, representative sample of responses to APRA requests, attached as Exhibit 5. This allowed the Parents to assess fee estimates and responsive records to determine what was provided, what was withheld, and how much it would cost to receive answers to their questions.

Apparently viewing the Parents' requests as too numerous, the School Committee then threatened to sue Nicole. On June 2, 2021, the School Committee Defendants placed on the School Committee's agenda "[f]iling lawsuit against Nicole Solas to

challenge filing of over 160 APRA requests.” Ex. 3. Not surprisingly, the School Committee’s actions met with widespread community outreach and disapproval.

Following the School Committee’s actions against Nicole, School Committee member Sarah Markey resigned. Ryan Blessing, *Markey Quits SK School Committee After Mailer Fallout*, The Independent, July 8, 2021³, attached as Exhibit 6. During her time as a School Committee member, Ms. Markey was also an assistant executive director of Plaintiff NEARI. *Id.*

The former Superintendent of the School Committee, Linda Savastano, also resigned following the School Committee’s responses to Nicole’s requests. Ms. Savastano has also been directly linked to a separate scandal, where private student information was leaked by Ms. Savastano to a labor union. The student information was used by a union-affiliate to issue a mailer in support of a school bond. Bill Seymour, *Savastano Out as SK Schools Superintendent*, The Independent, June 28, 2021⁴, attached as Exhibit 7.

At the same time the School Committee was planning to sue Nicole, Plaintiffs also started discussions about her, where Nicole’s picture was posted on a presentation at a union meeting attended by 250 members.

Although the School Committee has been processing the Parents’ APRA requests, and aggressively applying APRA exemptions to those requests, including with the

³ https://www.independenri.com/news/article_ccc05cf8-df55-11eb-aba7-47f9d69f5135.html

⁴ https://www.independenri.com/news/article_84f85a54-d87c-11eb-a9a3-771f7240ac91.html

assistance of capable outside counsel, *see* Exhibits 1-5, Plaintiffs nonetheless filed this Complaint and the Motion for Temporary Restraining Order and Preliminary Injunction.

Given that there is no evidence that the School Committee intends to release records that should not be released under the APRA, Plaintiffs' lawsuit appears to be nothing more than a preemptive attack on the Parents' statutory and constitutional rights to access public information. But Nicole is likely not the only target of Plaintiffs' attacks. In July, Plaintiffs' national affiliate passed a resolution to promise to aggressively "fight back against anti-[critical race theory] rhetoric." *See* Hannah Natanson, *Amid Critical Race Theory Controversy, Teachers Union Chief Vows Legal Action to Defend Teaching of 'Honest History,'* Washington Post, July 6, 2021,⁵ attached as Exhibit 8.

Plaintiffs' suit is an explicit attempt to prevent Parents from exercising their statutory and constitutional rights to receive public information relating to the upbringing of their children. Plaintiffs' request for a temporary restraining order and preliminary injunction is not only legally unsupportable, Plaintiffs provide **zero** evidence to meet their high evidentiary burden to show such injunctive relief is proper. Additionally, because Plaintiffs lack standing to object to the Solas' public record requests, denying their request for (truly) extraordinary relief will impose no hardship on them.

⁵ https://www.washingtonpost.com/local/education/teachers-union-critical-race-theory-weingarten/2021/07/06/ef327c20-de61-11eb-9f54-7eee10b5fcd2_story.html

STANDARD OF REVIEW

A court cannot grant a temporary restraining order or a preliminary injunction if the Plaintiff has failed to state a claim upon which relief can be granted. Under normal circumstances, a court will consider four factors as part of weighing whether to grant extraordinary preliminary injunctive relief: 1) the plaintiff's chance for success on the merits; 2) whether the plaintiff will suffer irreparable harm without the injunction; 3) whether the plaintiff has an adequate remedy at law; and 4) whether the harm to the plaintiff outweighs the harm to the defendant and the general public. *Pawtucket Teachers Alliance Local No. 920 v. Brady*, 556 A.2d 556, 557 (R.I. 1989).

I. Plaintiffs lack standing to object to the Parents' APRA requests.

Although courts consider four factors in whether to issue a temporary restraining order or preliminary injunction, there must first be a valid cause of action. "Declaratory relief" and "injunctive relief"—counts one and two of Plaintiffs' Complaint—are not separate causes of action, but procedural remedies that depend on a viable, underlying legal theory. "[T]he Uniform Declaratory Judgments Act requires that there be a justiciable controversy between plaintiff and defendant." *Langton v. Demers*, 423 A.2d 1149, 1150 (R.I. 1980). This means that the party seeking declaratory judgment must "advance allegations claiming an entitlement to actual and articulable relief." *McKenna v. Williams*, 874 A.2d 217, 227 (R.I. 2005).

The Complaint fails to allege any viable cause of action, because Plaintiffs have no standing under the APRA. The only party with standing to challenge an APRA response is the public records requester. As the Supreme Court has said, "APRA does

not contemplate ‘reverse-FOIA’ suits,” and “affords no right to prevent the release of private information.” *Pontbriand v. Sundlun*, 699 A.2d 856, 867 (R.I. 1997). Plaintiffs “essentially seek[] to enforce a right to which it is not entitled. ... The APRA provides neither a right nor a remedy to prevent the disclosure of public records.” *In re New England Gas Co.*, 842 A.2d 545, 553 (R.I. 2004).⁶

This is not a close question. “[F]ew matters have been more squarely placed within the discretionary authority of a governmental agency or commission than determining whether its records should be deemed protected from public disclosure.” *Id.* at 552. Plaintiffs’ request for extraordinary injunctive relief must therefore fail, because the Parents’ public records requests “cannot be challenged by a private party.” *Id.*

II. Plaintiffs fail to establish *any* of the four requirements for preliminary injunctive relief.

A. Plaintiffs cannot prevail on the merits because they have failed to state a claim for which relief can be granted.

Because Plaintiffs lack standing to object to the Parents’ APRA requests or the school district’s response to those requests, they fail all four prongs of the test for injunctive relief. Plaintiffs have no chance for success on the merits because Rhode Island Supreme Court precedent makes clear that they have no legal basis to challenge

⁶ Plaintiffs also have no rights under APRA against the School Committee. It is solely within the discretion of the government body or official to release information, even if the information could be subject to an APRA-exception to disclosure. Under APRA, decisions to disclose records made by “the public official as the guardian of exempted material ... cannot be challenged by a private party.” “APRA exemptions allow public agencies to withhold documents, but do not require withholding.” *New England Gas Co.*, 842 A.2d at 551-52.

the School Committee's responses to the Parents' APRA requests. Throughout the memorandum, Plaintiffs simply ignore controlling Rhode Island law.

