

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

VPM NEWS and BEN PAVIOUR,

Petitioners,

v.

VIRGINIA DEPARTMENT OF
EDUCATION,

Respondent.

Case No. _____

BRIEF IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS

VPM News and its reporter Ben Paviour (together, “Petitioners”) submit this brief in support of their Petition for Writ of Mandamus (“Petition”). For the reasons set forth in the Petition and herein, this Court should grant the Petition, issue a writ of mandamus ordering the Virginia Department of Education (“VDOE” or “Respondent”) to release the records sought by Petitioners, and grant Petitioners an award of costs, including reasonable attorneys’ fees.

INTRODUCTION

Pursuant to Virginia’s Freedom of Information Act, Va. Code Ann. § 3700, *et seq.* (“VFOIA”), Petitioners, a journalist and a news organization, requested from VDOE drafts of its “2022 Model Policies on the Privacy, Dignity, and Respect for All Students and Parents in Virginia’s Public Schools” (the “2022 Model Policies”) and related emails, as well as emails sent or received by Superintendent of Public Instruction Jillian Balow (“Balow”) over a seven week span that included the words “trans” or “transgender.” In response, VDOE invoked a narrow statutory exemption intended to allow the Governor’s Office to withhold its own internal correspondence and working papers from public disclosure while individuals within the

Governor’s Office deliberate, prior to reaching a decision. *See* Va. Code Ann. § 2.2-3705.7(2) (the “Working Papers Exemption”). VDOE claimed that the Working Papers Exemption permitted it to withhold 87 records in full; that assertion is meritless, as set forth below.

The purpose of the VFOIA is to “promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government.” Va. Code Ann. § 3700(B). As such, the Act requires that exemptions to its mandate of disclosure be narrowly construed, and it places the burden on an agency withholding a record to demonstrate by a preponderance of the evidence that an exemption was properly applied. Petitioners submit this brief to inform the Court that the facts pled in their Petition, the Exhibits submitted therewith (which are all public records), and an *in camera* review of the records in question will foreclose the possibility that VDOE can meet that burden here.¹ Under the plain text of the Act and the legal guidance offered by both the Attorney General and Virginia Freedom of Information Council, the records withheld by VDOE must be disclosed.

FACTUAL BACKGROUND

On September 19, 2022, Paviour, in his role as a reporter for VPM News, submitted a VFOIA request to VDOE. Petition ¶¶ 2, 15. Petitioners requested:

All drafts of the 2022 Model Policies on the Privacy, Dignity, and Respect for All Students and Parents in Virginia’s Public Schools, alongside any email correspondence related to those drafts.

Any mentions of the word “trans” or “transgender” in the emails (sent or received) of Superintendent Jillian Balow from Aug. 1, 2022 - Sept. 19, 2022.

Exhibit B (the “VFOIA Request”); Petition ¶ 15.² Paviour received a response to the VFOIA Request on October 5, 2022, that attached several responsive records. Petition ¶ 19. However,

¹ Petitioners may also call VDOE’s VFOIA Officer to provide testimony at the hearing required under Va. Code § 2.2-3731(C).

² All “Exhibits” herein refer to those submitted with the Petition.

though the response from VDOE indicated that it had located 90 records responsive to Petitioners' VFOIA Request, 87 of those records—spanning more than 300 pages—were withheld in their entirety, purportedly pursuant to the Working Papers Exemption, which exempts from mandatory disclosure “[w]orking papers and the correspondence of the Office of the Governor.” Va. Code § 2.2-3705.7(2); Petition ¶¶ 17; Exhibit B.

Beyond its assertion that the 87 records were withheld pursuant to the Working Papers Exemption, VDOE provided no information about the subject matter of any of those records. Exhibit B; Petition ¶¶ 45, 46. Records that VDOE *did* produce in response to the VFOIA Request make clear, however, that VDOE improperly invoked that exemption.

