

HEARING DATE: WEDNESDAY, NOVEMBER 2, 2022

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

SUPERIOR COURT

**NATIONAL EDUCATION ASSOCIATION
RHODE ISLAND, et al.,
*Plaintiffs,***

vs.

C.A. No. PC 21-05116

**SOUTH KINGSTOWN SCHOOL
COMMITTEE, et al.,
*Defendants.***

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF OBJECTION
TO REQUESTORS' RENEWED MOTION FOR SUMMARY JUDGMENT**

I. BRIEF INTRODUCTION.

The Plaintiffs, National Education Association Rhode Island (“NEARI”) and National Education Association – South Kingstown (“NEASK”) (collectively referred to as “NEA” or the “Union”) hereby submit the following memorandum of law in support of their Objection to the Renewed Motion for Summary Judgment submitted by Defendants Nicole Solas and Adam Hartman (hereinafter “Requestors”).¹ Because the Requestors’ Renewed Motion is simply a reiteration of a Motion for Summary Judgment *denied by this Court less than four months ago*, and because the action should otherwise be dismissed as set forth in the Union’s Motion to Dismiss, this Motion must also be denied. See Exhibit A, *Superior Court Decision*, 6/9/22.

¹ The Requestors characterize themselves as “Parents.” The fact that they are not parents of a student who ever attended a South Kingstown public school will be addressed infra.

II. FACTS AND TRAVEL.²

Union Organization and Leadership

For approximately forty years, NEARI has been the certified collective bargaining representative of teachers employed in South Kingstown. Verified Complaint (“VC”) ¶ 3, 4. The collective bargaining relationship between the Union and the School Committee is governed by the statutory provisions and procedures set forth generally, in Chapter 28, Title 7, the State Labor Relations Act (“SLRA”) and in Chapter 28, Title 9.3, the Certified School Teachers’ Arbitration Act (the “Michaelson Act”). These statutes set forth the parties’ obligations to each other and the public policy which underlies the relationship in general. See id. One product of the statutory bargaining obligation is the Collective Bargaining Agreement (“CBA”) executed between the Union and the School Committee, which governs the terms and conditions of their members’ employment. Exhibit B, *Mary Barden Affidavit*.

The governance of the Union is set up as follows. NEARI is led by full-time staff, including the Deputy Executive Director, Jennifer Azevedo (“Azevedo”). Ex. B. NEARI also employs Uniserv Representatives who are each responsible for a number of local bargaining units. Ex. B. At the time of the events giving rise to this dispute, the Uniserv Representative in South Kingstown was Mary Barden (“Barden”). Ex. B.³ Barden assisted the local teacher bargaining unit (NEASK) and its leadership with collective bargaining and any other labor relations issues that may arise on a daily basis. Ex. B. The local leadership includes NEASK President Brian Nelson (“Nelson”). Ex. B. Nelson is a teacher at the Curtis Corner Middle

² The facts stated herein are taken largely from this Court’s June 9 decision and the Union’s Memorandum in Support of Objection to the Requestor’s First Motion for Summary Judgment.

³ Barden has since been promoted to Executive Director of NEARI.

School. Ex. B. Thus, when Nelson needed assistance with collective bargaining or labor relations matters, he consulted with Barden. Ex. B.

Both Nelson and Barden worked with the South Kingstown School Department administration on all labor relations matters related to teachers, and thus, it was not unusual for them to be notified by the School Department administration of any ongoing issues that may be of interest or concern to the Union and its members. Ex. B. It was common for the employer to notify the Union of situations which may impact teacher rights. Ex. B.⁴ At the time this issue initially arose, the Superintendent of Schools was Linda Savastano (“Savastano”). Ex. B. Savastano was someone Barden and Nelson regularly communicated with about issues affecting teachers. Ex. B.

The Facts Leading to the Filing of the Verified Complaint

On or about May 19, Savastano sent an e-mail to the School Committee about the fact that a large number of requests had been made for School Department records pursuant to the Access to Public Records Act (“APRA”). See G.L. 1956 § 38-2-1; Exhibit C, *Savastano E-mail 5/19/21*. Savastano then shared that e-mail with other school administrators and with Nelson to “keep him in the loop.” Ex. C. Savastano attached a list of requests to demonstrate the scope of

⁴ In fact, a basic principle of labor law is that an employer is required to notify the Union of any changes to the terms and conditions of bargaining unit members’ employment. See Quality Health Services of P.R., Inc. v. NLRB, 873 F.3d 375, 384 (1st Cir. 2017) (describing parallel federal law and holding that: “It is an unfair labor practice for an employer ‘to refuse to bargain collectively with the representatives of his employees.’ 29 U.S.C. § 158(a)(5). The duty to bargain collectively is ‘the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment.’ 29 U.S.C. § 158(d). ‘An employer violates this duty when he changes a mandatory term or condition of employment without giving the employee’s representative adequate notice and an opportunity to bargain.’ * * * ‘[A]n employer has a duty to bargain to impasse with its employees over the terms and conditions of employment before making a unilateral change in conditions.’”) (internal citations omitted) (emphasis added).

the work the School Department was undertaking.⁵ Ex. C. Savastano noted since March, the School Department had received 88 records requests, and that as of the date of her e-mail, 66 were pending. Ex. C. The list covered the period April 25 through May 19, 2021, and reflected that at one point, requests were being filed daily. Ex. C. The majority of the requests were not directed at any records specific to individual teachers, but rather focused on concepts such as antiracism, implicit bias, and records of the BIPOC (Black, Indigenous and people of color) advisory board records, and records of books that concern topics such as race and transgender issues. Ex. C.

However, Nelson passed on this information to Barden because some of the requests, especially the more recent ones, did call for records which were specific to teachers and some also related to labor relations matters. Ex. B. For example, one request was directed at “digital copies of emails of Michael Alper in March 2021.” Ex. B, Ex. C. Alper is a teacher and member of NEASK. Ex. B. Another asked for “digital copies of documents pertaining to AFL-CIO in the last four months.” Ex. B, C. The AFL-CIO is the umbrella labor organization of which NEARI is a member. Ex. B.

At or around this time, Barden reached out to Aubrey Lombardo (“Lombardo”), counsel to the School Committee, to discuss the APRA requests that concerned individual members. Ex. B. At the time, Lombardo told Barden they would notify the Union when or if the School Department was going to be producing documents that concerned individual members. Ex. B. As Barden would normally do, in a situation where an unusual issue has arisen that may impact teacher rights, she also informed Azevedo of the requests and the fact that some of them were

⁵ Savastano also commented that “[t]here are staff members that have been focused on. I would like building leadership to talk with those staff members.” within the requests. Ex. C.

directed at individual teacher records. Ex. B. Significantly, while there were many APRA requests concerning things like curriculum or School Committee member-related documents, costs of legal fees and diversity, equity and inclusion information, the Union did not lodge any objections to these requests nor was the internal discussion focused on those requests. Ex. B.

In late May 2021, Savastano shared with Nelson that the number of requests was now up to 160 and the majority of the newer requests appeared to involve teachers. Ex. B. Nelson again contacted Barden who reiterated to Nelson that based on her discussions with School Department counsel, “teacher” e-mails were not being produced at this time but that if that were going to happen, the Union would be notified. Ex. B.

In early June 2021, the APRA requests were discussed at a School Committee meeting. Exhibit D, *School Committee Agenda/Minutes 6/2/21*. This generated more public discussion about the requests in general. Ex. B. Following the School Committee meeting, public indications were that the School Department may have changed position on whether teacher-related documents would be disclosed. Ex. B. The Union, however, *was still only concerned with the requests that were focused on the members and labor relations matters*. Ex. B. Barden discussed with Azevedo whether the Union can or should take any actions to prevent disclosure of documents that involved teacher disciplinary records, teacher e-mails, and personnel files. Ex. B.

On or about July 13, 2021, before making any final determination about whether, in fact, any of the pending APRA requests implicated member privacy rights or were problematic from the Union’s perspective, the Union again reached out (through counsel) to find out whether in fact there were documents being produced presented such concerns and what other requests were

in the pipeline. Exhibit E, *Union E-mail to School Department re: Status*. It had now been about three (3) months since the Union was initially notified of the APRA requests.

In response to the Union's July 13 e-mail, the Union was told it would have to submit its own APRA request for a list of pending APRA requests. Ex. B. Despite concerns that this procedure imposed a hurdle in violation of the SLRA, the Union complied and filled out a public records request on July 14. Ex. B.⁶ The School Committee responded with a letter acknowledging acceptance of the request and confirmation that records would be produced upon payment of the cost associated with preparation and copying. Ex. B.

The request was paid for, and the School Department produced a more detailed color-coded list of pending requests on July 30, 2021. Exhibit F, *Pending APRA Requests as of 7/21*. The list indicated the open requests as of July 14. Ex. F. In total, it appeared from Savastano's e-mail and Exhibit F that the School Department received over three hundred (300) APRA requests from March 2021 to July 2021 and that about 100 remained outstanding. Ex. F. The document revealed that following Solas' requests, the School Department began receiving more requests from other individuals and entities. *Id.* For example, there were a number of similar requests that were teacher-related from Requestor Hartman.⁷ Ex. F.

As to many of the requests, the Union still expressed no opinion. Ex. B.⁸ For example, whether a private citizen is entitled to copies of school curriculum, information about the critical

⁶ Pursuant to well-settled state labor relations law, employers are required to produce relevant information needed by a labor union for the proper performance of its duties as the employee's bargaining representative. See Rhode Island State Labor Rels. Bd. and State of Rhode Island, Dep't of Behavioral, Healthcare, Developmental Disabilities & Hosp., ULP 6261/6270, Decision and Order, 8/24/21, pp. 6-8.

⁷ At the time, the Union was not aware that there was any relationship between the Requestors. Ex. B.

⁸ As noted by the Requestors, APRA contemplates that the motive of the requestor is irrelevant to

race theory (“CRT”) in schools or information about legal expenses of a particular school district was not at issue. Ex. B. In fact, labor organizations often utilize APRA requests to obtain pertinent information about *the official business* of the government. However, the Union reviewed the list of open APRA requests which confirmed that some did relate to things like teacher personnel files, also included requests for collective bargaining related information and requests targeting the e-mails of particular teachers, and it reflected the status of the requests.

Ex. B. For example, the list called for things like:

- Digital copies of documents pertaining to the AFL-CIO in the last four months.⁹
- Digital copies of public documents related to Patrick Crowley in the months of March, April and May 2021.¹⁰
- All disciplinary actions and relevant details against any teacher in the district in the past three years. If actions or details are not public information, provide how many disciplinary actions or details are not public information, provide how many disciplinary actions are private and against which teachers.
- CVs, contracts, job descriptions, and all documents related to the hiring of the first 50 teachers listed on the staff directory on the website of South Kingstown High School. Ex. F.

Accordingly, the Union decided to reach out to the School Committee counsel to find out whether the School Committee intended to produce records responsive to requests that implicated teacher personnel files, e-mails, labor relations documents, etc. and also, *when* the School Department intended to respond to Request No. 47 which, according to the document, was the only request that had been paid for and called for copies of the former Superintendent’s

whether public documents not otherwise exempt will be produced. In this case, the Requestors expressly put motive at issue by asserting the anti-SLAPP defense. As argued *infra*, there is substantial evidence that the Requestors were not motivated simply by good-faith parental interest.

⁹ The AFL-CIO is the umbrella labor organization of which NEARI is a member.

¹⁰ Patrick Crowley is a NEARI employee and Secretary-Treasurer of the RI AFL-CIO.

e-mails for a period of six months. Ex. B. The Union was informed that the Superintendent's e-mails would include communications with teacher members and that Response to No. 47 would ultimately result in the production of about 90,000 pages of documents. Ex. B. Under these circumstances, the School Department was not in a position to be able to satisfy the Union's concerns as to what would be produced and what would not be produced given the size of the project and the timelines within which it needed to be complete. The School Department did not inform the Union at that time that it would not produce non-public documents or that it would conduct a balancing test to protect teacher privacy and exclude exempted labor relations documents.

The Instant Action

Accordingly, on August 2, 2021, the Union filed the instant action. Critical to both the First Motion for Summary Judgment and this Motion, the Union directed its request for declaratory and injunctive relief *at an extremely limited aspect of the documents requested by the Defendants*. As stated at the very first instance in the Complaint "[i]n short, this action seeks to: (a) prohibit the disclosure of non-public records; and/or (b) for those requests that call for *personally identifiable and other personnel-related information about public school teachers*, that no records be disclosed until the Court employs a balancing test that properly assesses the public interest in the records at issue measured against the teachers' individual privacy rights." VC, p. 1.