In 1991, the Rhode Island Supreme Court addressed the exact same situation as in this case. In *Rhode Island Federation of Teachers v. Sundlun*, 595 A.2d 799 (R.I. 1991), a teachers union sought to enjoin production of records related to its members' pension benefits. *Id.* at 799. The union asserted that the pension benefit information would violate its members' privacy rights. *Id.* at 800. The trial court denied the union's request for injunctive relief "on the ground that APRA simply did not provide an injunctive remedy to persons or entities seeking to block disclosure of records," exactly the situation in this case. *Id.* The Supreme Court affirmed, unequivocally agreeing that APRA "only provides a remedy for those persons or entities that are denied access to public records." *Id.* In other words, in that case, and every other APRA case decided after, the Supreme Court made clear that APRA does not provide such a remedy as the union Plaintiffs are seeking here. "[W]hen a statute is free from ambiguity and expresses a clear and definite meaning, the court must accord to the words of the statute such clear and obvious import without adding to or detracting from the plain everyday meaning of the words contained in the statute." *Id.* at 802.

The Supreme Court confronted the same issue again in 1997 and once more in 2004. In both cases, it reiterated that APRA does not provide a party, such as the union here, with standing to challenge somebody else's public records request.

In 1997, depositors with insolvent state-chartered banks sought injunctive relief to prevent the governor from disclosing the names and other information related to

depositors who lost money when the Rhode Island Share and Deposit Indemnity Corporation became insolvent. *Pontbriand*, 699 A.2d at 860. The Supreme Court rejected the depositors' argument that under APRA they could challenge the governor's release of information: "[W]he have held that [APRA] affords no right to prevent the release of private information. ... APRA does not contemplate 'reverse-FOIA' suits." *Id.* at 867.

In 2004, it reiterated that "APRA provides a remedy only to those people who are denied access to public records; *it does not provide a remedy to prevent public agencies from disclosing records.*" *New England Gas Co.*, 842 A.2d at 547 (emphasis added). In that case, the court rejected the plaintiff's argument that it could bar disclosure of information related to expenses incurred during a labor dispute, based on the holdings from *Pontbriand* and *Rhode Island Federation of Teachers*. *Id.* at 547-48.

Plaintiffs cite no case holding otherwise. On the contrary, every APRA case they cite was brought by *the party who requested the records*. *Pawtucket Teachers Alliance*, 556 A.2d 556 (union brought action to compel response to APRA request for management study of elementary school); *Providence Journal Co. v. Town of W. Warwick*, No. KC 03-207, 03-2697, 2004 WL 1770102 (Super. Ct. R.I. 2004) (newspaper sought to compel production of records it requested); *Providence Journal Co. v. Kane*, 577 A.2d 661 (R.I. 1990) (newspaper brought action to compel response to its APRA requests);

Plaintiffs cite to cases from Michigan and Wisconsin, but those cases are contrary to Rhode Island law and do not involve APRA. Although the Wisconsin Supreme Court

allowed a teacher to *intervene* to challenge disclosure of emails to a third party who requested them, the Wisconsin public records law enacted by the Legislature expressly allows this, whereas Rhode Island law expressly does not. *See, e.g., Schill v. Wis. Rapids Sch. Dist.*, 786 N.W.2d 177, 188–89 ¶ 40 (Wis. 2010). Likewise, Michigan, unlike Rhode Island, allows for reverse-FOIA claims. *Howell Educ. Ass’n v. Howell Bd. of Educ.*, 789 N.W.2d 495 (Mich. App. 2010). The fact that Michigan and Wisconsin courts have held that, under those states’ entirely different laws, third parties can challenge public records requests is, naturally, irrelevant to this case, which is to be decided under the laws of Rhode Island.

The fact that Plaintiffs have no legal basis to sue the Parents (or the School Committee) is dispositive of their request for injunctive relief. They have no chance to prevail on the merits, because Rhode Island law has consistently held that reverse-FOIA cases like this are simply not allowed.⁷

B. Plaintiffs’ speculative arguments regarding potential harm are unsupported by the law and contrary to the evidence.

1. Plaintiffs’ will suffer no harm as a matter of law.

As Plaintiffs have no legal right to object to an APRA request, denying their injunction will cause them no cognizable legal harm. As Plaintiffs’ Motion acknowledges, a party must demonstrate that it will suffer irreparable harm without injunctive relief. Pls.’ Mem. of Law in Supp. Of Mot. for TRO/Prelim. Inj. (“Pls.’ Mot.”)

⁷ For these same reasons, Plaintiffs also fail to establish that they have an adequate remedy at law, because the APRA provides no remedy for private third parties seeking to prevent members of the public from accessing public information.

at 22. Even the cases cited by Plaintiff demonstrate that injunctive relief is not proper in this case. Without a cognizable claim for relief, injunctive relief always fails. The harm to the moving party is considered “[o]nce liability has been established.” *K-Mart Corp. v. Oriental Plaza, Inc.*, 875 F.2d 907, 915 (1st Cir. 1989). Whether a party can make an adequate showing of “irreparable harm” requires demonstrating that the remedies available for proving their cause of action do not adequately redress the damage done to that party’s rights. In the *K-Mart* case, for instance, the trial court first found that defendant had breached the contract. Then the court compared the legal remedies for breach of contract, and concluded that the damages caused by the breach could not be adequately redressed through the available legal remedies. *Id.* Here, by contrast, no legal injury to Plaintiffs has occurred at all. This Court therefore has no ground for weighing legal or equitable remedies.

Plaintiff relies heavily on *Gianfrancesco v. A.R. Bilodeau, Inc.*, 112 A.3d 703 (R.I. 2015), but in that case, like the *K-Mart* case, the party seeking injunctive relief first established violation of a legal right. Here, by contrast, Plaintiffs cannot point to *any* legal right that Parents—or the School Committee, for that matter—have violated

The other cases cited by Plaintiffs are also not applicable. *DePina v. State*, 79 A.3d 1284 (R.I. 2013), arose out of a criminal case and has no bearing on the issues in this case. The court said a defendant seeking post-conviction relief could not subpoena the mental health records of one of the state’s eyewitnesses. The witness was entitled to relief because a statute—the Confidentiality of Health Care Information Act—authorized

a non-party to object to a subpoena for their health care records. *Id.* at 1288. No such authorization exists under the APRA, so *DePina* is simply irrelevant..