First, VDOE withheld an email attachment titled “Cabinet Report 7-22-22.docx” (the “Weekly VDOE Report”). Exhibit C; Petition ¶¶ 19, 20. The Weekly VDOE Report was attached to an email received by Balow, the Superintendent of Public Instruction. Exhibit C; Petition ¶¶ 16, 19. Balow received the Weekly VDOE Report in an email from Jon Russell, then a Senior Advisor within VDOE. Exhibit C, Petition ¶ 21.³

Second, VDOE withheld an attachment titled “Talking Points Transgender Guidance – Copy.docx” (hereinafter, the “Talking Points”). *See* Exhibit D. The Talking Points were attached to an email received by Balow. Exhibit D; Petition ¶ 19. Balow received the Talking Points in an email from Ali Ahmad (“Ahmad”), Director of Policy and Legislative Services within the Office of the Governor. Exhibit D; Petition ¶ 24. Ahmad’s email makes clear that the Talking Points record pertains to the 2022 Model Policies, which were promulgated that same day. Exhibit D; Petition ¶ 24. About ninety minutes after receiving the Talking Points, Balow

³ Russell reportedly took a position outside of VDOE with a local school board in August 2022. Adele Uphaus, *Spotsylvania School Board Creates New Public Relations Position*, The Free Lance-Star (Aug. 22, 2022) <https://perma.cc/C47S-VQFR>.

forwarded it as an attachment to Charles Pyle, Director of Communications and Constituent Services within VDOE. Exhibit D; Petition ¶ 25. Neither of these withheld records, as discussed below, fall within the scope of the working papers exemption; rather, their withholding demonstrates that exemption was not applicable to the 87 records withheld by VDOE.

Petitioners provided VDOE with notice of this lawsuit on January 24, 2023, and subsequently filed their Petition with this Court.

STANDARD OF LAW

VFOIA defines “public records” as “all writings and recordings that consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, . . . or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business.” Va. Code § 2.2-3701. The statute provides that “[a]ll public records . . . shall be presumed open, unless an exemption is properly invoked,” Va. Code § 2.2-3700(B), and further requires that “all public records shall be available for inspection and copying upon request” unless “a public body or its officers or employees specifically elect to exercise an exemption provided by this chapter or any other statute.” *Id.*

An agency attempting to invoke an exemption from VFOIA’s mandatory disclosure requirement bears the burden of demonstrating, by a preponderance of the evidence, that the exemption applies. Va. Code § 2.2-3713(E). This statutory provision overrides the common law requirement that a petitioner for writ of mandamus prove that he or she lacks adequate remedy at law to prevail. *Cartwright v. Commonwealth Transp. Com’r of Virginia*, 270 Va. 58, 66 (2005).

ARGUMENT

I. VDOE cannot meet its burden to show that the Working Papers Exemption applies to records it has withheld in full, including the Weekly VDOE Report and Talking Points.

The Working Papers Exemption exempts from mandatory disclosure “[w]orking papers and correspondence of” certain executives, including the “Office of the Governor.” Va. Code § 2.2-3705.7(s). These statutory terms are interpreted in light of VFOIA’s broad disclosure mandate, which provides that “[a]ny exemption from public access to records . . . shall be narrowly construed and no record shall be withheld . . . unless specifically made exempt pursuant to this chapter or other specific provision of law.” Va. Code § 2.2-3700(B). While “correspondence” is not defined in the Act, the exemption itself expressly states that memoranda attached to correspondence are *not* exempt, unless those memoranda are themselves working papers. Va. Code § 2.2-3705.7(2) (“[N]o information that is otherwise open to inspection under [VFOIA] shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.”).

Thus, the statutory meanings of “working papers,” and “Office of the Governor” bear heavily on this inquiry. “Working papers” is defined in the statute as “those records prepared by or for a public official identified in this subdivision *for his personal or deliberative use.*” *Id.* (italics added). “Office of the Governor” is defined in the statute as “the Governor, the Governor’s chief of staff, counsel, director of policy, and cabinet secretaries, the Assistant to the Governor for Intergovernmental Affairs, and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.” *Id.*

Upon information and belief, many of the 87 records withheld by VDOE that are responsive to the VFOIA Request—including the Weekly VDOE Report and Talking Points records—do not fit these statutory definitions. Indeed, as detailed herein, the plain text of the

Act, a series of persuasive opinions issued by the Attorney General and Virginia Freedom of Information Advisory Council (“VFOIA Council”),⁴ and analogous federal case law interpreting of a similar exemption within the federal Freedom of Information Act, 5 U.S.C. § 552 (“Federal FOIA”) all make clear that VDOE cannot meet its burden of demonstrating that it did not violate VFOIA by improperly withholding the entirety of 87 records responsive to the VFOIA Request.