With respect to the request for declaratory judgment, it was limited in that Plaintiffs requested: "A. For certain categories of documents which are not public records under APRA, enter declaratory judgment that the requested records are not subject to disclosure. This category should include, but may not be limited to, *personal e-mails, labor relations materials, personnel*

records, disciplinary records, evaluations and other records that are incidental and do not concern the official business of the School Department. B. For certain categories of documents which are potentially public records under APRA, examine the records in camera pursuant to § 38-2-9(b) and conduct the balancing test contemplated in § 38-2-2(A)(I)(b) *to determine whether the disclosure of such records would constitute a clearly unwarranted invasion of privacy* and thus, shall not be disclosed. C. In the alternative, should certain records be subject to disclosure, to order redaction of personally identifiable information of teachers and/or other information which may lead to the identity of such teachers contained in the documents. D. Grant the Plaintiffs such other relief as this court deems just and proper.” VC, p. 7.

More significantly, the Union made clear that it only named the Requestors as parties because it was required under the UDJA. G.L. 1956 § 9-30-11. In particular, pursuant to ¶ 9, Plaintiffs averred that “Defendants Solas and Hartman are named and included only insofar as Plaintiffs are required to do so pursuant to G.L. 1956 § 9-30-11 which provides that “[w]hen declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding.”¹¹

Thus, *at the start* this action had nothing to do with preventing the Requestors from obtaining public documents such as documents about curriculum or documents concerning what

¹¹ In its motion, the Requestors point out that many other individuals submitted APRA requests as reflected on Exhibit F, and none were included in this action. That no others were included makes sense because a review of Exhibit F revealed that (a) other requestors did not request teacher-related or collective-bargaining related documents; and (b) if they did, such as the request by “threeboysanddog@yahoo” which requested Brian Nelson e-mails, the Union had not yet been able to identify the requestor (only an e-mail was listed on the document) and the School Department was not going to respond to that request any time soon given the hundreds that came before it by the Requestors.

the Requestors' alleged child would be learning in Kindergarten and did not initially concern the Requestors' motive for seeking the documents.¹²

The August 2021 Motion for Temporary Restraining Order

On August 5, 2021, the Union filed its motion for temporary restraining order. The Union's motion was directed at only specific types of records under consideration for disclosure by the School Department and clearly stated as follows:

A. Categories of Records at Issue.

The Union has filed the instant suit only as it relates to certain categories of records implicated by the requests. In particular, the categories of records at issue are:

- **Records that implicate labor relations or collective bargaining matters or otherwise contain information about protected concerted activity between or among union members.** Documents which may contain such information may be produced in response to Request No. 48 which calls for "digital copies pertaining to the AFL-CIO in the last four months," and Request No. 100 which calls for "digital copies of public documents relating to Patrick Crowley in the months of March, April, and May 2021." **This category will hereinafter be referred to as "labor relations records."**
- **Records that implicate teacher discipline and performance.** Documents which may contain such information may be produced in response to Request No. 158 which calls for "all complaints against Robin Wildman;" Request No. 182 which calls for "all disciplinary actions and relevant details taken against any teacher in the school district in the past three years. If actions or details are not public information, provide how many disciplinary actions are private and against which teachers;" Request No. 202 which calls for records related to a song

¹² Yet, as this record reflects, as soon as the lawsuit was filed, Defendant Solas began a public campaign announcing that she had been sued by the Union *because* she sought documents about her child's education, never mentioning that (a) she had requested much more than that including documents entirely irrelevant to her child's education in a public school; (b) that her child did not even attend public school; and (c) that the lawsuit expressly detailed that those type of documents were not at issue.

performed by the South Kingstown High School choir and for records reflecting ‘what qualifications Ryan Muir [has] to talk about race and equality with choir students?;’ and Request No. 241 which requests records such as “CVs contracts, job descriptions and all documents related to the hiring of the first 50 teachers listed in the staff director on the website of South Kingstown high school.” **This category will hereinafter be referred to as “teacher discipline and performance records.”**

- **Records that implicate teacher e-mails.** Documents which may contain such information may be produced in response to Request No. 164 which calls for all e-mails between Linda Savastano (the former Superintendent) and Robin Wildman for a period of two years. Request No. 85 which calls for “digital copies of emails of Michael Alper in March 2021,” Request No. 86 which calls for “digital copies of Linda Savastano’s e-mails in the last six months,” Request No. 59 which calls for ‘exactly one hour’s worth of work to provide digital copies of Linda Savastano’s most recent e-mails;’ and Request No. 297 which calls for “all Savastano e-mails from May 17, 2021, to the date this request is fulfilled.” **This category will hereinafter be referred to as “teacher e-mails.”**

The motion for temporary injunctive relief was scheduled for argument on Monday, August 23, 2021. The School Committee filed its Answer on August 16, and the Requestors filed their Answer on August 18. No Defendant filed a counterclaim against the Union.

On August 18, during the week before the hearing, the Court held a conference. During the conference, it became apparent that between the time the Union initially reached out to the School Department and August 18, counsel for the School Department had continued working on the response to Request No. 47 and had in fact been conducting a review to determine whether the records at issue were subject to disclosure and/or whether certain records were not subject to disclosure because they implicated teacher privacy rights (or fell within another appropriate exemption). The School Department essentially provided the assurance that the Union initially sought.

Given this latest information which did not exist before the action was filed, on August 23, the date of the hearing, the Union withdrew its motion and the Union offered to voluntarily dismiss the Requestors from the action. Ex. A, p. 7. *In short, because the School Department represented that it did not anticipate producing any documents described as problematic by the Union in its motion during the conference, the Union withdrew its request for injunctive relief as it was no longer necessary.* Ex. A, p. 7.

The Union made the offer to dismiss the Requestors because Ms. Solas had publicly and widely complained on social media about being “sued,” by the Union simply because she sought records about her child’s school. See Exhibit G, Solas Tweets Sample.¹³ Accordingly, if the Requestors did not want to participate, the Union offered them a way out of the lawsuit on August 23, within three (3) weeks of the filing of the Complaint. Despite the fact that the Requestors *had not paid for the production of any other records at that time* and had apparently decided not to pursue their many requests, the Requestors declined. Id.

Notwithstanding the fact that the Union had offered to dismiss the Requestors from the action, the Requestors had already filed a Motion for Summary Judgment. Applicable case law

¹³ Exhibit G includes a sample of Solas’ Twitter posts which includes some reaction to the filing of the VC. In addition to the posts, Solas was active on social media and on news outlets reiterating that she was a mother who was seeking curriculum-based information about her child who attended public school and in response she was sued by the teachers union. Exhibit H, *Goldwater Post* at <https://www.goldwaterinstitute.org/nea-sues-mom-for-asking-questions-about-curriculum/#:~:text=The%20National%20Education%20Association%20%28NEA%29%E2%80%94the%20nation%E2%80%99s%20largest%20public,Rhode%20Island%20mom%20Nicole%20Solas%20is%20fighting%20back>. In reality, as demonstrated herein, her requests were not confined to curriculum-based information, but instead were directed at many other topics some of which were targeted at individual teachers, she was inundating the School Department with no real intention to obtain the documents she requested, and she did not have a student attending school in the district. Her account (“Nicole Solas Domestic Terrorist”) was eventually banned from Twitter. Ex. G.

suggested that this Court would not look favorably on a Motion to Dismiss pursuant to Rule 41 while a Motion for Summary Judgment was pending. See, e.g., Belac v. 3M Co., No. PC-16-0544, 2017 R.I. Super. LEXIS 70, at *5-6 (Super. Ct. Apr. 20, 2017). Accordingly, the Union prepared and filed a response to the First Motion.

The First Motion for Summary Judgment

On or about August 20, the Requestors filed the First Motion for Summary Judgment. The Requestors made two arguments: (a) that the Union lacked standing to bring the action at the outset; and (b) that the action filed constituted a “SLAPP” suit in violation of § 9-33-1 et seq. and thus, the Requestors asked the Court to grant summary judgment as to the anti-SLAPP defense and grant it attorneys’ fees and damages.

On or about September 22, 2021, the Union reached out to the School Department to (a) confirm that the 90,000 pages of Savastano e-mails had been produced after an appropriate balancing test as promised; and (b) to inquire whether any other requests that implicated privacy concerns were paid for and scheduled to be produced. Exhibit I, *9/21 E-mails*. Counsel for the School Department confirmed that none of the other requests had been paid for, and thus, no other records at issue were scheduled for disclosure. Id.

The Union filed its objection to the First Motion for Summary Judgment in October 2021 and the Requestors filed a Reply in November 2021. The Court considered the substantial memoranda filed by both parties, as well as the parties arguments on December 1, 2021.¹⁴

¹⁴ The School Defendants took no position on the Motion.

The Trial Justice's Decision

On June 9, 2022, Judge Rekas-Sloan issued the Court's 27-page decision, denying the Requestors' Motion for Summary Judgment. Ex. A. The Court first thoroughly addressed the Requestors' standing challenge, finding that the Union did in fact have standing to pursue its claim for declaratory judgment on behalf of their members. Ex. A, pp. 7-15. The Court then turned to the second argument, whether the Requestors' were entitled to summary judgment on their asserted affirmative defense under the anti-SLAPP statute. Ex. A, p. 16. The Court reviewed each argument presented by both the Union and the Requestors. With respect to the elements of the Requestor's anti-SLAPP defense, the Court first found that "[t]he Parents' APRA request is a written statement made before or submitted to a government body and the Parent's actions in making APRA requests constitutes an exercise of their right of free speech and petition as defined in the Anti-SLAPP statute, and thus, Plaintiffs have satisfied the first element in asserting Anti-SLAPP immunity." Id. at p. 20. The Court then turned to the second question, "whether the activity deals with a 'matter of public concern.'" Id. at p. 21. The Court also resolved this issue in favor of the Requestors.¹⁵ Id., pp. 21-22. Finally, the trial justice turned to the issue of whether the Requestors had established, as a matter of law, that their activities were not a "sham." Id., p. 22. It is on this point that the trial justice found disputes of material fact existed such that the issue could not be resolved at the summary judgment stage.

In particular, the Court first outlined applicable law pursuant to § 9-33-2(a) which provides:

“[t]he petition or free speech constitutes a sham only if it is
not genuinely aimed at procuring favorable government action,

¹⁵ In reaching this decision, the Court expressly noted that it was **not** finding, at this juncture, that all of the documents requested were public records under APRA. Ex. A, p. 22, n. 8.

result, or outcome, regardless of ultimate motive or purpose. The petition or free speech will be deemed to constitute a sham as defined in the previous sentence only if it is both:

(1) Objectively baseless in the sense that no reasonable person exercising the right of speech or petition *could realistically expect success in procuring the government action, result, or outcome, and*

(2) Subjectively baseless in the sense that *it is actually an attempt to use the governmental process itself for its own direct effects.* Use of outcome or result of the governmental process shall not constitute use of the governmental process itself for its own direct effects.” Id., p. 23.

The Court then reviewed the Requestors’ argument relative to whether the records requests were objectively baseless. “The Parents argue that their records requests are not objectively baseless because the Parents can and should realistically expect success in procuring government action, i.e., responsive records.” Ex. A, p. 23 (internal citations omitted). The Court “agree[d] that many of the Parents’ APRA requests fit this description; *however, the Court finds that the Parents could not “realistically expect success in procuring government action, i.e., responsive records” to all of their APRA requests. Some of the Parents’ APRA requests, as phrased, appear to be seeking nonpublic records that are exempt from disclosure, even if in part.”* Id. (emphasis added). As the Court described, “[f]or example, Request No. 145 attached as Appendix B to the Verified Complaint, seeks ‘[a]ll documents related to the hiring of Ginamarie Masiello; all performance reviews.’ * * * Similarly, Request No. 151 seeks ‘CV of Coleen Smith; all documents related to her hiring; job performance reviews.’ * * * Request No. 237 seeks ‘CVs, contracts, job descriptions, and all documents related to hiring of the first 50 teachers listed in the staff directory on the website of South Kingstown High School.’” Id.

Based on a comparison of these examples, to some of the Requestors other requests, the Court found it “can only infer that the former requests were seeking non-public information * * *.” Id. at 24. Given this, and the fact that the evidence must be construed in a light most favorable to the non-moving party, “this Court finds that based on the current record, some of the [Requestors] requests are objectively baseless.” Id.

The Court then evaluated the record related to the last element – whether it could be determined, as a matter of law, that the Requestors activity was not subjectively baseless. The Requestors argued “that they have successfully established that their APRA request was not subjectively baseless because the Plaintiffs were not ‘hindered’ or “‘delayed’ by the Parents’ record requests. * * * Rather, the Parents argued their records request was a legitimate means to obtain public information.” Id. at p. 24-25.

