

VIRGINIA:

**IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND**

VPM NEWS and BEN PAVIOUR,

Petitioners,

v.

VIRGINIA DEPARTMENT OF  
EDUCATION

Respondent.

Case No. \_\_\_\_\_

**AFFIDAVIT OF BEN PAVIOUR**

Affiant Ben Paviour states as follows:

1. I am a citizen of the Commonwealth of Virginia and a resident of the City of Richmond. I make this affidavit to show good cause as required by Va. Code § 2.2-3713(A).
2. I have read the petition filed herewith and know its contents.
3. The statements in the petition are true to my own knowledge, or upon information and belief. As to those statements based upon information and belief, I believe those statements to be true.
4. **Exhibit A** is a true and correct copy of a record I obtained from the Virginia Department of Education (“VDOE”), in response to a Virginia Freedom of Information Act (“VFOIA”) request I sent VDOE on September 19, 2022. Exhibit A consists of a document entitled “2022 Model Policies for the Treatment of Transgender Students in Virginia’s Public Schools.”
5. **Exhibit B** is a true and correct copy of emails between the Virginia Department of Education and me, dated September 19–October 5, 2022. These emails include a VFOIA

request that I sent to Rebecca Askew on September 19, 2022, and VDOE's partial denial of that request, sent by Ms. Askew on October 5, 2022. Ms. Askew stated, "VDOE is withholding 87 records . . . pursuant to Section 2.2-3705.7(2) related to the Governor's Confidential Working Papers."

6. **Exhibit C** is a true and correct copy of a record I received from VDOE on October 5, 2022. Exhibit C consists of an email from Jon Russell to Tammy Babs and Jillian Balow attaching a document titled "Cabinet Report 7-22-22.docx" (the "VDOE Report").

7. **Exhibit D** is a true and correct copy of a record I received from VDOE on October 5, 2022. Exhibit D consists in part of an email from Jillian Balow to Charles Pyle forwarding an attachment titled "Talking Points Transgender Guidance – Copy.docx" (the "Talking Points" record).

8. VDOE did not produce the 87 records that Ms. Askew stated were withheld pursuant to Va. Code § 2.2-3705.7(2).

9. Pursuant to Va. Code § 8.01-4.3, I declare under penalty of perjury that the forgoing is true and correct.

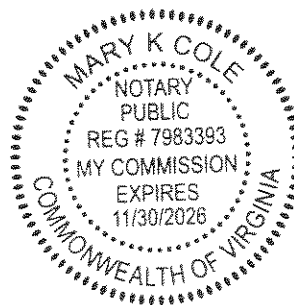
  
Ben Paviour

Sworn to before me this

10<sup>th</sup> day of January, 2023

  
NOTARY PUBLIC

My commission expires: 11/30/2026



## CERTIFICATE OF SERVICE

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

tsanford@oag.state.va.us  
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, 25<sup>th</sup> Floor  
101 N. 14<sup>th</sup> Street  
Richmond, VA 23219

/s/ Lin Weeks  
Lin Weeks, VA Bar No. 97351  
REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS  
1156 15th St. NW, Suite 1020  
Washington, DC 20005  
Tel: (202) 795-9300  
Fax: (202) 795-9310  
lweeks@rcfp.org

*Counsel for Petitioners VPM News and  
Ben Paviour*