Indeed, The Working Papers Exemption does not apply to the Weekly VDOE Report, the Talking Points, and other responsive, but withheld, records with similar characteristics for each of the following reasons, any one of which, standing alone, would provide a basis for this Court to order the record’s disclosure.

A. The Working Papers Exemption does not apply to records that have been disseminated outside the Governor’s Office.

As an initial matter, because there is no written executive order from the Office of the Governor directing the VDOE to promulgate its 2022 Model Policies, Balow is outside the statutory definition of an official delegated authority by the “Office of the Governor.” Va. Code § 2.2-104; Petition ¶¶ 11, 16, 37. As such, both Balow’s custody of any records that are not correspondence with the Office of the Governor, including any email attachments, forecloses application of the Working Papers Exemption (as would further dissemination of those records to individuals outside the Office of the Governor).⁵

⁴ The Attorney General is required by statute to give advice and render official opinions when requested to do so by certain governmental bodies or officials. Va. Code Ann. § 2.2-505. The VFOIA Council is an advisory council in the legislative branch created “to encourage and facilitate compliance with the Freedom of Information Act.” Va. Code Ann. § 30-178 *et seq.* Upon request, it provides advisory opinions or guidelines to requesters or public bodies. Va. Code Ann. § 30-179.

⁵ Petitioners do not believe VDOE can meet its burden to demonstrate that the withheld records in question — including the Weekly VDOE Report or Talking Points — were not shared more widely still, with others who are not captured by the statutory definition of “Office of the Governor.” For instance, Petitioners do not believe that several of the individuals who also received the Talking Points record from Mr. Ahmad fall within the statutory meaning of that

This deficiency is demonstrated by the withheld Talking Points and Weekly VDOE Report; VDOE provided the emails to which these records were attached, which give a partial picture of to whom they were distributed. Exhibit D—a public records provided to Paviour by VDOE—demonstrates that the Talking Points were distributed by Balow, who is not within the statutory definition of “Office of the Governor,” to Charles Pyle, who also falls outside that definition. Balow received the Talking Points record because she was copied on an email from Ahmad. Exhibit D.

Likewise, as Exhibit C—also a public record disclosed to Paviour by VDOE—demonstrates, the Weekly VDOE Report was distributed internally among VDOE officials: Jon Russell—then a Senior Advisor within VDOE—distributed the record to Tammy Babbs and Balow. Exhibit C. Again, Balow and Russell are unquestionably outside the statutory definition of “Office of the Governor.”

As noted above, “Office of the Governor” is a statutory term that must be narrowly construed because it informs a VFOIA exemption. Va. Code § 2.2-3705.7(2); *see* Va. Code § 2.2-3700(B). Balow, Superintendent of Public Instruction, Petition ¶¶ 11, 16, 37, Russell, Senior Advisor in VDOE, Petition ¶¶ 11, 21, 37, and Pyle, VDOE Director of Communications & Constituent Services, Petition ¶¶ 11, 26, 37, do not hold any role that falls within the statutory definition of that term. As VDOE employees, Balow, Russell, and Pyle are self-evidently not “the Governor, the Governor’s chief of staff, counsel, director of policy, and cabinet secretaries, the Assistant to the Governor for Intergovernmental Affairs.” Va. Code § 2.2-3705.7(2). Nor

category. But the Court need not reach these questions (at least as to the Weekly VDOE Report and Talking Points), as (i) Balow’s custody of the records, and (ii) the dissemination of the Weekly VDOE Report and Talking Points records to Russell and Pyle, respectively, is fatal to VDOE’s attempt to invoke the Working Papers Exemption.

are they individuals to whom the Governor has delegated his authority pursuant to Va. Code § 2.2-104. That statute limits the individuals to whom the Governor may delegate powers to those secretaries and officers in the executive branch “required to be confirmed by the General Assembly of either house thereof.” Va. Code Ann. § 2.2-104. Neither Russell nor Pyle fit that description. Petition ¶¶ 11, 21, 26, 37. Moreover, that statute requires that any delegation be set forth “in the form of a written executive order.” Va. Code § 2.2-104. There is no such order in place for VDOE’s promulgation of a policy for transgender students in the Commonwealth’s schools. *See* Gov. Glenn Youngkin, Executive Actions (last visited Oct. 27, 2022), <https://www.governor.virginia.gov/executive-actions/>.