On review, the Court found “[a]gain, * * * some of the Parents’ requests appeared to seek non-public information.” Id. at p. 25. The Court then noted that [s]ection 9-33-2(a)(2) defines subjectively baseless activity as the ‘attempt to use the governmental process itself for its own direct effects.’ Karousous v. Pardee, 992 A.2d 263, 270 (R.I. 2010).” Id. Given the state of the record, the Court found that “an analysis of whether the requests were subjectively baseless seems inappropriate for resolution through a motion for summary judgment.” Id. Citing to Karousous, the Court noted that in that case summary judgment was granted because the plaintiff “was unable to offer any facts that would suggest that [the defendant’s] appeal was *motivated by anything other than outcome of the process.*” Id. (quoting Karousous, 992 at 271) (emphasis added). “Due to the plaintiff’s inability to put forth competent evidence as required under the summary judgment standard, the Karousos Court granted summary judgment in favor of the defendant.” Id.

Considering the applicable burdens on summary judgment, the Court distinguished the instant dispute given the verified evidence presented by the Plaintiffs concerning the subjectively baseless nature of the Requestors activity. In particular, the Court noted that Plaintiffs presented “*ample evidence that the motivation of the [Parents] was to use the process to inundate the School Department or to harass teachers they believed supported Critical Race Theory and not to actually obtain all the records at issue,*” that had not been countered by the Requestors as they presented no counter-affidavit. Accordingly, “[v]iewing the evidence in the light most favorable to the nonmoving party, this Court finds a genuine issue of material fact exists as to whether the Parents’ records requests constitute a sham pursuant to § 9-33-2(a)(1)-(2). Because the Court finds that some of the Parents’ APRA requests could be deemed objectively baseless, and because the Court cannot rule at the summary judgment stage on whether the requests were subjectively baseless, the Parents have failed to establish the final element to successfully assert Anti-SLAPP immunity.” *Id.* at pp. 26-27 (emphasis added).

Events Following the First Summary Judgment Decision

Shortly after the decision denying summary judgment entered, the undersigned reach out to counsel for all Defendants as follows:

“In follow up to the proposed order, and given the fact that there has been no change in circumstances since the argument on the summary judgment motion (no non-public documents have been released nor does it appear the SC has any imminent plans to do so) the Union proposes that the parties agree that the case shall be dismissed, no interest, costs or attorneys’ fees to either party and execute a dismissal stipulation pursuant to Rule 41.” Exhibit J, *E-mail Exchange*.

The School Department Defendants agreed, and thus a voluntary dismissal was submitted as between the Union and the School Defendants. Exhibit K, *Dismissal Stipulation*. With respect

to the Requestors, counsel responded that: “[b]ecause Parent Defendants still have affirmative relief under the anti-SLAPP statute, and because the Court found fact questions regarding Parents’ anti-SLAPP claim, we cannot agree to a dismissal at this point.” Ex. J.

Because the Requestors refused to agree to dismissal, the Union filed a Motion to Dismiss because events that occurred after the filing of the Complaint have rendered it moot. In particular, the Union points out that the School Department did conduct the required balancing test and did not disclose non-public teacher personnel or labor relations documents when it responded to Request No. 47 and *the Requestors have not since paid for the School Department to produce any other request that is directed at teacher personnel or labor relations matters.* The Requestors gained all the national attention they apparently sought and their child never attended South Kingstown schools. Thus, here is no longer a live dispute to resolve on the merits of the Union’s declaratory judgment claim. In the Motion to Dismiss, the Union points out that regardless of the Requestors’ desire to litigate over the Union’s moot claim, this Court has the discretion to dismiss the instant action based on the particular facts and circumstances.

After the Union filed and scheduled the Motion to Dismiss for hearing, the Requestors filed the instant Renewed Motion for Summary Judgment.¹⁶ In its Renewed Motion, the Requestors essentially reiterate the same argument set forth in its First Motion for Summary Judgment relative to the anti-SLAPP defense. In particular, the Requestors argue that this Court should decide, *as a matter of law*, that their requests were not objectively and subjectively baseless. But the trial justice, considering the parties’ positions just four months ago, already rejected that argument because there exist genuine disputes of material fact on whether the

¹⁶ The Requestors also filed a Motion for More Definite Statement, but never assigned it for hearing.

protected activity is a sham. As the following demonstrates, nothing in the renewed submission eliminates this - the parties have a factual dispute on the sham element of the anti-SLAPP defense that cannot be resolved at the summary judgment stage. Accordingly, if the Court finds the Plaintiff's Complaint is not moot, the defense does not automatically get resolved in the Requestors favor.

III. STANDARD OF REVIEW.

"Summary judgment is 'a drastic remedy,' and a motion for summary judgment should be dealt with cautiously. Ardente v. Horan, 117 R.I. 254, 256–57, 366 A.2d 162, 164 (1976) ('Summary judgment is a drastic remedy and should be cautiously applied * * *'); see also DePasquale v. Venus Pizza, Inc., 727 A.2d 683, 685 (R.I.1999) ('This Court has consistently acknowledged that summary judgment is a harsh remedy that must be applied cautiously.');

Sjogren v. Metropolitan Property and Casualty Insurance Co., 703 A.2d 608, 610 (R.I.1997).

The summary judgment papers filed by the movant must seek to establish that there exists no genuine dispute with respect to the material facts of the case. If the movant satisfies that requirement, the nonmovant must point to evidence showing that a genuine dispute of material fact does exist. See Benaski v. Weinberg, 899 A.2d 499, 502 (R.I. 2006); Superior Boiler Works, Inc. v. R.J. Sanders, Inc., 711 A.2d 628, 631–32 (R.I.1998). * * * A hearing justice who passes on a motion for summary judgment 'must review the pleadings, affidavits, admissions, answers to interrogatories, and other appropriate evidence from a perspective most favorable to the party opposing the motion.' Steinberg v. State, 427 A.2d 338, 340 (R.I.1981). The hearing justice may grant the motion for summary judgment only if, after conducting that required analysis, he or she determines that 'no issues of material fact appear and the moving party is entitled to judgment as a matter of law * * *.' Id.

It is important to bear in mind that the ‘purpose of the summary judgment procedure is issue finding, not issue determination.’ Industrial National Bank v. Peloso, 121 R.I. 305, 307, 397 A.2d 1312, 1313 (1979); see also Saltzman v. Atlantic Realty Co., 434 A.2d 1343, 1345 (R.I. 1981); Steinberg, 427 A.2d at 340 (“[I]n ruling on a motion for summary judgment, the trial justice must look for factual issues, not determine them.”); O’Connor v. McKanna, 116 R.I. 627, 633, 359 A.2d 350, 353 (1976) (“[I]n passing on a motion for summary judgment, the question for the trial justice is whether there is a genuine issue as to any material fact and not how that issue should be determined.”).” Estate of Giuliano v. Giuliano, 949 A.2d 386, 390-91 (R.I. 2008).

IV. ARGUMENT.

A. The Renewed Motion for Summary Judgment Must be Denied because the Case is Moot.

As pointed out supra, as soon as the First Motion for Summary Judgment was decided, and before the Requestors’ renewed their motion for summary judgment, the Union filed a Motion to Dismiss pursuant to Rule 41. For the reasons set forth in that Motion, which the Union fully incorporates herein, this Court should grant the Union’s Motion to Dismiss. Given this, there is no need to reach the merits of the Requestors’ Renewed Motion for Summary Judgment. Although the Union will proceed to respond to the merits of the Motion, it does so to protect its position only in the event that the Motion to Dismiss is denied.

Furthermore, although it is clear a fact dispute still exists on the last element of the Requestors affirmative defense (as pointed out infra), that in no way undermines the argument made in the Motion to Dismiss that the Union’s claims are moot. If the substantive claim is moot, then there is no need to resolve an affirmative defense to a moot claim even if a fact dispute existed on the defense. Consider a different affirmative defense as an example. Suppose

a plaintiff moved to dismiss its own case and the defendant had included the affirmative defense of statute of limitations in its answer and there was a fact dispute that prevented summary judgment on the statute of limitations defense. The fact that the statute of limitations defense exists would not preclude dismissal of a moot action. There is no need to litigate a defense to a moot action.

B. The Renewed Motion for Summary Judgment must be denied pursuant to the law of the case doctrine.

The Requestors' Renewed Motion focuses only on the anti-SLAPP defense and reiterates the same argument made in its First Motion for Summary Judgment - that it is entitled to judgment as a matter of law on its defense, and that this Court should award attorneys' fees and damages to the Requestors pursuant to § 9-33-2(d). The Requestors' attempt to re-litigate the same issues disposed of by the trial justice in June must be rejected based on the law-of-the-case doctrine.

In Rhode Island, "[t]he law of the case doctrine provides that, after a judge has decided an interlocutory matter in a pending suit, a second judge, confronted at a later stage of the suit with the same question in the identical manner, should refrain from disturbing the first ruling." Felkner v. R.I. Coll., 203 A.3d 433, 445 (R.I. 2019) (internal citations omitted). "The purpose of the doctrine is to ensure the stability of decisions and avoid unseemly contests between judges that could result in a loss of public confidence in the judiciary." Id. The Rhode Island Supreme Court has held that the doctrine is particularly applicable "when the rulings under consideration pertain to successive motions for summary judgment * * *." Ferguson v. Marshall Contractors, Inc., 745 A.2d 147, 151-52 (R.I. 2000) (holding trial justice should not have considered second motion based on law of the case doctrine).

“Nevertheless, the doctrine is ‘a flexible rule’ and ‘may be disregarded when a subsequent ruling can be based on an expanded record.’” Id. (citations omitted). “When presented with an expanded record, it is within the trial justice’s sound discretion whether to consider the issue.” Felkner, 203 A.2d at 445. With respect to what constitutes an expanded record, the Supreme Court found that a set of admissions did not sufficiently expand the record in Ferguson, but in Felkner, found the record was expanded by the passage of seven (7) years and significant efforts at discovery. Accordingly, whether the record has actually been expanded is a fact-dependent issue within the discretion of the trial justice.

In this case, the trial justice decided an interlocutory matter when she ruled on summary judgment that there were material disputes of fact on the issue of whether the protected activity asserted by the Requestors constituted a sham. The trial justice found that element of the Requestors’ affirmative defense could not be resolved as a matter of law given the Union had submitted sufficient evidence to generate a material dispute of fact and defeat the Requestors’ attempt to resolve the question without a fact finder. The Requestors are plainly asking this trial justice (four months later) to re-examine the same issue to reach a different decision than the first trial justice based on the same record. That effort should be swiftly rejected because there has been no expansion of the record sufficient to warrant re-consideration.

In particular, the parties have not conducted any discovery since June. From the Union’s perspective, this is because the matter is moot as set forth in the Motion to Dismiss. But regardless of the reasons, the fact is, the record has not been expanded by any discovery.

The only difference between the Requestors first Motion and the Renewed Motion is that

the Requestors have attached the affidavit of Ms. Solas.¹⁷ But review of the affidavit shows it does not expand the record in any substantive way. The statements therein simply track the same arguments made by the Requestors in the First Motion. The affidavit in fact further supports the trial justice's original decision because it serves to reaffirm the dispute of fact on whether the alleged protected activity was a sham.

To further understand this point, a review of the summary judgment process for a moving party seeking to resolve an affirmative defense as a matter of law makes sense. "The moving party invariably bears both the initial and the ultimate burden of demonstrating its legal entitlement to summary judgment. See Celotex Corp. v. Catrett, 477 U.S. 317, 323-25, 91 L. Ed. 2d 265, 106 S. Ct. 2548 (1986); Adickes v. Kress & Co., 398 U.S. 144, 157, 26 L. Ed. 2d 142, 90 S. Ct. 1598 (1970)." Lopez v. Corporacion Azucarera de P.R., 938 F.2d 1510, 1516-17 (1st Cir. 1991). "Just as 'the nonmoving party cannot fend off summary judgment unless it makes a competent demonstration that every essential element of its claim or defense is at least trialworthy,' Price v. General Motors Corp., 931 F.2d 162, 164 (1st Cir. 1991) (emphasis in original), *the moving party cannot prevail on its motion for summary judgment if any essential element of its claim or defense requires trial. See Meyers v. Brooks Shoe Inc.*, 912 F.2d 1459, 1461, 16 U.S.P.Q.2D (BNA) 1055 (Fed. Cir. 1990) (moving party must demonstrate that 'undisputed facts establish every element of [its] claim or defense.'); Paul v. Monts, 906 F.2d 1468, 1474 (10th Cir. 1990) ('Where the moving party has the burden -- the plaintiff on a claim for relief or the defendant on an affirmative defense -- his showing must be sufficient for the court to hold that no reasonable trier of fact could find other than for the moving party.'); see

¹⁷ The record contains no affidavit by Mr. Hartman as to his motivations in making the records requests at issue (or on any other issue such as whether he is the parent to a child who was ever enrolled or attended a public school in South Kingstown).

also Bias v. Advantage International, Inc., 284 U.S. App. D.C. 391, 905 F.2d 1558, 1560-61 (D.C. Cir.) (‘moving party must explain its reasons for concluding that the record does not reveal any genuine issues of material fact, and must make a showing supporting its claims insofar as those claims involve issues on which it will bear the burden at trial.’), cert. denied, 498 U.S. 958, 112 L. Ed. 2d 397, 111 S. Ct. 387 (1990).” Id. “Only on a properly supported motion for summary judgment does ‘the burden shift[] to the nonmovant to establish the existence of a genuine material issue.’ F.D.I.C. v. Municipality of Ponce, 904 F.2d 740, 743 (1st Cir. 1990) (citation omitted); see also Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250, 91 L. Ed. 2d 202, 106 S. Ct. 2505 (1986). See generally 6 Moore’s para. 56.15[3].” Id.