Likewise, the trial court decision in *Allen v. Creative Services, Inc.*, C.A. No. 92-0726, 1992 WL 813643 (R.I. Super. July 6, 1992), arose out of a dispute over the enforceability of covenants not to compete in employment agreements. Because disclosure of plaintiff's trade secrets would cause it legal harm, and legal remedies would not adequately compensate for damages to its ability to compete and its goodwill. In this case, by contrast, Plaintiffs have no legally cognizable damages because they have no claim against the Parents.

Finally, *Providence Journal Co. v. FBI*, 595 F.2d 889 (1st Cir. 1979), addressed the standard appellate courts use when considering stays of lower court orders on appeal. That is a wholly different question than is involved here, but even so, a party is not "entitled to a stay pending appeal without showing that their appeals have potential merit." *Id.* at 890. The Plaintiffs' lawsuit here has no potential merit.

2. Plaintiffs' speculative claims of harm fail as a matter of fact.

APRA sets forth a comprehensive scheme governing how a government agency must respond to records requests, and how disputes over those responses are resolved in court. "[T]he underlying policy of the APRA is the promotion of the free flow and disclosure of information to the public." *Direct Action for Rights & Equality v. Gannon*, 819 A.2d 651, 657 (R.I. 2003). Rhode Island courts have held that APRA's prohibition against reverse-FOIA cases such as this is "free from ambiguity." *R.I. Fed'n of Teachers*, 595 A.2d at 802.

The only party that can initiate a lawsuit over APRA is the person requesting the public records. *Downey v. Carcieri*, 996 A.2d 1144, 1150–51 (R.I. 2010), analyzed the remedies authorized by APRA. The court noted that Gen. Laws § 38-2-8 permits someone who makes a records request to seek administrative review of a government agency’s refusal to disclose public records, but that they are not required to do so.

While the requestor is free to pursue administrative remedies, or file an action in court to compel disclosure, the only “remedies provided by APRA are set forth in § 38-2-7 to § 38-2-10.” *R.I. Fed’n of Teachers*, 595 A.2d at 800. A violation of APRA occurs when there has been “denial of access” to public records, as set forth in § 38-2-7. In the event of a denial of access, *the requestor* can (but does not have to) pursue the administrative or judicial remedies set forth in § 38-2-8.

APRA vests jurisdiction over civil actions in the superior court in § 38-2-9. Upon the filing of a proper APRA action by the person denied access to the records, the court may conduct an *in camera* inspection to determine if the public body properly withheld the information. Finally, the superior court shall award attorneys’ fees and can impose civil fines against public bodies or officials who violate APRA. § 38-2-9(c). The court can, but does not have to, award attorney fees and costs to the public body or official if the case “lacked a grounding in fact or in existing law” or a “good faith argument for the extension, modification, or reversal of existing law.” R.I. Gen Law. § 38-2-9(d).

But the statute gives no other party a right to act. Under APRA, the *only* party that can bring an action is the person who requested the records, and the *only* relief a public body or official can obtain is a ruling that records were properly withheld, as well as an

award of attorneys' fees and costs if the requestor's suit lacked a reasonable basis.

APRA provides no other remedy, and just as a third party cannot bring a claim under

APRA, a public body or official also cannot bring a preemptive action under APRA.

New England Gas Co., 842 A.2d at 547.

Of course, if the Assembly wanted government agencies or third parties to have a right of action under APRA, it could have provided for one. Indeed, the Assembly has amended the APRA several times, including in 1998, when it amended APRA to give requestors the right to receive attorneys' fees. *See Direct Action for Rights & Equality*, 819 A.2d at 657. A year before it did so, the Rhode Island Supreme Court declared that APRA "affords no right to prevent the release of private information," *Pontbriand*, 699 A.2d at 867—but the Assembly, while adding an attorneys' fee provision, *did not* add a right of action for government agencies to challenge public records requests, or give third parties standing to challenge a public records request. Plaintiffs' lawsuit is not, and never has been, authorized by law.

Even if statute provided for a lawsuit like this, however, Plaintiffs would still lack standing because they have not been injured. The Parents have not filed a lawsuit under APRA to compel production of withheld records, so there is no prospect of harm to Plaintiffs. Until the School Committee denies the Parents' APRA requests, *and* the Parents then file a lawsuit, there is no justiciable case or controversy to begin with. Parents have not filed, and may never file suit against the School Committee—meaning that Plaintiffs have not sustained, or shown any likelihood of sustaining any injury as a consequence of the Parents' records requests.

It is mere speculation to assert that “[i]t is anticipated that teacher records will be produced that will be of a personal nature,” Compl. ¶ 65, or that “[i]t is further anticipated that teacher records will be produced that may or will contain discussions about union-related activities.” *Id.* ¶ 66. Anticipation is not evidence, even under the relaxed standards for preliminary relief. Indeed, the evidence regarding how the School Committee has previously responded to the Parents’ requests suggests the opposite: the School Committee has applied APRA exemptions and redactions to an aggressive, indeed excessive degree. Exs. 1–5. Specifically, the School Committee has consistently responded to the Parents’ records requests by demanding thousands of dollars in fees, or by aggressively redacting huge quantities of information. *Id.* For example, Ms. Solas submitted requests to the School Committee in May, June, and July of this year. Ex. 4. Each of those requests was responded to by an attorney hired by the School Committee and presumably well-versed in the APRA and its exemptions. *Id.* Of the thousands of pages of “responsive records” provided in response to Ms. Solas’s requests, nearly the entire content of those records was redacted. Ex. 2.

Plaintiffs offer *no evidence whatsoever* to support their contention the School Committee is going to reverse course and produce responsive public records in ways not authorized by the APRA. Even if there were such a concern, the Plaintiffs should not have sued the Parents. But there is no serious concern, given that the records requests that form the basis of the Plaintiffs’ complaint were made in May, June, and July of 2021. Under the APRA, the School Committee has a “ten (10) business day” deadline to respond to requests, which can be extended by “twenty (20) business days” only in

writing by the public body and upon a showing of need for the extension. R.I. Gen. Laws § 38-2-3(e). Thus, the statutory timeline for the records that Plaintiffs claim to be concerned about *has expired*, and there is no evidence that the School Committee produced any records that have caused Plaintiffs harm, or that it will do so in the future.

In short, a party seeking extraordinary relief has an obligation to conduct a thorough investigation before filing suit. An adequate investigation into Rhode Island law would have demonstrated there is no legal basis for bringing this case. An adequate investigation into the facts would provide actual evidence, not unsworn statements in the body of the motion “upon information and belief.” Because the Parents have not filed a lawsuit under APRA against the School Committee, and because the School Committee has plainly applied the APRA to withhold—not produce—records to Parents, Plaintiffs simply cannot demonstrate any harm.