Numerous advisory opinions, which may be viewed as persuasive authority, *see, e.g.*, *Fitzgerald v. Loudoun Cnty. Sheriff’s Off.*, 289 Va. 499, 504–05 & n.2 (2015), make clear that records disseminated outside the Governor’s Office that are not correspondence are not covered by the Working Papers Exemption. Opinions of the Virginia Attorney General interpreting Va. Code § 2.1-342(b)(4) (1950), the predecessor statute to Va. Code Ann. § 2.2-3705.7(2), conclude that the Working Papers Exemption does not apply to records disseminated or distributed beyond the executive officer identified in that exemption. *See* 1982-83 Va. Op. Att’y Gen. 724 (1983), 1983 WL 164837 (opining that if a record “is held by the chief executive officer . . . it would be exempt from mandatory disclosure . . . [but i]f, however, the letter has been disseminated, it would lose the exemption and would be subject to mandatory disclosure under the act”); 1981–82 Op. Atty. Gen. 438, 1982 WL 175876; 1976–77 Op. Atty. Gen. 315, 1977 WL 27388.

The VFOIA Council has concluded the same. Freedom of Information Advisory Op. AO-08-00 (Nov. 8, 2000), <https://perma.cc/QVW2-A53G> (“[O]nce the chief executive disseminates any records held by him, those records lose the exemption authorized by

subdivision.”); Freedom of Information Advisory Op. AO-12-00 (Dec. 12, 2000), <https://perma.cc/Y5B2-SWFH> (opining that permitting outsiders to inspect a record constitutes dissemination); *see also* Freedom of Information Advisory Op. AO-01-16 (July 11, 2016), <https://perma.cc/6Z7L-CYRC> (“[E]ven if the [record] was originally a working paper prepared for the Office of the Governor’s personal or deliberative use, it has subsequently been disseminated beyond that original personal or deliberative use and therefore is no longer excluded from mandatory disclosure as a working paper.”).

It is irrelevant to the analysis that any staff of the Governor’s Office may also have reviewed the records in question (if, indeed, they did so). As the above advisory opinions state, and as the Circuit Court of Virginia, Fairfax County, has held, the Working Papers Exemption does not apply to public records merely because they are received or read by a public official identified in Va. Code § 2.2–3705.7(2). *Hill v. Fairfax Cnty. Sch. Bd.*, 83 Va. Cir. 172 (2011). For any memoranda, email attachments, or other records held by Ms. Balow or otherwise disseminated beyond the Governor’s Office, the Working Papers Exemption cannot be invoked.

B. The Working Papers Exemption does not apply to post-decisional memoranda and records otherwise not prepared for personal or deliberative use.

Even if records like the Weekly VDOE Report and Talking Points had never been disseminated beyond those individuals listed in the statutory definition of “Office of the Governor,” they would nonetheless be subject to mandatory disclosure. In order to qualify as a “working paper,” a record must have been prepared “for the personal or deliberative use” of an official named in the statute. Va. Code § 2.2-3705.7(2).

Again, VDOE’s violation of VFOIA can be seen by its withholding of the Weekly VDOE Report and Talking Points. The Weekly VDOE Report was not prepared for the “personal or deliberative use” of the Office of the Governor. Rather, according to Russell’s email, the record

appears to be a routine “weekly report” prepared internally by VDOE. Exhibit C; Petition ¶¶ 19, 20.

Likewise, the Talking Points were not prepared for “personal or deliberative use.” Rather, according to Ahmad’s email, the record was a “re-up” of talking points relevant to the 2022 Model Policy which would be published that same day. In other words—and as Petitioners believe an *in camera* review will confirm—the Talking Points contain the Governor’s Office’s public relations guidance to VDOE, pertaining to the VDOE’s 2022 Model Policy which was then already-queued for promulgation. Exhibit A; Exhibit D; Petition ¶¶ 23–25.