Accordingly, in the context of the First Motion for Summary Judgment concerning the anti-SLAPP defense, the Requestors, as the moving party, were required to establish that there were no genuine issues of material fact as to each element of their defense and that no reasonable trier of fact could find other than for the moving party. The Requestors failed in that regard.

The trial justice found there was a dispute of fact on the last element of the affirmative defense – whether the protected activity was actually a sham. The trial justice did so because she found that there was sufficient evidence in the record to support a dispute of fact as to whether the requests were objectively and subjectively baseless. The submission of the Solas Affidavit does not expand the record because an examination of the substance of the Affidavit reveals it is simply a verified form of the argument the Requestors made in the first Motion.

For example, in the First Motion, Solas argued that she had a good faith intention in seeking the records at issue (i.e., to obtain information about her child’s education). In the Affidavit, Solas submits verification for that statement. See e.g., Solas Affidavit, ¶ 13 (“When I submitted my public records requests, I did so to receive public information.”). Given this, the

situation has not changed – there are still two parties who have presented conflicts on material facts - the Union asserts the Requestors engaged in a sham, and the Requestors assert they acted in good faith.

Because the record has truly not been expanded by the introduction of the Affidavit, the Renewed Motion for Summary Judgment should be denied on the basis of the law of the case doctrine.

C. If the Court reaches the merits of the Renewed Motion for Summary Judgment, Summary Judgment should still be denied for the same reasons it was initially denied in June.

Even if this Court were to reach the merits of the Renewed Motion, the parties still have a material dispute of fact on the “sham” element of the Requestors’ affirmative defense. Accordingly, this Court should find that the Requestors have not established, as a matter of law, that no reasonable factfinder could conclude the asserted reasons for making the records request were a sham.

1. The applicable law.

No anti-SLAPP defense is available if the petition or free speech is a sham. Such activity is a sham if it is:

“(1) Objectively baseless in the sense that no reasonable person exercising the right of speech or petition could *realistically expect success in procuring the government action, result, or outcome*, and

(2) Subjectively baseless in the sense that it is actually an attempt to use the governmental process itself for its own *direct effects*. *Use of outcome or result of the governmental process shall not constitute use of the governmental process itself for its own direct effects.*” Alves, 857 A.2d at 753 (emphasis added).

2. The Requestors motion must be denied as it confuses the parties' burdens at summary judgment stage.

The Requestors argue that its motion must be granted because: (a) the Union has the burden of proof to prove a sham existed; and (b) the Union's failure to do so conclusively means its Motion must be granted. The Requestors argue the Union has had "two opportunities" to prove its actions are a sham, and has failed to do so.¹⁸ This argument must be rejected because the Requestors misstate and misunderstand the burden of proof as it relates to the concept of summary judgment.

First, as stated above, the Requestors' Motion is directed at its own affirmative defense. Typically, the party advancing an affirmative defense has the burden of proving that defense. Battaglia v. Lombardi, 273 A.3d 135, 143 (R.I. 2022). More importantly, as stated supra, the party moving for summary judgment either on that party's claim or defense, bears the burden of establishing that undisputed facts establish every element of its claim or defense. Where the moving party has the burden – as the Requestors do on their affirmative defense, the moving party must show that there are no disputes of fact and that no reasonable trier of fact could find other than for the Requestors.

Accordingly, because this is the Requestors' Motion for Summary Judgment, it was up to the Requestors to come forward with evidence, based on "the pleadings, depositions, documents, electronically stored information, answers to interrogatories, [or] admissions on file, together

¹⁸ The Requestors point out that the Union has not engaged in discovery. This, of course, is entirely consistent with the Union's position that the action is moot. If the Court decides otherwise, the Union will be forced to prosecute the claim and begin the discovery process. Since the Requestors claim they are entitled to attorneys' fees, it would not make much sense for the Requestors to issue discovery requests in the meantime. To be clear, the Union offered to dismiss the Requestors on August 18, which would have significantly limited any attorneys' fees claim.

with the affidavits, if any, show[ing] that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as matter of law.” R.I. R. Civ. P. 56(c). Given this well-settled state of the law, the Requestors’ attempt to place the moving party’s responsibility upon the Union must be rejected. To be sure, once the Requestors discharged their obligation as the moving parties, the burden shifted to the Union to point to evidence showing that a genuine dispute of material fact does exist. But in no event does the Union, on a Motion for Summary Judgment filed by the Requestors on their affirmative defense have to, “prove” that the Requestors’ alleged protected activity was a sham. *Instead, the Union must point to evidence demonstrating that a genuine issue of fact exists on the issue, and that is precisely what the Union did in response to the First Motion, and what it will do for the second time herein.*

3. There are material disputes of fact concerning whether the Requestors’ activities were a sham.

In the First Motion, and again in the Renewed Motion, the Requestors assert that its actions were not a sham – Solas was simply a mom trying to get information about her child’s school. See Requestors’ Memorandum in Support of Renewed Summary Judgment (“Req’s Mem.”), p. 4 (“[t]his lawsuit was originally brought because *two parents* wanted to know what *their* public school would be teaching their daughter in Kindergarten.”) (emphasis added). The competent record evidence, however, showed otherwise and prevents summary judgment on whether the activity engaged in (making hundreds of public records requests to a school district where your child does not attend) was in fact designed to obtain all those documents and to receive the information requested or whether that was a sham with the true purpose being to inundate the School Department, draw attention to the anti-CRT (and associated) movement, and to harass or target publicly teachers they believed supported CRT and related concepts.

First, to this date, neither Solas, nor Hartman, have established that they are actually parents of a child who actually *attended* any school in the South Kingstown School system to support the idea that they were simply requesting information about their child's education, their child's teachers or their child's school. Initially, neither provided any affidavit or evidence to support this contention. To date, defendant Hartman has remained entirely silent on the issue, and thus, his motive in requesting: “* * * all documents related to the hiring of the first 50 teachers listed in the staff directory on the website of South Kingstown High School” is not because he was looking for information about his child's Kindergarten education. See Ex. F, Request No. 241. This makes sense since it would be hard to prove that there is any connection between personnel-related information about 50 high school teachers and Kindergarten curriculum.

With respect to Defendant Solas, she has since provided an affidavit, that states in March 2021, she “enrolled [her] daughter in Kindergarten at Wakefield Elementary School within the District.” Since school does not start in March for Kindergarteners, it appears what Ms. Solas meant is her student *would have* started Kindergarten the following school year, in the Fall of 2021 *if* she ever attended. Thus in April 2021, when Defendant Solas began publicly claiming that she was a parent of a public school student who simply was looking for information about her child's education, she was not in fact any such thing and to date, has not become one.¹⁹

Second, Solas and Hartman are represented by the Goldwater Institute, an out-of-state entity. According to the Goldwater Institute website, one of its missions is to stop CRT which it

¹⁹ The Union inquired with counsel for the School Department who indicated that Defendant Solas' child did not attend public school in South Kingstown in 2021 or since. To be sure, the Union has submitted a public records request to the South Kingstown School Department for student enrollment information and will supplement this argument upon receipt of this information.

describes as one of the:

“divisive political ideologies ha[s] descended upon our institutions, our schools, and our children, setting them against each other and shaming them on the basis of race. Perhaps worse, politicians in Washington D.C. and leaders of the education establishment are not only actively pushing such ideas in classroom instruction, they are also demanding a return to state-sanctioned racial discrimination in our public schools and institutions under the banners of more agreeable sounding slogans like ‘anti-racism’ and ‘diversity, equity, and inclusion.’ In many cases, they’re now even masking these ideologies in broader, more neutral sounding initiatives such as social emotional learning, culturally relevant pedagogy, and others.

Such efforts must be stopped. In their place, America’s constitutional principles must be restored and the rights of parents defended.

To that end, the Goldwater Institute is leading the defense of the constitution and parents’ rights through two related initiatives:

1. Stopping CRT and racial discrimination, and;
2. Promoting academic transparency to bring sunlight to our K-12 schools.” Exhibit L,
<https://www.goldwaterinstitute.org/issues/academic-transparency/>

Third, collectively Solas and Hartman made hundreds of records requests many of which had *nothing to do with their child’s education or attendance in the South Kingstown School system*. As noted by the trial justice in the decision denying the Requestors First Motion, and as argued here, there is no connection between the requests that the Union takes issue with (specifically related to teacher personnel records, e-mails and labor relations matters) and the Kindergarten curriculum. There is no connection between records about Patrick Crowley an AFL-CIO official and NEARI employee and the South Kingstown Kindergarten curriculum or CRT in Kindergarten. There is no connection between personnel information about the first 50 teachers on the high school roster and Kindergarten curriculum or CRT in elementary school.

Fourth, although the Requestors originally submitted hundreds of requests, they did not take any steps to actually receive many of the documents initially requested. Instead, as it turns out, the Requestors did not pay for the records retrieval process to get the documents they say they wanted in 2021. That they never pursued the majority of the requests belies the fact that the purpose was to obtain such records. That the Requestors never fully pursued the process leaves open for fact-finder's inference that they made the requests for the purpose of harassing the targets of the request and/or the School Department, to inundate the School Department and/or so that the School Department would react as it did, the Requestors could gain publicity and Defendant Solas could portray herself as the victim of the School Department's refusal to provide her with information about her student's education.²⁰ See Exhibit M, at <https://www.goldwaterinstitute.org/goldwater-2021-annual-dinner-we-wont-let-the-statist-tyrants-win/>. Accordingly, the record stands that "[t]he Verified Complaint presents ample evidence that the motivation of the Requestors was to use the process to inundate the School Department or to harass teachers they believed supported [CRT] and not to actually obtain all the records at issue." Ex. A.

Fifth, the fact that Defendant Solas continues to submit new APRA requests to the School Department even after the point at which her daughter did not attend school in South Kingstown is further evidence of the sham nature of the requests. Upon information and belief, Defendant

²⁰ The Requestors would likely respond by saying the responses to the requests were cost prohibitive (and that is why they did not pursue the information other than Request No. 47 and other less expensive requests). But these facts still strengthen the Union's position here. The Requestors could not have reasonably believed that they would have successfully obtained all the documents requested because their overly broad and numerous requests called for thousands of pages in response which would have crippled the School Department were they to do the work associated with producing them free. The Requestors could not have reasonably expected that to be the case.

Solas continued to send APRA requests to the South Kingstown School District that could have had nothing to do with her child's education because she did not attend.²¹ The Union takes no position on these requests as they are not the subject of the lawsuit. However, the point is that if the Requestors allege their motive is only to gain public information about their child's education, their child has not attended public school, then the stated reasons are undermined by continued APRA requests.

To be sure, APRA does not prohibit the Requestors from making the requests, but the issue on summary judgment is not what the Requestors are allowed to do under APRA or any law. *The issue is whether the anti-SLAPP defense is available which does not automatically result unless the activity at issue was not a sham. On that issue, there remains a dispute.*

5. None of the Remaining Arguments Made by the Requestors Justify Granting of Summary Judgment.

In the Renewed Motion, the Requestors argue one of the reasons why their requests were not baseless is because the School Department directed them to file APRA requests. Accordingly, they argue they must have had a reasonable basis to believe the records would be produced. That argument is easily dispatched because nothing in the school official's e-mail indicated the documents would be produced, in fact, it appears that given the extensive nature of Ms. Solas' questions, the school official was not able to respond. But further, the Requestors did not ask the school official for the same hundreds of various categories of documents that Ms. Solas initially submitted by e-mail – they asked for much more. Accordingly, it is clear that the e-mail at issue was not instructive as to whether Ms. Solas could reasonably expect the School Department to produce thousands of pages of documents she ultimately requested on topics well

²¹ The NEA has requested an updated list which will be provided.

outside of her original e-mail.

The Requestors also argue that they were seeking public information, not non-public information and thus they had a reasonable expectation of receiving only public information. Again, that argument must be rejected because it is belied by the actual requests. If one looks at the actual requests, it is not just that the Requestors styled some requests as “public” allowing for the inference that other requests without that designation were aimed at non-public information. The additional point to be made is that some of the requests were by their express terms seeking non-public information such as teacher personnel records, teacher e-mails, names of teachers who had disciplinary issues (even if the discipline could not be disclosed), records about Patrick Crowley (a union official) and about the AFL-CIO (the umbrella labor organization). None of these requests were for public information and so the Requestors could not reasonably expect to get things like private e-mails and personnel files of the first 50 teachers on the roster at the South Kingstown High School because none of that is public information.