C. The harm to Parents and the general public far outweighs the speculative assertions of harm proffered by the Plaintiffs.

Rhode Island public policy requires denying Plaintiff’s request for injunctive relief because APRA’s policy favoring open government plainly outweighs any of Plaintiff’s unsubstantiated and speculative claims of harm. The entire purpose of the APRA is to “facilitate public access to public records.” R.I. Gen. Laws § 38-2-1. It is intended to “open up various state government documents to inspection by private citizens and news-gathering entities in order to enhance the free flow of information.” *Hydron Labs., Inc. v Dep’t of Atty. Gen.*, 492 A.2d 135, 137 (R.I. 1985). And Rhode Island courts have “long recognized that the underlying policy of the APRA favors the free flow and disclosure of

information to the public.” *Providence Journal Co. v. R.I. Dep’t of Pub. Safety*, 136 A.3d 1168, 1174 (R.I. 2016) (internal marks and citation omitted). Or, as the Supreme Court observed in quoting James Madison, “A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.” *Direct Action for Rights & Equal. v. Gannon*, 819 A.2d 651, 657 (R.I. 2003) (quoting Letter from James Madison to William T. Bary (Aug. 4, 1822)). The presumption under this public records law is always in favor of disclosure, not secrecy. *Providence Journal Co.*, 577 A.2d at 663 (“the basic policy of the APRA favor[s] disclosure”); *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 220 (1978) (The “basic policy” of the FOIA “is in favor of disclosure.”). The balance of hardships is not even remotely close in this case.

Even assuming the Plaintiffs’ remote, speculative, and unsubstantiated allegations of potential harm from the future disclosure of records “of a personal nature,” or “about union-related activities” Complaint ¶¶ 65-66, had some basis—and there is no evidence to suggest this—it would not justify turning the public records statute upside down. APRA is a careful, finely wrought process that allows public entities to review requests and grant or deny them, or apply the law’s specific, enumerated exemptions. It also allows records requesters—and *only* records requesters—to seek administrative and judicial relief if responsive records are not provided. If Plaintiffs’ unprecedented lawsuit is permitted to go forward, it would entitle third parties to disrupt APRA’s statutory

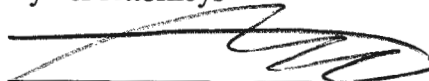
deadlines, R.I. Gen. Laws § 38-2-3(e), request relief that is not available under the law, Complaint ¶ 71(A-B), and ultimately deny “the free flow and disclosure of information to the public,” *Providence Journal Co.*, 136 A.3d at 1173, that the Assembly has expressly provided for, and that Rhode Island courts have affirmed time and again. It would also inundate the courts with endless litigation—forcing courts to issue advisory opinions on public records that no actual party to the statutory public records process has requested. *H.V. Collins Co. v. Williams*, 990 A.2d 845, 847 (R.I. 2010) (“The Supreme Court will not entertain an abstract question or render an advisory opinion ...”). Public policy and the balance of hardships, therefore, weigh strongly against Plaintiffs and in favor of Parents in this unprecedented action to restrict the public’s access to public information.

CONCLUSION

Based on the foregoing, Plaintiffs Motion for a Temporary Restraining Order and Preliminary Injunction should be DENIED.

Respectfully submitted this 17th day of August, 2021 by:

Defendants,
Nicole Solas and Adam Hartman
By her Attorneys



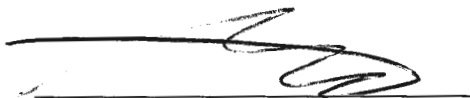
Giovanni D. Cicione, Esq. R.I. Bar No. 6072
86 Ferry Lane
Barrington, Rhode Island 02806
Telephone (401) 996-3536
Electronic Mail: g@cicione.law



Jonathan Riches, Esq.
(*pro hac vice* application pending)
Stephen Silverman, Esq.
(*pro hac vice* application pending)
Scharf-Norton Center for
Constitutional Law at the
GOLDWATER INSTITUTE
500 East Coronado Road
Phoenix, Arizona 85004
Telephone (602) 462-5000
Electronic Mail:
litigataion@goldwaterinstitute.org

CERTIFICATE OF SERVICE

I, Giovanni D. Cicione, hereby certify that a true copy of the within Parents' Response to Motion for Temporary Restraining Order and Preliminary Injunction were sent postage prepaid to attorney Carly Beauvais Iafrate on this 17th day of August, 2021.





May 14, 2021

Ms. Nicole Solas

Sent electronically to: nicolesolas@gmail.com

Re: APRA Request Received on May 4, 2021

Dear Ms. Solas:

As you know, this office represents the South Kingstown School Department. In this capacity, I am in receipt of your revised request for certain records under the Rhode Island Access to Public Records Act. Specifically, you requested documents related to the following:

Records of all business dealings with the Collective in Wakefield, RI and Sarah Markey and Tara Apperson.

On May 12, 2021, Jenna Ouelette, Executive Assistant to the Superintendent South Kingstown School Department, sent you an email response to your request seeking clarification by asking, "In regard to the request you made on May 4, 2021, would you clarify that you are seeking documents regarding Ms. Markey in her role with The Collective, and not independent of The Collective?" You responded to that email by stating that you wished to request:

Documents pertaining to Markey both in her role with The Collective and independent of her role.

Response:

With respect to School Committee meeting agendas and minutes which pertain to Ms. Markey as a member of the School Committee, you may access those agendas and minutes through the following links:

<https://go.boarddocs.com/ri/soki/Board.nsf/Public#>

<https://opengov.sos.ri.gov/OpenMeetingsPublic/OpenMeetingDashboard?subtopmenuId=201&EntityID=3349&MeetingID=1008130>

<https://opengov.sos.ri.gov/OpenMeetingsPublic/OpenMeetingDashboard?subtopmenuId=201&EntityID=7271&MeetingID=1008727>

With respect to the additional information requested, including communication documents, pertaining to Sarah Markey, a School Committee member, the School Department estimates that it will take 38 hours to retrieve and compile said documents, as well as redact said documents for attorney client privileged information and other information that is not considered a public record. Therefore, pursuant to R.I. Gen. Laws § 38-2-4 (b), there shall be a search and retrieval fee for said documents of fifteen dollars (\$15.00) per hour. For a total cost of:

38 (first hour being free) x \$15.00 = \$570.00

In addition, the School Department estimates that the documents will be approximately 60,000 pages, including all email communications during Ms. Markey's time on the School Committee. Therefore, pursuant to R.I. Gen. Laws § 38-2-4 (a), there shall be a cost per copied page of fifteen (\$.15) cents per page. For a total cost of:

60,000 x \$.15 = \$9000.00

Should you wish to pay the total amount \$9570.00 to receive these documents, please contact me and we will provide you with the same. Alternatively, if you wish to amend your request, please contact me with said amendment.