C. Under the VFOIA Council’s recent guidance on the Working Papers Exemption, VDOE Violated VFOIA by withholding in full 87 records responsive to Petitioners’ VFOIA Request.

Moreover, recent guidance from the VFOIA Council makes clear that exemption does not apply to the records at issue. *See* Freedom of Information Advisory Op. AO-01-16 (July 11, 2016), <https://perma.cc/6Z7L-CYRC>; Freedom of Information Advisory Op. AO-02-15 (Mar. 27, 2015), <https://perma.cc/LU8G-2SWZ>. Specifically, the VFOIA Council identified three factors for consideration:

1. The purpose for which the record was created;
2. The person for whom the record was created;
3. Whether the official who holds the exemption has disclosed the record to others, and if so, whether that disclosure was (i) necessary or desirable to further the official’s own deliberative process, or (ii) dissemination beyond the personal or deliberative use of the official who holds the exemption.

AO-01-16, *supra*; AO-02-15, *supra*.

The first factor, “the purpose for which the record was created,” considers “whether the record at issue meets the statutory definition as a record prepared by or for an above-named public official for his personal or deliberative use.” AO-01-16, *supra*. This inquiry is guided by consideration of “whether the executive merely received the document on behalf of [the]

executive body, or whether it required his review, deliberation, or other subjective evaluation, and thus became part of his work product.” AO-01-16, *supra*.

As applied here, it is clear that VDOE has improperly withheld responsive records. For instance, the Talking Points were not subject to “review, deliberation, or other subjective evaluation,” when the Governor’s Office disseminated it to VDOE. Indeed, Balow did not provide “review, deliberation or other subjective evaluation” of the record, but rather forwarded it without changes to another VDOE employee as an “FYI.” Exhibit D; Petition ¶ 24. Likewise, the Weekly VDOE Report was (at most) “merely received” “on behalf of [the] executive body” after it had been prepared by Russel, a VDOE official. Exhibit C; Petition ¶¶ 19, 20.

The second factor, “the person for whom the record was created,” considers whether the record was prepared for an executive covered by the Working Papers Exemption or whether it was prepared for departmental use by persons falling outside the exemption. AO-01-16, *supra*; AO-02-15, *supra*. Here again, for example, the Talking Points were created for broad dissemination, including to officials within VDOE. Petition ¶ 24. Likewise, Russell refers to the Weekly VDOE Report record as a “Weekly VDOE Report” that indicates a routine departmental record, disseminated to Balow within VDOE alongside a representative of the Governor’s Office. Petition ¶¶ 19, 20.

The third factor, “whether the official who holds the exemption has disclosed the record to others,” considers whether any such dissemination was “(i) necessary or desirable to further the official’s own deliberative process,” or whether it was rather “(ii) . . . beyond the personal or deliberative use of the official who holds the exemption.” AO-01-16, *supra*. As above, both the Weekly VDOE Report and Talking Points were disseminated to persons who are not within the Governor’s Office (like Balow), *see* Exhibits C, D, and the dissemination was not necessary to

further any such official's deliberative process. This factor too weighs decisively against application of the exemption.

D. VDOE has failed to demonstrate that the 87 records withheld in full are correspondence of the Office of the Governor.

As a baseline, “the emails (sent or received) of Superintendent Jillian Balow from Aug. 1, 2022 - Sept. 19, 2022,” *see* Petition ¶ 15; Exhibit B, are not, on their face, “correspondence of” the “Office of the Governor,” because Balow is not within the statutory definition of “Office of the Governor.” Va. Code § 2.2-3707.5(2); Petition ¶ 16. VDOE has not met its burden of showing that any of the records responsive to the VFOIA Request can be withheld under its asserted exemption. Petition ¶ 17; Exhibit B (Oct. 5 email from Askew asserting exemption for “Governor’s Confidential Working Papers.”).