The Requestors argue that the Union cannot claim the Requestors could not reasonably expect the records requested and also maintain that there was a basis to file this lawsuit in August 2021. Again, the Requestors miss the point. Based on the foregoing, the Requestors could not have had a reasonable expectation that they would receive thousands of pages of documents from South Kingstown on the wide range of topics requested. In filing the lawsuit, the Union’s assessment has to be based on the risk of even one improper disclosure by the School Department. Thus, even though the Union would hope that the teacher and labor-relations records requested by the Requestors would not be produced, that hope does not operate as a legal bar to the production and does not carry the force of a court declaration concerning the scope of what are public documents. *In short, it sounds like the Requestors, who clearly*

requested thousands of non-public documents now concede they did so knowing they were not entitled to the ones at the heart of this dispute. If that is the case, then was no basis to request them in the first place.

The Requestors assert that no due diligence was done by the Union and its counsel prior to the filing of the lawsuit. That is belied by the facts and travel set forth above in which the Union officials and counsel reached out more than once to attempt to gain assurance that no non-public information would be disclosed but due to the volume of records under review (at that time 90,000 pages associated within a single request) no agreement could be reached and no assurance could be given by South Kingstown. As a result, the Union had to take reasonable action to prevent the possibility of disclosure and to ensure a balancing test was applied before personal information was disclosed. The Union had no way of knowing then, that the Requestors were not going to pay for their other requests and that by the time of the court conference the School Department would be able to provide the assurance the Union originally requested.

V. CONCLUSION.

Accordingly, Defendants Solas and Hartman were not parents looking only for information about their child's education and school. Instead, the record contains evidence that would allow a factfinder to conclude that their efforts were actually directed at other subjects that had nothing to do with Kindergarten, to inundate and overwhelm the School Department with record requests, and to intimidate teachers identified as supporting the concepts they found objectionable. Whether the Requestors are entitled to generally oppose CRT or any related issue, was never the reason for this lawsuit. But given the Requestors have claimed the anti-SLAPP defense, the issue is now whether the Requestors have been transparent about *why* they made requests for thousands of records many of which are completely unrelated to curriculum or

Kindergarten. Accordingly, there is a dispute of material fact on the objectively baseless and subjectively baseless elements of the anti-SLAPP defense that cannot be resolved at the summary judgment stage.

Based on the foregoing, the Union respectfully requests that the Court deny the Requestors motion for summary judgment.

Plaintiffs,
NEARI and NEASK,
By their Attorney,

/s/ Carly Beauvais Iafrate

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CERTIFICATION

I hereby certify that, on the 3rd day of October 2022, I filed and served this document through the electronic filing system and that it is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System to counsel of record.

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

SUPERIOR COURT

**NATIONAL EDUCATION ASSOCIATION
RHODE ISLAND, et al.,**
Plaintiffs,

vs.

C.A. No. PC 21-05116

**SOUTH KINGSTOWN SCHOOL
COMMITTEE, et al.,**
Defendants.

EXHIBIT LIST

EXHIBIT A	SUPERIOR COURT DECISION 6/9/22
EXHIBIT B	BARDEN AFFIDAVIT
EXHIBIT C	SAVASTANO E-MAIL
EXHIBIT D	SCHOOL COMMITTEE AGENDA/MINUTES 6/2/21
EXHIBIT E	UNION E-MAIL TO SCHOOL DEPARTMENT RE: STATUS
EXHIBIT F	PENDING APRA REQUESTS
EXHIBIT G	SOLAS TWEETS SAMPLE
EXHIBIT H	GOLDWATER POST
EXHIBIT I	9/21 E-MAILS RE: STATUS
EXHIBIT J	E-MAIL EXCHANGE RE: DISMISSAL
EXHIBIT K	DISMISSAL STIPULATION
EXHIBIT L	GOLDWATER INSTITUTE WEBSITE INFORMATION RE: CRT

EXHIBIT M

GOLDWATER INSTITUTE WEBSITE INFORMATION RE:
2021 FREEDOM AWARD

EXHIBIT A

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: June 9, 2022)

NATIONAL EDUCATION ASSOCIATION
 OF RHODE ISLAND AND
 NATIONAL EDUCATION ASSOCIATION -
 SOUTH KINGSTOWN

Plaintiffs,

v.

C.A. No. PC-2021-05116

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 MASIELLO,
 NICOLE SOLAS, AND JOHN DOE HARTMAN,

Defendants.

DECISION

REKAS SLOAN, J. Defendants Nicole Solas (Solas) and Adam Hartman (Hartman) (Solas and Hartman will be referred to collectively as the Parents) have moved for summary judgment arguing, first, that the Plaintiffs, National Education Association of Rhode Island (NEARI) and National Education Association - South Kingstown (NEASK), lack standing to bring this action and, second, that the Parents are immune from suit under Rhode Island's Anti-SLAPP statute, G.L. 1956 chapter 33 of title 9. Plaintiffs filed a timely objection. Jurisdiction is proper pursuant to the Uniform Declaratory Judgments Act, G.L. 1956 chapter 30 of title 9, the Access to Public Records Act, G.L. 1956 chapter 2 of title 38, at law under G.L. 1956 §§ 8-2-13 and 8-2-14, and Rule 56 of

the Superior Court Rules of Civil Procedure. For the reasons set forth herein, the Parents' Motion for Summary Judgment is denied.

I

Facts and Travel

In April 2021, Solas sent an e-mail to the principal of a South Kingstown public school requesting records and information regarding the teaching of critical race theory and other related concepts within the South Kingstown school's curriculum because her child was a prospective kindergartener in the South Kingstown public school system. (Verified Compl. ¶ 13); *see* Verified Compl., App. A.; *see also* Parents' Mot. for Summ. J. 3. Upon receipt of Solas' request, the principal recommended to Solas that she file a request for public records pursuant to the Rhode Island Access to Public Records Act, G.L. 1956 chapter 2 of title 38 (APRA). (Verified Compl. ¶ 14.) Within the next approximate two-month period, Solas filed about 200 APRA requests. (Verified Compl. ¶ 15, App. B.) Defendant South Kingstown School Department (School Department) considered filing a lawsuit to obtain relief from the numerous requests by Solas. (Verified Compl. ¶ 16.) Solas' records requests and the School Department's response prompted local and national media attention. *Id.* ¶ 17. The media attention brought forth additional APRA requests from other individuals. (Verified Compl. ¶ 19, App. B.) Approximately 300 APRA requests were filed from April 2021 to July 2021, and roughly 100 requests remained outstanding as of July 14, 2021, shortly before the filing of the instant complaint. (Pls.' Mem. Obj. Ex. B, Barden Aff. ¶ 25.)

Solas' records request sought several categories of materials, including documents related to labor relations and labor officials. (Verified Compl. ¶¶ 22, 24, 25.) Her requests further sought records relating to "teacher discipline and performance," "teacher e-mails," and "e-mails of

various administrators who are not members of [NEARI or NEASK],” which Plaintiffs argued may contain personally identifiable information and/or constitute an invasion of personal privacy. *Id.* ¶¶ 26, 29, 33-45.

In response to a July 13, 2021 e-mail sent by Plaintiffs’ counsel inquiring whether any of the APRA requests implicated the privacy rights of any members of NEARI or NEASK, the South Kingstown School Committee (School Committee) instructed Plaintiffs’ counsel that they had to submit their own APRA request to obtain the list of outstanding APRA requests and responses. (Pls.’ Mem. Obj. 5.) Plaintiffs were concerned that of the one hundred outstanding APRA requests, the documents requested included information that did not constitute a “public record” under APRA.”¹ (Verified Comp. ¶ 22; Pls.’ Mem. Obj. 6-9.)

On August 2, 2021, Plaintiffs filed a Verified Complaint requesting a declaratory judgment and injunctive relief against the Defendants, School Committee and School Department (School Committee and School Department will be referred to collectively as the School Defendants), and the Parents. *See* Verified Compl. Plaintiffs sought to

“(a) prohibit the disclosure of non-public records; and/or (b) for those requests that call for personally identifiable and other personnel-related information about public school teachers, that no records be disclosed until the Court employs a balancing test that properly assesses the public interest in the records at issue measured against the teachers’ individual privacy rights.” (Verified Compl. ¶ 1.)

¹ Section 38-2-2(4) states, in pertinent part:

“For the purposes of this chapter, the following records shall not be deemed public:”

“(A)(I) (b) Personnel and other personal individually identifiable records otherwise deemed confidential by federal or state law or regulation, or the disclosure of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 *et seq.* . . .”

The Parents moved for summary judgment pursuant to Rule 56 of the Superior Court Rules of Civil Procedure asserting that (1) the Plaintiffs do not have standing to bring this action, and (2) the Parents are immune from suit under Rhode Island's Anti-SLAPP statute, G.L. 1956 chapter 33 of title 9 (Anti-SLAPP statute). *See* Parents' Mot. for Summ. J.

Plaintiffs objected to the Parents' Motion for Summary Judgment claiming that they do have standing under the Uniform Declaratory Judgment Act, G.L. 1956 chapter 30 of title 9 (UDJA), and that Anti-SLAPP immunity fails for a number of reasons, including that it is inapplicable because the Plaintiffs made clear in their Verified Complaint that there was no claim for liability against the Parents to which conditional immunity could apply. (Pls.' Mem. Obj. 1-2); *see also* Verified Compl. ¶ 9.² Alternatively, the Plaintiffs argued that in the event the Court finds the Anti-SLAPP statute applicable, the Parents' Motion for Summary Judgment should be denied on grounds that there are genuine issues of material fact that would preclude a resolution of the Anti-SLAPP immunity claim at this stage. (Pls.' Mem. Obj. 1-2); *see* Verified Compl. ¶¶ 48-70(A-D), 71(A-C).

II

Standard of Review

“Summary judgment is appropriate when no genuine issue of material fact is evident from the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, and the motion justice finds that the moving party is entitled to prevail as a matter of law.” *Swain v. Estate of Tyre ex rel. Reilly*, 57 A.3d 283, 288 (R.I. 2012) (quoting *Beacon*

² “Defendants Solas and Hartman are named and included only insofar as Plaintiffs are required to do so pursuant to G.L. 1956 § 9-30-11 which provides that ‘[w]hen declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding.’” (Verified Compl. ¶ 9.)

Mutual Insurance Co. v. Spino Brothers, Inc., 11 A.3d 645, 648 (R.I. 2011) (internal quotation omitted)); see Super. R. Civ. P. 56. In deciding a motion for summary judgment, the Court “views the evidence in the light most favorable to the nonmoving party.” *Mruk v. Mortgage Electronic Registration Systems, Inc.*, 82 A.3d 527, 532 (R.I. 2013). Finally, the Rhode Island Supreme Court has warned that “summary judgment is a drastic remedy, and a motion for summary judgment should be dealt with cautiously.” *Cruz v. Daimler Chrysler Motors Corp.*, 66 A.3d 446, 451 (R.I. 2013) (internal quotation omitted).

III

Analysis

A. Rhode Island Access to Public Records Act

APRA was enacted “to facilitate public access to governmental records which pertain to the policy-making functions of public bodies and/or are relevant to the public health, safety, and welfare.” *Rhode Island Federation of Teachers, AFT, AFL-CIO v. Sundlun*, 595 A.2d 799, 800 (R.I. 1991); see also § 38-2-1. It is also the legislative intent behind APRA to protect from disclosure information about “individuals maintained in the files of public bodies when disclosure would constitute an unwarranted invasion of personal privacy.” *Pontbriand v. Sundlun*, 699 A.2d 856, 867 (R.I. 1997) (quoting § 38-2-1).

Further, in *Rhode Island Federation of Teachers*, the Rhode Island Supreme Court addressed whether APRA provided a remedy to compel nondisclosure in the event that a public official or body was about to disclose material that may be entitled to an exemption pursuant to § 38-2-2. See *Rhode Island Federation of Teachers*, 595 A.2d at 800; see also § 38-2-2. The plaintiff in *Rhode Island Federation of Teachers* sought injunctive relief against the disclosure by the governor of certain information relating to special pension benefits authorized by the General

Assembly, claiming the records were exempt from disclosure under APRA. *Rhode Island Federation of Teachers*, 595 A.2d at 799. On appeal, the Rhode Island Supreme Court upheld the trial justice’s denial of plaintiff’s request for injunctive relief, finding that APRA does *not* afford a “remedy to persons or entities seeking to *block* disclosures of records;” instead, APRA only “provides a remedy [to those who] are *denied* access to [such] public records.” *Id.* at 800 (emphasis added). Following the Court’s decision in *Rhode Island Federation of Teachers*, the Rhode Island Supreme Court’s holding was reaffirmed in *Pontbriand*. *Pontbriand*, 699 A.2d at 867 (holding that APRA does not afford a person or entity the right to prevent the release of private information); *see In re New England Gas Co.*, 842 A.2d 545, 547 (R.I. 2004).