Please feel free to contact me with any questions.

In accordance with R.I. Gen. Laws § 38-2-8, you may file an appeal with the Department of the Attorney General, 150 South Main Street, Providence, Rhode Island, 02903, or the Rhode Island Superior Court of the county where the record(s) are maintained. You may also access additional information concerning the Access to Public Records Act through the Attorney General's website at www.riag.ri.gov.

Sincerely,

/s/Aubrey L. Lombardo

cc: Linda Savastano, Superintendent
Jenna Ouelette

[illegible]

[REDACTED]

[REDACTED]

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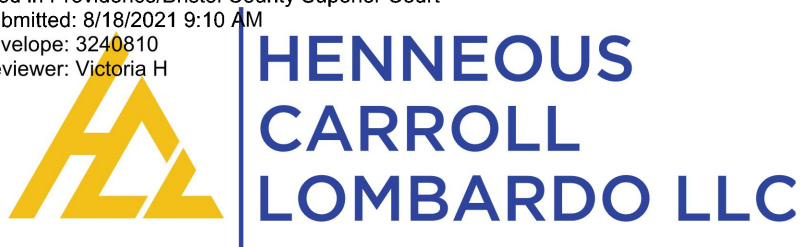


[*6 mute/unmute & *9 raise hand]

8/17/2021
The school committee may go into executive session under Title 42, Ch. 46, Section 5 of the General Laws of Rhode Island.

The South Kingstown School Department does not discriminate on the basis of race, religion, color, sex (including pregnancy, gender identity, and sexual orientation), parental status, national origin, age, disability, family medical history or genetic information, political affiliation, military service, or other non-merit based factors, in accordance with applicable laws and regulations.

Any changes to this Agenda will be published on the school district's website, at the two public locations required by R.I. Gen. Laws § 42-46-6, and transmitted to the Secretary of State's website at least forty-eight (48) hours in advance of the meeting.



May 21, 2021

Ms. Nicole Solas
Sent electronically to: nicolesolas@gmail.com

Re: APRA Request Received on May 16, 2021

Dear Ms. Solas:

As you know, this office represents the South Kingstown School Department. In this capacity, I am in receipt of your revised request for certain records under the Rhode Island Access to Public Records Act. Specifically, you requested documents related to the following:

Digital copies of Sarah Markey's emails in the last six months.

Response:

With respect to the documents requested, the School Department estimates that it will take 5 hours to retrieve, redact and compile said documents. Therefore, pursuant to R.I. Gen. Laws § 38-2-4 (b), there shall be a search and retrieval fee for said documents of fifteen dollars (\$15.00) per hour. For a total cost of:

$$5 \times \$15.00 = \underline{\$75.00}$$

You will be provided with those documents electronically.

Should you wish to pay the total amount \$75.00 to receive these documents, please contact me and we will provide you with the same. Alternatively, if you wish to amend your request, please contact me with said amendment.

Please feel free to contact me with any questions.

In accordance with R.I. Gen. Laws § 38-2-8, you may file an appeal with the Department of the Attorney General, 150 South Main Street, Providence,

Rhode Island, 02903, or the Rhode Island Superior Court of the county where the record(s) are maintained. You may also access additional information concerning the Access to Public Records Act through the Attorney General's website at www.riag.ri.gov.

Sincerely,

/s/ Aubrey L. Lombardo

cc: Linda Savastano, Superintendent
Jenna Ouellette



June 26, 2021

Ms. Nicole Solas

Sent electronically to: nicolesolas@gmail.com

Re: APRA Request Received on May 4, 2021

Dear Ms. Solas:

As you know, this office represents the South Kingstown School Department. In this capacity, I am in receipt of your revised request for certain records under the Rhode Island Access to Public Records Act. Specifically, you requested documents related to the following:

Records of all business dealings with the Collective in Wakefield, RI and Sarah Markey and Tara Apperson.

On May 12, 2021, Jenna Ouelette, Executive Assistant to the Superintendent South Kingstown School Department, sent you an email response to your request seeking clarification by asking, "In regard to the request you made on May 4, 2021, would you clarify that you are seeking documents regarding Ms. Markey in her role with The Collective, and not independent of The Collective?" You responded to that email by stating that you wished to request:

Documents pertaining to Markey both in her role with The Collective and independent of her role.

On May 15, 2021, after receiving the District's bill or compilation, review, redaction and copying of the document requested, you revised your request to:

Narrow the scope of documents pertaining to Sarah Markey to the last six months.

On May 17, 2021, the District sent you an estimated bill to compile, review and redact the revised requested documents in the amount of \$79.50. You provided a check to the District for that amount on May 26, 2021. You indicated through your attorney in a June 16, 2021 email that you expected these documents prior to the end of the month of June 2021.

[155 South Main Street, Suite 406, Providence, RI 02903](#)



Response:

Please see attached.

Some of the documents that you requested have been redacted, as they are not public documents pursuant to R.I. Gen. Laws §38-2-2(4)(A)(I)(a), because they are records “relating to a client/attorney relationship...” and shall not be deemed public.

Some of the documents that you requested have been redacted, as they are not public documents pursuant to R.I. Gen. Laws §38-2-2 (4)(i)(M), because they constitute correspondence of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities.

Some of the documents that you requested have been redacted, as they are not public documents pursuant to R.I. Gen. Laws §38-2-2 (4)(A)(I)(b), because they contain personal individually identifiable records otherwise deemed confidential by federal or state law or regulation, specifically the Family Educational Rights and Privacy Act, (20 U.S.C. § 1232g; 34 CFR Part 99).

In accordance with R.I. Gen. Laws § 38-2-8, you may file an appeal with the Department of the Attorney General, 150 South Main Street, Providence, Rhode Island, 02903, or the Rhode Island Superior Court of the county where the record(s) are maintained. You may also access additional information concerning the Access to Public Records Act through the Attorney General’s website at www.riag.ri.gov.

Sincerely,

/s/ Aubrey L. Lombardo

cc: Linda Savastano, Superintendent
Jenna Ouelette



July 14, 2021

Ms. Nicole Solas

Sent electronically to: nicolesolas@gmail.com

Re: APRA Request Received on May 25, 2021

Dear Ms. Solas:

As you know, this office represents the South Kingstown School Department. In this capacity, I am in receipt of your revised request for certain records under the Rhode Island Access to Public Records Act. Specifically, you requested documents related to the following:

Digital copies of emails of Stephanie Canter during May, June, July, August, September and October, 2020.