The mere receipt of one of Balow’s emails by a person within the Governor’s Office would not transform that email into exempt correspondence of that office. *Hill v. Fairfax County Sch. Bd.*, 83 Va. Cir. 172, 2011 WL 12663423, *5 (2011); *see also* Order, *Sawyer v. Virginia*, No. CL22-3027-00 (Arlington Cir. Ct., Jan. 25, 2023), <https://perma.cc/W7HX-V3QW>; Petition, *Sawyer v. Virginia*, No. CL22-3027-00 (Arlington Cir. Ct., Aug. 8, 2022), <https://perma.cc/6UVY-DHHD> ¶ 50 (overruling demurer and granting petition seeking, *inter alia*, public records that included emails “between . . . employees who work within the Virginia Governor’s Office and . . . employees of the Commonwealth or its municipalities or subdivisions, who work outside the Office of the Governor.”).⁶ For instance, in *Hill v. Fairfax County School Board*, a requester sought emails on which a school superintendent was “merely copied as a recipient.” 83 Va. Cir. 172, 2011 WL 12663423, *5 (2011). Though the asserted

⁶ *See also* Petition, *Sawyer v. Virginia*, No. CL22-3027-00 (Richmond Cir. Ct., Aug. 8, 2022), <https://perma.cc/6UVY-DHHD> ¶ 50.

exemption covered the superintendent's correspondence, "the fact that the Superintendent received or read a copy of these e-mails does not qualify them as part of his working papers or correspondence within the meaning of the Act. Such e-mails do not reflect the work of the Superintendent, nor do they evidence communications intended only for the Superintendent. Those e-mails, therefore, should have been disclosed." *Id.*

At minimum, the requirement in VFOIA that portions of public records not subject to an exclusion must be disclosed, Va. Code § 2.2-3704.01, precludes the blanket withholding in full of all emails responsive to the VFOIA Request. *Hawkins v. Town of S. Hill*, 878 S.E.2d 408, 414 (Va. 2022) ("By adding a redaction provision and limiting the exemption to "information" instead of the entirety of a public record, the General Assembly demonstrated its intent to narrow the exception and provide for partial disclosure."). Thus, to the extent that exempt correspondence appears within a record that also contains non-exempt correspondence, VDOE's withholding of the non-exempt correspondence violates VFOIA.

II. VDOE's failure to identify the subject matter of the 87 withheld records with reasonable particularity violates VFOIA.

VFOIA requires that when "requested records are being provided in part and are being withheld in part," or when "requested records are entirely withheld," the custodian must "identify with reasonable particularity the subject matter of the records [or withheld portions], and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records." Va. Code §2.2-3704(B)(1)-(2); *Fenter v. Norfolk Airport Authority*, 274 Va. 524 (2007) (holding that an agency's inadequate response to requestor's VFOIA request did not comply with Code § 2.2-3704(B), and constituted a violation of VFOIA.). In addition to producing the 87 records for *in camera* review, VDOE should be required to provide the Court and Petitioners with the following information to "identify with

reasonable particularity” their subject matter:

- (i) whether each record is an email, an attachment to an email, or another type of record;
- (ii) for each email or email attachment, all senders and recipients of that record;
- (iii) for each email, the date and subject line of the email and a description of its contents made with reasonable particularity; and
- (iv) for each email attachment, an identification of the email to which it was attached, the name of the attachment, and a description of the attachment’s contents made with reasonable particularity;
- (v) for records that are not emails or email attachments, a description of each such record’s contents made with reasonable particularity.

Petition Prayer for Relief ¶ D.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the Court order VDOE to release the 87 records withheld in full in response to Petitioners’ VFOIA Request, including the Weekly VDOE Report and Talking Points, or alternately show cause why any portion of those records may not be produced pursuant to an applicable VFOIA exemption, order VODE to produce the 87 records withheld in full to the court for *in camera* review, and issue a writ of mandamus ordering VDOE to identify the contents of the withheld records with particularity, as set forth above. Petitioners also respectfully request that the court order Respondent to pay Petitioners’ reasonable costs, including attorneys’ fees.

Respectfully submitted,

January 30, 2022

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CERTIFICATE OF SERVICE

I certify that on or before the 31st day of January, 2023, a copy of the foregoing will be served by email upon the following address:

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Thomas Sanford, Virginia Attorney General's Office
Counsel for Respondent

If additional service is not waived by counsel for respondent, a copy will also be served by private process server upon:

Virginia Department of Education, *Respondent*
c/o Rebecca Askew, Office of Policy
The James Monroe Building, 25th Floor
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