The D.C. Circuit³ addressed this exact issue with respect to the Freedom of Information Act (5 U.S.C. § 552) (FOIA) which is the federal version of APRA and similarly “provides for actions requiring disclosure but not actions to prevent disclosure of documents” *Sears, Roebuck & Co. v. General Services Administration*, 553 F.2d 1378, 1381 (D.C. Cir. 1977). In *Sears*, the plaintiff brought a declaratory judgment action to prevent the government from disclosing certain documents that were requested pursuant to FOIA. *See id.* The D.C. Circuit noted that such cases have come to be known as “reverse freedom of information case[s].” *Id.* at 1380. The court further noted that “the ‘actual controversy’ here is whether the records sought are exempt from disclosure under the FOIA, and that Sears has a right to a declaratory judgment on

³ “Federal FOIA cases filed by the media are concentrated in just a few federal court districts. Almost six in ten FOIA cases (58.5%) are filed in Washington, D.C.—not surprising since the primary defendant in federal FOIA cases are federal agencies that are often based in the nation’s capital. In fact, FOIA statute allows any FOIA suit to be filed in D.C. even if neither the plaintiff nor the requested records are physically located there.” *When FOIA Goes to Court: 20 Years of Freedom of Information Act Litigation by News Organizations and Reporters*, <https://foiaproject.org/2021/01/13/foialitigators2020/> (last visited June 3, 2022).

this issue.” *Id.* at 1381. The court held that a declaratory judgment action was the appropriate vehicle to decide whether the records being sought were exempt from disclosure under the FOIA. *Id.*

Here, Plaintiffs’ action clearly sought to “prohibit the disclosure of non-public records.... (Verified Compl. ¶ 1), however, the Rhode Island Supreme Court has made it clear that APRA does “not provide [a] . . . remedy to persons or entities seeking to *block* disclosures of records[.]” *Rhode Island Federation of Teachers*, 595 A.2d at 800 (emphasis added). Therefore, this Court notes that the Plaintiffs could not, as a matter of law, block the disclosure of records under APRA by requesting injunctive relief. *See id.* The Plaintiffs withdrew their request for injunctive relief at the hearing before the Court on August 23, 2021 and offered to dismiss the Parents from the lawsuit under Rule 41 of the Superior Court Rules of Civil Procedure, again reiterating that the Parents were nominally added only because the UDJA requires the naming of all interested parties.⁴ The Parents rejected that offer and the Plaintiffs’ request for declaratory judgment remains. *See Sears, Roebuck & Co.*, 553 F.2d 1378.

B. Standing

The conclusion that the Plaintiffs are not entitled to injunctive relief under APRA does not address the issue of standing based on the Rhode Island Supreme Court’s guidance. Where, as here, a plaintiff’s standing to pursue the action is challenged,

“the focal point shifts to the claimant, not the claim, and a court must determine if the plaintiff ‘whose standing is challenged is a proper party to request an adjudication of a particular issue and *not whether the issue itself is justiciable*’ or, *indeed, whether or not it should be litigated.*” *McKenna v. Williams*, 874 A.2d 217, 226 (R.I. 2005)

⁴ “When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding.” Section 9-30-11.

(emphasis added) (quoting *Flast v. Cohen*, 392 U.S. 83, 99-100 (1968)); see also *Key v. Brown University*, 163 A.3d 1162, 1168 (R.I. 2017) (“the court must focus ‘on the party who is advancing the claim rather than on the issue the party seeks to have adjudicated’”) (quoting *N & M Properties, LLC v. Town of West Warwick*, 964 A.2d 1141, 1145 (R.I. 2009)).

In other words, even if the Plaintiffs would not be successful on the remaining Count for declaratory judgment, that does not mean that they do not have standing. This Court must determine if the Plaintiffs are “a proper party to request an adjudication of a particular issue,” and for purposes of the standing analysis, must not look at the merits of the underlying APRA issues. See *McKenna*, 874 A.2d at 226. The Court begins by analyzing standing in general.

(1) Standing in General

“Standing is a threshold inquiry into whether the party seeking relief is entitled to bring suit.” *Narragansett Indian Tribe v. State*, 81 A.3d 1106, 1110 (R.I. 2014) (citing *Blackstone Valley Chamber of Commerce v. Public Utilities Commission*, 452 A.2d 931, 932, 933 (R.I. 1982)). The Rhode Island Supreme Court has described the requirements for standing as “whether the plaintiff alleges that the challenged action has caused him injury in fact, economic or otherwise.” *Pontbriand*, 699 A.2d at 862 (quoting *Rhode Island Ophthalmological Society v. Cannon*, 113 R.I. 16, 22, 317 A.2d 124, 128 (1974)). A plaintiff must have suffered “an injury in fact ... [-] an invasion of a legally protected interest which is (a) concrete and particularized . . . and (b) actual or imminent, not conjectural or hypothetical.” *Pontbriand*, 699 A.2d at 862 (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)) (emphasis added and internal quotation marks omitted).

In *Pontbriand*, the governor of Rhode Island had released bank depositors’ account information to the media to encourage passage of legislation providing compensation to depositors

of closed state banks and credit unions that were not covered by federal deposit insurance. *Pontbriand*, 699 A.2d at 860-61. The depositors sued the governor seeking injunctive relief and a declaration under APRA that the governor's actions were illegal. *Id.* at 861. Both parties filed for summary judgment, and the trial court granted summary judgment in favor of the governor and an appeal followed. *Id.* The Rhode Island Supreme Court held that although the depositors were not entitled to the relief requested, that is, a declaration that the release of such records was unlawful, they did have legal standing. *Id.* at 862. The Court had "little difficulty in determining that all the depositors have standing...." *Id.* The depositors claimed that the release of information invaded a legally protected interest resulting in concrete and particularized harm, and the Court held "[n]othing more is required for standing." *Id.*

Since the Plaintiffs are organizations, this Court must consider that additional factor and apply the relevant case law on organizational standing⁵ to frame the standing analysis.

(2) Organizational Standing

Although the standing inquiry normally focuses on whether the plaintiffs suffered an injury in fact that is concrete and particularized, organizations have standing to maintain actions for their members under the concept of "organizational standing" if certain elements are satisfied. *See In re Review of Proposed Town of New Shoreham Project*, 19 A.3d 1226, 1227 (R.I. 2011) (citing *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 181 (2000)). The Rhode Island Supreme Court recognizes organizational standing but cautions that for an organization to have standing for claims of its members, "[m]ere 'interest in a problem,' no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization 'adversely affected' or

⁵ Organizational standing is also sometimes referred to as "associational standing."

‘aggrieved’....” *Blackstone Valley Chamber of Commerce*, 452 A.2d at 933 (quoting *Sierra Club v. Morton*, 405 U.S. 727, 739 (1972)).

The modern doctrine of organizational or associational standing as adopted in Rhode Island evolves from three United States Supreme Court cases. In *United Food and Commercial Workers Union Local 751 v. Brown Group, Inc.*, 517 U.S. 544 (1996) (*UFCW*), the United States Supreme Court held that an organization may sue to redress its members’ injuries without having to show that the organization itself was injured. See *UFCW*, 517 U.S. at 551-55. Specifically, the *UFCW* Court addressed the prior holding in *Warth v. Seldin*, 422 U.S. 490 (1975), in which the United States Supreme Court found that “[an] association must allege that its members, or any one of them, are suffering immediate or threatened injury as a result of the challenged action of the sort that would make out a justiciable case had the members themselves brought [the] suit.” *UFCW*, 517 U.S. at 552; see *Warth*, 422 U.S. at 511. Subsequently, in *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333 (1977), the United States Supreme Court elaborated on the associational standing requirements originally established in *Warth*. *Hunt*, 432 U.S. at 333. *Hunt* specified three requirements of associational standing, which have been adopted by Rhode Island:

“(1) its members would otherwise have standing to sue in their own right;

“(2) the interests it seeks to protect are germane to the organization’s purpose; and

“(3) neither the claim asserted nor the relief requested requires the participation in the lawsuit of each of the individual members.”

Hunt, 432 U.S. at 333; see *In re Review of Proposed Town of New Shoreham Project*, 19 A.3d at 1227 (citation omitted).

It is well settled that labor organizations, as collective bargaining representatives for their members, have generally been recognized as possessing standing to sue on behalf of their members

in the same manner as any other organization. *See Arena v. City of Providence*, 919 A.2d 379, 388-89 (R.I. 2007); *see also UFCW*, 517 U.S. 544. Plaintiff NEARI is a labor organization certified by the Rhode Island Labor Relations Board to represent certified teachers in Rhode Island for collective bargaining purposes. (Verified Compl. ¶ 3.) Plaintiff NEASK is the local bargaining unit for certified teachers employed by Defendant School Department. *Id.* ¶ 4. As stated in *UFCW*, a labor organization can possess associational standing to bring actions on behalf of its members in the same manner as other associations, provided that the three prongs of the analysis are met. *See UFCW*, 517 U.S. at 555.

The Court now analyzes whether the Plaintiffs meet the requirements for organizational standing.

(a)

**Do the members of the Plaintiff organizations
otherwise have standing to sue in their own right?**

To satisfy the first prong of organizational standing, Plaintiffs must establish that their own members would have individual standing to sue. *See Lujan*, 504 U.S. at 560. As mentioned above, general standing is established if an individual has (1) “suffered an ‘injury in fact’—an invasion of a legally protected interest [that] is . . . concrete and particularized;” (2) there is a “causal connection between the injury and the conduct complained of[,] [i.e.] the injury [is] ‘fairly trace[able] to the challenged action of the defendant, and not . . . th[e] result of the independent action of some third party not before the court’”; and (3) the injury must be “likely” rather than merely “speculative” so that the injury will be “redressed by a favorable decision.” *Id.* at 560-61 (internal quotations omitted).

The *Lujan* Court went on to state that:

“When the suit is one challenging the legality of government action or inaction, the nature and extent of facts that must be averred (at the summary judgment stage) or proved (at the trial stage) in order to establish standing depends considerably upon whether the plaintiff is himself an object of the action (or forgone action) at issue. If [the plaintiff] is, there is ordinarily little question that the action or inaction has caused [plaintiff] injury, and that a judgment preventing or requiring the action will redress it.” *Lujan*, 504 U.S. at 561-62.

Here, Plaintiffs maintain that the individual members of NEARI and NEASK would have standing on their own to bring suit individually because the Parents’ records requests impact the individual members’ personal and identifiable records, which are non-public under APRA, and, if released, would cause the individual members immediate injury to their privacy. (Pls.’ Mem. Obj. 12, 16.) It seems obvious that individual teachers/members have a colorable claim of interest in preserving their privacy, especially as it pertains to non-public records, the disclosure of which would, as a practical matter, impede or destroy their ability to protect that privacy interest. Thus, the individual teachers/members of NEARI and NEASK would have standing to bring suit in their own right because they would suffer immediate injury if such personal and identifiable records, which are non-public under APRA, were released by the School Defendants. (Pls.’ Mem. Obj. 16-17.)

The Parents claim that a party cannot seek a declaratory judgment without already having a stand-alone cause of action, that is, that there be a justiciable controversy, and the Parents assert that none exist here. (Parents’ Reply 3.) (citing *Langton v. Demers*, 423 A.2d 1149 (R.I. 1980)). “In other words, the party seeking a declaratory judgment must ‘advance allegations claiming an entitlement to actual and articulable relief.’” *Id.* (quoting *McKenna*, 874 A.2d at 227); *see also In re New England Gas Co.*, 842 A.2d at 553. This Court is mindful that the Rhode Island Supreme Court has recognized that Rhode Island is a “notice pleading” state, and, pursuant to such standard,

a claimant need not provide an exhaustive complaint to proceed. Our Supreme Court held in *Konar v. PFL Life Insurance Co.*, 840 A.2d 1115 (R.I. 2004):

“Pursuant to Rule 8(a)(1) of the Superior Court Rules of Civil Procedure, a claim for relief must contain ‘a short and plain statement of the claim showing that the pleader is entitled to relief.’ Although a plaintiff’s complaint need not ‘set out the precise legal theory upon which his or her claim is based,’ the complaint must give ‘the opposing party fair and adequate notice of the type of claim being asserted.’” *Konar*, 840 A.2d at 1118 (quoting *Hendrick v. Hendrick*, 755 A.2d 784, 791 (R.I. 2000) (further quoting *Bresnick v. Baskin*, 650 A.2d 915, 916 (R.I. 1994) and *Haley v. Town of Lincoln*, 611 A.2d 845, 848 (R.I. 1992)).

Although Plaintiffs’ Verified Complaint did not plead a violation of privacy laws, it was averred sufficiently to give fair and adequate notice of the type of claim being asserted. (Verified Compl. ¶¶ 1, 54, 60, 61, 63, 65); (Pls.’ Mem. Obj. 5, Ex. E).

This Court finds that the individual members of the Plaintiff organizations would otherwise have standing to sue in their own right, and therefore, the first prong to establish organizational standing is satisfied.