On June 2, 2021, the District sent you an estimated bill to compile, review and redact the revised requested documents in the amount of \$150.00. You provided a check to the District for that amount on June 25, 2021.

Response:

Please see attached.

Some of the documents that you requested have been redacted, as they are not public documents pursuant to R.I. Gen. Laws §38-2-2(4)(A)(I)(a), because they are records “relating to a client/attorney relationship...” and shall not be deemed public.

Some of the documents that you requested have been redacted, as they are not public documents pursuant to R.I. Gen. Laws §38-2-2 (4)(i)(M), because they constitute correspondence of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities.

Some of the documents that you requested have been redacted, as they are not public documents pursuant to R.I. Gen. Laws §38-2-2 (4)(A)(I)(b), because they contain personal individually identifiable records otherwise deemed confidential by federal or state law or regulation, specifically the Family Educational Rights and Privacy Act, (20 U.S.C. § 1232g; 34 CFR Part 99).

[155 South Main Street, Suite 406, Providence, RI 02903](#)



In accordance with R.I. Gen. Laws § 38-2-8, you may file an appeal with the

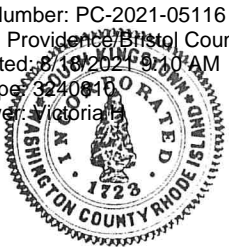
Department of the Attorney General, 150 South Main Street, Providence, Rhode Island, 02903, or the Rhode Island Superior Court of the county where the record(s) are maintained. You may also access additional information concerning the Access to Public Records Act through the Attorney General's website at www.riag.ri.gov.

Sincerely,

/s/Andrew Henneous

cc: Ginamarie Masiello, Interim
Superintendent
Jenna Ouelette, Asst.





SOUTH KINGSTOWN SCHOOL DEPARTMENT
307 CURTIS CORNER ROAD, WAKEFIELD, RI 02879-2106

Linda Savastano
SUPERINTENDENT OF SCHOOLS

(401) 360-1307
FAX (401) 360-1330
TTY 1 800 745-5555
email: lsavastano@sksd-ri.net

May 27, 2021

via email

Ms. Nicole Solas

Re: APRA Request of May 18, 2021

Dear Ms. Solas,

This letter is sent in response to your APRA request of May 18, 2021 in which you sought:


Athletic policies of South Kingstown School District before and after any changes proposed or made in the name of "equity" or "culturally responsiveness" or "accessibility" or "antiracism."

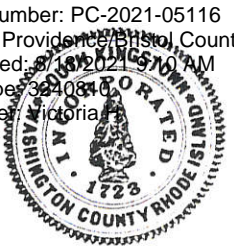
Response:

The district is not in possession of responsive documents.

In accordance with R.I. Gen. Laws § 38-2-8, you may file an appeal with the Department of the Attorney General, 150 South Main Street, Providence, Rhode Island, 02903, or the Rhode Island Superior Court of the county where the record(s) are maintained. You may also access additional information concerning the Access to Public Records Act through the Attorney General's website at www.riag.ri.gov.

Sincerely,


Linda Savastano
Superintendent



SOUTH KINGSTOWN SCHOOL DEPARTMENT
307 CURTIS CORNER ROAD, WAKEFIELD, RI 02879-2106

Linda Savastano
SUPERINTENDENT OF SCHOOLS

(401) 360-1307
FAX (401) 360-1330
TTY 1 800 745-5555
email: lsavastano@sksd-ri.net

May 21, 2021

via email

Ms. Nicole Solas

Re: APRA Request of May 14, 2021

Dear Ms. Solas,

This letter is sent in response to your APRA request of May 14, 2021 in which you sought:

List of all text books, literature, handouts, and other reading material assigned to English students in grades 7 through 12 for the academic years 2019/2020 and 2020/2021..

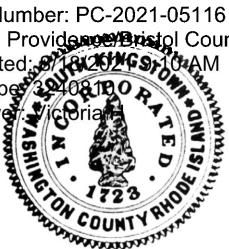
Response:

The School Department is not in possession of responsive documents.

In accordance with R.I. Gen. Laws § 38-2-8, you may file an appeal with the Department of the Attorney General, 150 South Main Street, Providence, Rhode Island, 02903, or the Rhode Island Superior Court of the county where the record(s) are maintained. You may also access additional information concerning the Access to Public Records Act through the Attorney General's website at www.riag.ri.gov.

Sincerely,

Linda Savastano
Superintendent



SOUTH KINGSTOWN SCHOOL DEPARTMENT
307 CURTIS CORNER ROAD, WAKEFIELD, RI 02879-2106

Linda Savastano
SUPERINTENDENT OF SCHOOLS

(401) 360-1307
FAX (401) 360-1330
TTY 1 800 745-5555
email: lsavastano@sksd-ri.net

May 24, 2021

via email

Ms. Nicole Solas

Re: APRA Request of May 16, 2021

Dear Ms. Solas,

This letter is sent in response to your APRA request of May 16, 2021 in which you sought:

Metrics, rubrics, standards, or parameters of the equity audit mandated by the school committee.

Response:

The District does not possess responsive documents.

In accordance with R.I. Gen. Laws § 38-2-8, you may file an appeal with the Department of the Attorney General, 150 South Main Street, Providence, Rhode Island, 02903, or the Rhode Island Superior Court of the county where the record(s) are maintained. You may also access additional information concerning the Access to Public Records Act through the Attorney General's website at www.riag.ri.gov.

Sincerely,

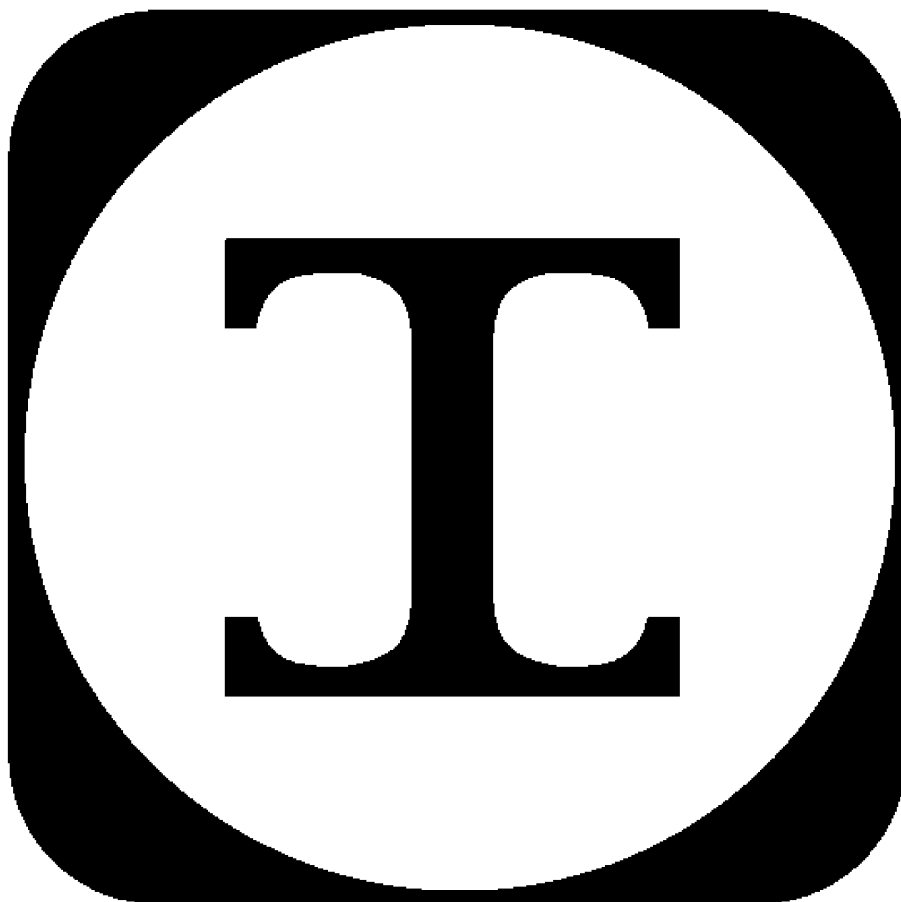
Linda Savastano
Superintendent

https://www.independentri.com/news/article_ccc05cf8-df55-11eb-aba7-47f9d69f5135.html

Markey quits SK school committee after mailer fallout

By Ryan Blessing Staff Writer

Jul 8, 2021



SOUTH KINGSTOWN, R.I. — South Kingstown School Committee member Sarah Markey has resigned, saying the need to focus on her health was the reason she's stepping down.

Markey notified the Town Council and School Committee of her decision on July 1.

"I hope that whoever replaces me is someone who cares deeply about our students and staff," she said.

"There is a long road ahead, but also so much to be proud of."

Her resignation comes during a shakeup of leadership that is taking place in South Kingstown's school system.

In her announcement, Markey apologized for the timing of her move, and said she wished she could continue to work for the town's students and the community's future.

But, Markey said, a chronic health issue required her to change course.

"Perhaps I was naive but since being elected in 2018, I've been surprised about how often this role on the School Committee has harmed my physical health and mental well-being, and the well-being of my children," she said. "I simply cannot shoulder the stress anymore and I'm sorry for that."

Markey, who was vice chairwoman of the South Kingstown School Committee during its previous term, is the second committee member to resign in recent weeks. Former Chairwoman Emily Cummiskey resigned on June 22.

Though it has continued to conduct regular business, the School Committee has been preoccupied by two controversies in recent months.

The committee last week reached a separation agreement with Supt. of Schools Linda Savastano as the town continues to investigate how student names ended up on a political mailer the Rhode Island AFL-CIO sent to local homes in April advocating for passage of an \$85 million school facilities bond. The bond failed at the polls on May 4.

Savastano admitted she gave the student data to a member of the Friends of SK Schools. That person, Stacey Bodziony, then provided the list to a marketing firm working with the AFL-CIO, Savastano said. She said she was unaware that the information would be used for the political mailer.

The Friends of SK Schools removed Bodziony from the organization.

At the same time, school officials were wrestling with public records requests from a local woman seeking information about how race and gender are taught in the schools.

Meetings about the records requests drew heated discussion, and committee members said they received harassment online and elsewhere after the issue made national headlines.

The school is responding to the records requests, a committee attorney said last week.

Markey, an employee with the National Education Association of Rhode Island teachers union, faced scrutiny early in 2020 when Deborah Bergner filed a state Ethics Commission complaint against her.

Bergner, now a Town Council member, charged that Markey improperly attended committee meetings involving leaders of the local teachers' union in 2018 and 2019.

After a full investigation, the Ethics Commission ruled on March 3, 2020 that Markey had not violated the state's Code of Ethics.

rblessing@independentri.com

https://www.independentri.com/news/article_84f85a54-d87c-11eb-a9a3-771f7240ac91.html

FEATURED

Savastano out as SK schools superintendent

By Bill Seymour
Jun 28, 2021



South Kingstown School Committee members congratulate Linda Savastano, center, following her appointment as the district's superintendent in this 2019 file photo. It was announced at Monday's School Committee meeting that Savastano has been fired.

Photo: Paul J. Spetrini

SOUTH KINGSTOWN — The town's school committee Monday fired Superintendent Linda Savastano just short of two years on the job and made her the third town official relinquishing a leadership post amid multiple controversies around school issues in town.

By a unanimous vote of the School Committee, members approved a "separation agreement" that the panel last week told its attorney to negotiate with Savastano. The panel Monday gave no public reasons for asking for her departure, but it is effective immediately.

Her separation agreement includes continuing her full pay until Dec. 31 unless she is hired elsewhere and then a reduction schedule follows. In addition, both she and the school committee agree to avoid publicly criticizing each other.

The committee appointed Ginamarie Masiello, curriculum director, to handle day-to-day operations until an interim superintendent is found. The committee also faces the task now of also undertaking a broader search for a permanent superintendent.

The committee offered no words or comments about her handling of the district matters apart from the controversial mailer that appeared to have cost her the job.

Savastano, in a prepared statement Monday night, said, "I know that what is most important now, is that the focus returns to serving the best interests and goals of our students and the community.

"I am grateful for the support that I have received from so many teachers, staff, parents, administrators, and community members during my tenure. I know that this is the best decision for all involved and I wish everyone success in the future," she said.

This departure follows the resignation last week of committee chairwoman and Savastano supporter Emily Cummiskey. In May, the Town Council forced out Town Manager Robert Zarnetske.

These two and Savastano were involved with contentious issues related to a failed \$85-million bond referendum. In addition, Cummiskey and Savastano were also embroiled in other divisive issues including requests for public records about school curriculum.

However, the spotlight shone especially bright on Savastano for her role in releasing the names and addresses of students for a political mailer addressed to them - although with parents the intended audience - in support of the referendum.

Savastano initially denied knowledge of the circumstances of the release. Later she admitted that she authorized the information to be given to a representative of local pro-bond advocacy group, though she claims that she did not follow up with questions about its intended use.