(b)

**Are the interests Plaintiffs seek to protect
germane to the organization’s purposes?**

The second requirement for Plaintiffs to establish organizational standing is that the interests Plaintiffs seek to protect must be germane to Plaintiffs’ organizational purpose. See *UFCW*, 517 U.S. at 551. An interest is “germane” to an organization’s purpose when the subject of its members’ claim “raises an assurance that the association’s litigators will themselves have a stake in the resolution of the dispute, and thus be in a position to serve as the defendant’s natural adversary.” *UFCW*, 517 U.S. at 545; see *Hunt*, 432 U.S. at 335.

Here, Plaintiffs are labor organizations, certified by the State of Rhode Island and the Town of South Kingstown to represent certified teachers for collective bargaining purposes. (Verified Compl. ¶¶ 3-4.) Moreover, the Collective Bargaining Agreements (CBAs) between Plaintiffs and Defendant School Committee govern the terms and conditions of their members' employment. (Verified Compl. ¶ 11, Pls.' Mem. Obj. 2, Ex. B, Barden Aff. ¶ 4.) By Plaintiffs' very role, the organizations' purpose is "germane" to protecting the interests of their members because some of the records requested concern documentation created because of their members' employment. (Pls.' Mem. Obj. 6, Ex. B, Barden Aff.) Plaintiffs maintain that of the one hundred outstanding APRA requests, some relate to "teacher discipline and performance" and "teacher e-mails," which may include documents concerning their members' employment and may also include non-public personally identifiable information. (Pls.' Mem. Obj. 6, Ex. B, Barden Aff. ¶ 18; Verified Compl. ¶¶ 26, 29, 33-45.)

This Court finds that Plaintiffs have established that the interests they seek to protect are germane to the organizations' purpose, and therefore, Plaintiffs have successfully established the second prong of organizational standing. *See UFCW*, 517 U.S. at 554.

(c)

**Does either the claim asserted or the relief requested
require the participation of the Plaintiffs' individual members in the lawsuit?**

The final requirement for Plaintiffs to establish organizational standing is that neither the claim asserted, nor the relief requested, *requires* the participation of individual members in the lawsuit. *Hunt*, 432 U.S. at 335; *see also In re Review of Proposed Town of New Shoreham Project*, 19 A.3d at 1227 (citation omitted). Given this last prong, organizational standing is generally

limited to cases where an organization seeks declaratory or injunctive relief, rather than damages.

See Warth, 422 U.S. at 515.

“[T]o justify any relief the association must show that it has suffered harm, or that one or more of its members are injured. But, apart from this, whether an association has standing to invoke the court’s remedial powers on behalf of its members depends in substantial measure on the nature of the relief sought. If in a proper case the association seeks a declaration, injunction, or some other form of prospective relief, it can reasonably be supposed that the remedy, if granted, will inure to the benefit of those members of the association actually injured. Indeed, in all cases in which we have expressly recognized standing in associations to represent their members, the relief sought has been of this kind.” *Id.* (citations omitted).

The *Warth* Court held that a plaintiff organization did not have organizational standing to pursue *breach of contract* claims because the organization suffered no damages, and any damages suffered were only by certain members and not the entire membership, and not in an equal degree. *Id.* Any injury suffered would be particular to the individual member concerned, and thus the proof of injury would require individualized proof. *Id.* at 492. For a party to obtain an award of damages, each member who claims an injury *must be a party to the suit*, and thus, the *Warth* Court held that the organization has no standing to claim damages on behalf of the injured members in this type of breach of contract claim. *Id.*

Here, the Plaintiffs were mindful to request the type of relief that the United States Supreme Court in *Warth* indicated was appropriate, and this Court finds that neither the claim asserted (declaratory judgment), nor the relief requested (injunctive relief) requires the participation of the individual members of the Plaintiff unions—NEARI and NEASK. *UFCW*, 517 U.S. at 554.

Applying *Hunt*’s three-prong test, this Court finds that Plaintiffs have standing.

C. Rhode Island Anti-SLAPP Statute

The Parents' second argument in their Motion for Summary Judgment is that they are immune from liability under the Anti-SLAPP statute⁶ because the Plaintiffs' action interferes with the Parents' constitutional and statutory rights to petition government and to speak on a matter of public concern. (Parents' Mot. for Summ. J. 8-12.)

The Plaintiffs argue generally that the Anti-SLAPP statute is inapplicable altogether because they assert that they were required to name the Parents in the lawsuit to comply with the party-in-interest requirements of § 9-30-11 under the UDJA. (Pls.' Mem. Obj. 35.) Essentially, Plaintiffs claim the lawsuit was not "directed at" the purportedly protected activity. (Pls.' Mem. Obj. 29.) This argument ignores the Plaintiffs' own Verified Complaint, which specifically states, "[t]his is an action for declaratory judgment *and other relief*...." (Verified Compl. ¶ 1) (emphasis added). In addition, Plaintiffs sought to "prohibit the disclosure of non-public records....," which is not declaratory relief. *Id.* Although Count I of the Verified Complaint seeks a declaratory judgment, Count II seeks injunctive relief. (Verified Compl.) Despite the Plaintiffs withdrawing the request for injunctive relief, the fact remains that this was not solely an action under the UDJA.

Further, the Plaintiffs also argue that the Anti-SLAPP statute does not apply because the Plaintiffs have made no claim for liability against the Parents to which conditional immunity could even apply and are not seeking any relief against the Parents. (Pls.' Mem. Obj. 2.) Rather, Plaintiffs brought this action to prevent a limited number of documents from being released by the School Defendants. (Pls.' Mem. Obj. 7.) The Court has already found that injunctive relief could not be available to Plaintiffs in any event. A request for public records under APRA is a finely

⁶ A party raising Anti-SLAPP immunity may do so in the same unitary proceeding in which it is raised. *See Palazzo v. Alves*, 944 A.2d 144, 151 (R.I. 2008).

tuned process between a requestor and a governmental body, and any attempted intervention by a third party other than for declaratory relief sufficiently affects a requestor so as to be considered a claim for relief. *See Sears, Roebuck & Co.*, 553 F.2d 1378.

Plaintiffs argue, in the alternative, that if the Court finds the Anti-SLAPP statute is applicable, the record contains no evidence that the Plaintiffs brought the lawsuit for harassment purposes, and therefore, Anti-SLAPP immunity fails. (Pls.' Mem. Obj. 37.) Plaintiffs claim that the Parents have failed to present evidence that the Plaintiffs' lawsuit was brought to "harass or to chill a valid exercise of constitutional rights." *Id.* The Parents disagree that they are required to make that showing. (Parents' Reply 6.) According to the statutory framework of the Anti-SLAPP statute, the Parents argue that, "an assessment of whether the Union filed this case in order to harass Parents ... occurs *only after* immunity is established, not as requirements to establish immunity." *Id.* at 6-7; *see* § 9-33-2(d). Thus, the Parents maintain that to establish immunity under Anti-SLAPP, the Court need not make a finding whether the Plaintiffs' lawsuit was brought with an intent to harass or inhibit the exercise of their rights at this time. *See* Parents' Reply 7. The plain language of § 9-33-2(d)⁷ makes it clear that the harassment inquiry occurs after a court grants a motion asserting immunity. *See* § 9-33-2(d).

The Anti-SLAPP statute "was enacted to prevent vexatious lawsuits against citizens who exercise their First Amendment rights of free speech and legitimate petitioning by granting those activities conditional immunity from punitive civil claims." *Alves v. Hometown Newspapers, Inc.*,

⁷ "If the court grants the motion asserting the immunity established by this section[,] [t]he court shall award compensatory damages and may award punitive damages upon a showing by the prevailing party that the responding party's claims, counterclaims, or cross-claims were frivolous or were brought with an intent to harass the party or otherwise inhibit the party's exercise of its right to petition or free speech under the United States or Rhode Island constitution." Section 9-33-2(d).

857 A.2d 743, 752 (R.I. 2004); see *Hometown Properties, Inc. v. Fleming*, 680 A.2d 56, 61 (R.I. 1996). The Anti-SLAPP statute itself details the policy behind the statute’s enactment and the goal of protecting free speech and furthering the democratic process:

“The legislature finds and declares that full participation by persons and organizations and robust discussion of issues of public concern before the legislative, judicial, and administrative bodies and in other public fora are essential to the democratic process, that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances; that such litigation is disfavored and should be resolved quickly with minimum cost to citizens who have participated in matters of public concern.”
Section 9-33-1.

On the other hand, the Rhode Island Supreme Court described the limited nature of the “Anti-SLAPP defense” in detail in *Sisto v. America Condominium Association, Inc.*, 68 A.3d 603, 615 (R.I. 2013). Acknowledging the danger that could be created by over-application of the Anti-SLAPP defense, the *Sisto* Court admonished that there needs to be a balance with respect to the applicability of the Anti-SLAPP statute. *Sisto*, 68 A.3d at 615. “As we previously recognized in *Palazzo v. Alves*, 944 A.2d 144 (R.I. 2008), the Anti-SLAPP statute[:]

‘pit[s] two sets of fundamental constitutional rights against each other: (1) defendants’ rights of free speech and petition and (2) plaintiffs’ rights of access to the judicial system and rights to non-falsely maligned reputations. Solutions to [this] problem must not compromise any of these rights. Plaintiffs must be able to bring suits with reasonable merit and defendants must be protected from entirely frivolous intimidation * * * in public affairs.’ *Id.* at 150 n. 11 (quoting John C. Barker, *Common-Law and Statutory Solutions to the Problem of SLAPPs*, 26 Loy. L.A. L.Rev. 395, 397–98 (1993)).” *Sisto*, 68 A.3d at 615.

For these reasons, the Court explained, “the anti-SLAPP statute should ‘be limited in scope,’ and ‘[g]reat caution should be the watchword in this area.’ *Id.* at 150, 150 n. 10.” *Sisto*, 68 A.3d at 615 (quoting *Palazzo*, 944 A.2d at 150).

The Anti-SLAPP statute affords a party conditional immunity from civil suit in cases where the party is exercising the right of petition or of free speech under the United States or Rhode Island Constitutions, and the immunity will bar civil claims that challenge the petition or free speech except if the petition or speech constitutes a sham under the Anti-SLAPP statute. *See Alves*, 857 A.2d at 752. To fall within the purview of the Anti-SLAPP statute, the speech or petition must constitute a “written or oral statement made in connection with an issue of public concern.” Section 9–33–2(e).

Once a defendant demonstrates that the challenged activity falls within the definition of free speech or petition contemplated by § 9–33–2(e), the burden shifts to the party challenging the defendant’s activity to show that the activity constitutes a “sham” under the Anti-SLAPP statute. Section 9–33–2(e); *Alves*, 857 A.2d at 753. Section 9–33–2(a) defines “sham” as: “The petition or free speech will be deemed to constitute a sham ... only if it is both ... (1) [o]bjectively baseless ... and ... (2) [s]ubjectively baseless....” Section 9–33–2(a).

The *Sisto v. America Condominium* case is instructive and provides a framework for the Court to analyze whether Anti-SLAPP immunity applies. *Sisto*, 68 A.3d at 615. In *Sisto*, the Rhode Island Supreme Court breaks down the Anti-SLAPP immunity analysis into three elements:

- (a) whether the petition to the governmental body constitutes an exercise of his or her right of petition or of free speech;
- (b) the correspondence must deal with a matter of public concern; and
- (c) the petition or free speech must not constitute a sham. *Sisto*, 68 A.3d at 615.

The Court will now analyze each of the three elements necessary to establish Anti-SLAPP immunity as outlined in *Sisto*. *See id.*

(a)

Exercise of Right to Petition or of Free Speech

The first question in determining immunity under the Anti-SLAPP statute is whether the petition to the governmental body constitutes an “exercise of his or her right of petition or of free speech[.]” See § 9–33–2(a). Under § 9–33–2(e), “a party’s exercise of its right of petition or of free speech” is defined to mean

“any written or oral statement made before or submitted to a legislative, executive, or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other governmental proceeding; or any written or oral statement made in connection with an issue of public concern.” Section 9–33–2(e).

The Parents argue that the Plaintiffs’ action was directed at the Parents because they were exercising their constitutional and statutory rights to obtain public records from the government. (Parents’ Mot. for Summ. J. 11-12.) Solas’ original inquiry was made to Defendant School Committee when she asked what her daughter’s school curriculum would entail for the upcoming school year. *Id.* at 2-3. Solas was directed by the School Defendants’ officials to “submit formal public records requests under APRA[.]” *Id.* at 3. The Plaintiffs argue that the lawsuit was not directed at the Parents and that they were named merely because they were required to do so under the UDJA. (Pls.’ Mem. Obj. 35.)

This Court finds that the Parents’ APRA request is a written statement made before or submitted to a governmental body and the Parents’ actions in making APRA requests constitutes an exercise of their right of free speech and petition as defined in the Anti-SLAPP statute, and thus Plaintiffs have satisfied the first element in asserting Anti-SLAPP immunity. See § 9-33-2(a).