Problem Mailer

A representative from the advocacy group - Friends of South Kingstown Schools - then passed the student names and addresses to the AFL-CIO of Rhode Island, which sent the pro-bond mailer to students at their homes.

The action drew condemnation from parents and outrage in the community as well as across local social media.

It came about a week before South Kingstown voters, by a 2-to-1 margin, voted down the proposal to move the high school to a renovated Curtis Corner Middle School building.

Critics said they were especially angry that the superintendent initially denied providing the information before issuing a June 11 acknowledgment. The South Kingstown Town Council is investigating Savastano's actions as well as potentially others involved.

Savastano said in her acknowledgement, "I am also deeply sorry that I delayed in telling the school committee and our greater school community that I had provided directory information to the Friends of South Kingstown Schools."

"In my mind, I had not connected the dots," she said, referring to either her failure or decision not to inquire about the purposes for the request and uses of the information.

Jim Bradshaw, a spokesman for the federal U.S. Department of Education and its student privacy section, told The Independent Monday that he would check on whether Savastano violated any federal laws - especially those aimed to prevent stalking - with the disclosure of student names and addresses.

Savastano in her acknowledgement June 11 said that "in retrospect, I should have made those connections. This was a mistake. I do wish that I had informed the school committee sooner about providing the directory information to the Friends of South Kingstown Schools, and for that, I apologize," she said.

That explanation, though, was not enough to satisfy town council President Abel Collins.

"I think this whole thing could have been over a lot sooner if people had just come forward originally with this information. That being said, we're not entirely satisfied we have all the information related to how this happened," he said in recent comments on the matter.

Cummiskey said she had no knowledge of the matter, saying she learned about the details when Savastano revealed her own role in the matter. Cummiskey told The Independent this week that “I don’t believe that Linda Savastano intentionally lied to anybody. I believe her when she said that she didn’t connect the dots.”

Cummiskey said that the student names and addresses are disclosed to other groups, such as college recruiters, boy and girl scouting organizations looking to enroll members and other uses for school purposes.

“I think it was a mistake that the kids names were put on the mailer by the AFL,” she said.

Predecessor Also Encountered Trouble

Savastano was appointed in August 2019, succeeding former Superintendent Kristen Stringfellow. Stringfellow was put on leave after conflict over layoff policy with a School Committee faction that included Cummiskey and Sarah Markey, a labor organizer for the NEA-RI.

Stringfellow resigned to become superintendent of the Norwich, Conn. school district.

Robert Hicks, a former superintendent in South Kingstown, came out of retirement to work on a per diem basis prior to Savastano’s 2019 appointment.

Amid critical race theory controversy, teachers union chief vows legal action to defend teaching of ‘honest history’

By Hannah Natanson

July 6, 2021 at 1:59 p.m. EDT



The president of the nation’s second-largest teachers union is taking a strong stand against a recent spate of laws that restrict public-school lessons on racism, vowing legal action to protect any member who “gets in trouble for teaching honest history.”

Randi Weingarten, president of the American Federation of Teachers, warned in a speech Tuesday that conservative lawmakers, pundits and news sites are waging a “culture campaign” against critical race theory. The theory is a decades-old academic framework that asserts racism is woven into the history and thus the present of the nation, helping shape how institutions and systems function.

In her remarks, Weingarten said that critical race theory is not taught in U.S. elementary, middle and high schools. The theory is taught only in law school and in college, she said.

“But culture warriors are labeling any discussion of race, racism or discrimination as [critical race theory] to try to make it toxic,” Weingarten told a virtual professional development conference for union members. “They are bullying teachers and trying to stop us from teaching students accurate history.”

Republican-led legislatures — driven by intense conservative advocacy and media coverage inveighing against critical race theory — have sought to restrict what teachers can say about race, racism and American history in the classroom. At least five states, including Arkansas, Tennessee and Texas, have passed bans on critical race theory or related topics in recent months. Conservatives in nearly a dozen other states are pushing for similar legislation.

According to Weingarten, her organization is already “preparing for litigation [to counter these laws] as we speak” — although her spokesman, Andrew Crook, said the union has yet to identify specific targets. Weingarten said that the American Federation of Teachers, which has about 1.7 million members, has “a legal-defense fund ready to go.” Crook said this fund — specifically meant for lawsuits related to critical race theory bills — totals \$2.5 million and comes in addition to the \$10 million that the American Federation of Teachers makes available to fund lawsuits annually.

Weingarten also called for reopening all classrooms next year and announced that the American Federation of Teachers is dedicating \$5 million to a “back-to-school campaign” to help ensure in-person learning is safe. She called the coronavirus vaccines “game changers” and said 90 percent of her union membership been vaccinated.

“Schools can reopen this fall in person, five days a week, with mitigation measures, ventilation upgrades and social, emotional and academic supports for students,” she said.

The furor over critical race theory, which is rapidly consuming the nation as the latest front in America’s culture wars.

has its origins in the summer of 2020 and the killing of George Floyd by Minneapolis police.

Many school districts nationwide were already pursuing equity initiatives when Floyd died. But his death — and subsequent national demonstrations against systemic racism — fueled a fresh round of efforts from school officials to promote racial justice by reexamining the role of police, holding bias trainings for employees and reconsidering the way that history is taught.

But it also generated a growing backlash. Conservative activists have seized on images of assignments or short clips of video classes to argue that teachers are indoctrinating students with critical race theory, which they call divisive and inappropriate for schoolchildren.

Even those who acknowledge that critical race theory is not actually being taught to students warn that school systems' attempts to grapple with concepts such as systemic racism and white supremacy will negatively affect children by trickling through to the classroom and teaching students to view one another solely in terms of race. Detractors also insist that White boys and girls in public school today are learning to hate themselves as historical oppressors.

But in her speech, Weingarten argues the opposite — that school systems will harm children by failing to instruct them fully about the darker parts of America's history. The new laws limiting what educators can say about racism will “knock a big hole” in students' understanding of the nation and the world, Weingarten said.

“We want our kids to have an education that imparts honesty about who we are,” she said. “We want to raise young people who can understand facts, study the truth, examine diverse perspectives and draw their own conclusions.”

Weingarten's advocacy comes shortly after the National Education Association, the country's largest teachers union, passed a resolution asking its members to “fight back against anti-[critical race theory] rhetoric.” The resolution also declared that, in teaching topics including social studies and history, “it is reasonable and appropriate for curriculum to be informed” by critical race theory.

By Hannah Natanson

Hannah Natanson is a reporter covering education and K-12 schools in Virginia. [Twitter](#)



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