(b)

Matter of Public Concern

The second question in determining whether immunity is applicable under the APRA statute is whether the activity deals with a “matter of public concern.” *Sisto*, 68 A.3d at 615. The Parents argue their public records requests were seeking records under APRA, a statute that specifically serves the purpose of ensuring public access to records regarding “issues of public concern.” (Parents’ Mot. for Summ. J. 10; see § 9-33-2(e); see also *Pontbriand*, 699 A.2d at 867.) Plaintiffs concede that although some of the Parents’ requests involve matters of public concern, they argue that the limited and specific requests that they were concerned about do not involve matters of public concern. (Pls.’ Mem. Obj. 41.)

Section 9-33-2(e) defines protected “free speech” as used in § 9-33-2(a) to include any written or oral statement made in connection with “an issue of public concern.” Section 9-33-2(e). The Rhode Island Supreme Court considered the meaning of “issues of public concern” in *Global Waste Recycling, Inc. v. Mallette*, 762 A.2d 1208 (R.I. 2000), finding that the phrase has a long, distinguished, and unchallenged meaning. *Global Waste Recycling, Inc.*, 762 A.2d at 1214 (citing *Connick v. Myers*, 461 U.S. 138 (1983)). Issues of public concern are any issues “fairly considered as relating to any matter of political, social, or other concern to the community” *Connick*, 461 U.S. at 146.

Here, the Parents requested information from Defendant School Committee, a public body, regarding the activities of public officials, on matters relating to public education. (Parents’ Mot. for Summ. J. 10.) Specifically, the Parents sought information pertaining to the curriculum, teacher discipline records, and teacher training. See Verified Compl., App. B. The “operations

and functions of public school bodies and the manner in which [students] are educated in public schools are . . . ‘issues of public concern.’” (Parents’ Mot. for Summ. J. 10); *see* § 9-33-2(e).

This Court agrees with the Parents’ arguments and finds that their APRA requests pertain to a matter of public concern,⁸ and therefore, the Parents’ APRA requests satisfy the second element for Anti-SLAPP immunity. *See* § 9-33-1.

(c)

Petition or Speech Must Not Constitute a Sham

Although the Court has found that the Parents have established that “an exercise of free speech or right of petition in connection with a matter of public concern is implicated,” the Court must also determine whether “[P]laintiff[s] [can] prove that such conduct is a sham” under the Anti-SLAPP statute. *Alves*, 857 A.2d at 753. As determined by the analysis below, the Court cannot make this determination at the summary judgment stage.

Whether the Parents’ APRA request constitutes a sham is determined through an analysis under § 9-33-2(a). *See Alves*, 857 A.2d at 753; *see also Sisto*, 68 A.3d at 615. Under § 9-33-2(a)

“[t]he petition or free speech constitutes a sham only if it is not genuinely aimed at procuring favorable government action, result, or outcome, regardless of ultimate motive or purpose. The petition or free speech will be deemed to constitute a sham as defined in the previous sentence only if it is both:

“(1) Objectively baseless in the sense that no reasonable person exercising the right of speech or petition could realistically expect success in procuring the government action, result, or outcome, and

“(2) Subjectively baseless in the sense that it is actually an attempt to use the governmental process itself for its own direct effects. Use of outcome or result of the governmental process

⁸ The Court is specifically not making a finding, at this juncture, that all of the Parents’ requests are “public records” under APRA.

shall not constitute use of the governmental process itself for its own direct effects.” Section 9-33-2.

(i) Objectively baseless

The Parents argue that their records requests are not objectively baseless because the Parents “can and should ‘realistically expect success in procuring’ government action, i.e., responsive records.” (Parents’ Mot. for Summ. J. 12.) The Court agrees that many of the Parents’ APRA requests fit this description; however, the Court finds that the Parents could *not* “realistically expect success in procuring government action, i.e., responsive records” to *all* of their APRA requests. Some of the Parents’ APRA requests, as phrased, appear to be seeking non-public records that are exempt from disclosure, even if in part.⁹ For example,¹⁰ Request No. 145 attached as Appendix B to the Verified Complaint, seeks “[a]ll documents related to the hiring of Ginamarie Masiello; all performance reviews.” (Verified Compl. App. B.) Similarly, Request No. 151 seeks “CV of Coleen Smith; all documents related to her hiring; job performance reviews.” *Id.* Request No. 237 seeks “CVs, contracts, job descriptions, and all documents related to hiring of the first 50 teachers listed in the staff directory on the website of South Kingstown High School.” *Id.*

It is entirely possible that the Parents were looking only for records other than those deemed non-public under APRA; however, the Court notes that some of the Parents’ requests were

⁹ Section 38-2-2(4)(A)(I)(b) of APRA specifically states that “the following records shall not be deemed public: ... [p]ersonnel and other personal individually identifiable records otherwise deemed confidential by federal or state law or regulation...” Section 38-2-2(4)(A)(I)(b).

Also, § 38-2-2(4)(Z) of APRA specifically states that “[a]ny individually identifiable evaluations of public school employees made pursuant to state or federal law or regulation” shall not be deemed public records. Section 38-2-2(4)(Z).

¹⁰ This list is not exhaustive.

carefully phrased in an attempt to specifically exclude “non-public information.” For example, Request No. 182 seeks “[a]ll disciplinary actions and relevant details taken against any teacher in the school district in the past three years. *If actions or details are not public information, provide how many disciplinary actions are private and against which teachers.*” *Id.* (emphasis added). Based on the current record, the Court can only infer that the former requests were seeking non-public information and that the latter was carefully crafted to seek only public information under APRA.

The Parents further argue that their APRA requests satisfy the objective standard because pursuant to APRA, “*unless specifically exempted, all records maintained or kept on file by any public body... ‘shall be public records and every person or entity shall have the right to inspect and/or copy those records.’*” (Parents’ Mot. for Summ. J. 12) (emphasis added); *see* § 38-2-3. In addition, the Parents assert that there is a presumption in the law favoring disclosure. *See Providence Journal Co. v. Convention Center Authority*, 774 A.2d 40, 46 (R.I. 2001) (holding the basic policy of APRA favors public disclosure of the records of governmental entities). This is true, but again, only if the records being sought are not specifically exempted. *See* § 38-2-3(a) (“*Except as provided in § 38-2-2(4), all records maintained or kept on file by any public body... shall be public records...*”) (emphasis added). Therefore, viewing the evidence in the light most favorable to the nonmoving party, this Court finds that based on the current record, some of the Parents’ APRA requests are objectively baseless.

(ii) Subjectively baseless

Next, the Parents argue that they have successfully established that their APRA request was not subjectively baseless because the Plaintiffs were not “hindered” or “delayed” by the Parents’ record requests. (Parents’ Mot. for Summ. J. 15.) Rather, the Parents argued their records

request was a legitimate means to obtain *public* information. *Id.* Again, as the Court noted above, some of the Parents’ requests appeared to seek non-public information.

Section 9-33-2(a)(2) defines subjectively baseless activity as the “attempt to use the governmental process itself for its own direct effects.” *Karousos v. Pardee*, 992 A.2d 263, 270 (R.I. 2010). Instinctually, an analysis of whether the requests were subjectively baseless seems inappropriate for resolution through a motion for summary judgment. During oral argument, the Court inquired of counsel for the Parents whether the Court could decide whether the APRA request was subjectively baseless under the summary judgment standard. The Parents cited to *Pound Hill Corp., Inc. v. Perl*, 668 A.2d 1260 (R.I. 1996), where the Rhode Island Supreme Court suggested the courts must inquire whether litigants “utilized the process itself rather than the intended outcome in order to hinder and delay plaintiff.”¹¹ *Id.*; *Pound Hill Corp.*, 668 A.2d at 1264; *see also* Parents’ Mot. for Summ. J. 15.

The *Pound Hill Corp.* decision predated the enactment of § 9-33-2’s definition of “subjectively baseless,” which replaced the “hindered or delayed” standard. *Pound Hill Corp.*, 668 A.2d at 1264. Moreover, in *Pound Hill Corp.*, the Rhode Island Supreme Court vacated an order granting summary judgment and remanded the case to the Superior Court for a trial on the issue of whether defendants’ petitioning activities constituted a sham, finding that “genuine issues of fact exist concerning whether certain actions taken by defendants were objectively baseless and utilized the process itself rather than the intended outcome in order to hinder and delay plaintiff[.]” *Id.*

¹¹ *Pound Hill Corp.* predated the enactment of § 9-33-2 and thus the Rhode Island Supreme Court followed the case law and principles of the Noerr-Pennington doctrine, which derives from a line of federal antitrust cases, but is based on the First Amendment right to petition government.

More recently, the Rhode Island Supreme Court affirmed the grant of summary judgment to a defendant, finding that the defendant's petitioning activity was not a sham, and therefore, the defendant was entitled to immunity under the Anti-SLAPP statute. *See Karousos*, 992 A.2d at 272. In *Karousos*, the plaintiff "was unable to offer any facts that would suggest that [the defendant's] appeal was motivated by anything other than outcome of the process." *Id.* at 271. Due to the plaintiff's inability to put forth competent evidence as required under the summary judgment standard, the *Karousos* Court granted summary judgment in favor of the defendant. *Id.* (citations omitted).

On summary judgment, it is well settled that "the moving party bears the initial burden of establishing the absence of a genuine issue of fact." *See McGovern v. Bank of America, N.A.*, 91 A.3d 853, 858 (R.I. 2014) (citation omitted). Then the burden shifts and "[t]he party opposing summary judgment bears the burden of proving, by competent evidence, the existence of facts in dispute" by affidavits or otherwise. *See Henry v. Media General Operations, Inc.*, 254 A.3d 822, 834 (R.I. 2021) (citations omitted). In deciding a motion for summary judgment, the Court must view the evidence in the light most favorable to the nonmoving party. *Mruk*, 82 A.3d at 532.

Plaintiffs argue that their Verified Complaint

"presents ample evidence that the motivation of the [Parents] was to use the process to inundate the School Department or to harass teachers they believed supported Critical Race Theory and not to actually obtain all the records at issue. Again, given the [Parents'] failure to provide evidentiary support for its motivation, in light of the Verified Complaint and affidavit, the issue is not appropriate for [summary] judgment as a matter of law...." (Pls.' Mem. Obj. 43.)

The Parents presented no counter-affidavit.

Viewing the evidence in the light most favorable to the nonmoving party, this Court finds a genuine issue of material fact exists as to whether the Parents' records requests constitute a sham

pursuant to § 9-33-2(a)(1)-(2). Because the Court finds that some of the Parents' APRA requests could be deemed objectively baseless, and because the Court cannot rule at the summary judgment stage on whether the requests were subjectively baseless, the Parents have failed to establish the final element to successfully assert Anti-SLAPP immunity.

IV

Conclusion

For the above stated reasons, this Court **DENIES** the Parents' Motion for Summary Judgment because the Plaintiffs had standing to bring a Declaratory Judgment Action and because there are genuine issues of material fact as to the Parents' assertion of Anti-SLAPP immunity.

The parties shall confer on a form of order.



RHODE ISLAND SUPERIOR COURT
Decision Addendum Sheet

TITLE OF CASE: **National Education Association of Rhode Island, et al.
v. South Kingstown School Committee, et al.**

CASE NO: **PC-2021-05116**

COURT: **Providence County Superior Court**

DATE DECISION FILED: **June 9, 2022**

JUSTICE/MAGISTRATE: **Rekas Sloan, J.**

ATTORNEYS:

For Plaintiff: **Carly B. Iafrate, Esq.**

For Defendant: **Giovanni D. Cicione, Esq.
Aubrey L. Lombardo, Esq.**

EXHIBIT B

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

NATIONAL EDUCATION ASSOCIATION
RHODE ISLAND, et al.,

Plaintiffs,

C.A. No. PC 21-05116

vs.

SOUTH KINGSTOWN SCHOOL
COMMITTEE, et al.,

Defendants.

AFFIDAVIT OF MARY BARDEN

I, Mary Barden, a resident of the State of Rhode Island, do hereby state and affirm that:

1. I have been employed by the National Education Association of Rhode Island ("NEARI") since September 2013 and I currently hold the position of Uniserv Representative.

2. As a Uniserv Representative, my duties and responsibilities include assisting about ten (10) local bargaining units with all labor relations matters.

5. NEARI is led by full-time staff, including the Deputy Executive Director, Jennifer Azevedo ("Azevedo"). I report to Ms. Azevedo.

3. One of the local unions I assist is the National Education Association South Kingstown ("NEASK").

4. The NEASK has a long-standing collective bargaining relationship with the South Kingstown School Committee. The current collective bargaining agreement ("CBA") governs the period September 1, 2020 through August 31, 2023.

5. The current local leadership of NEASK includes NEASK President Brian Nelson ("Nelson"). Ex. B. Nelson is a teacher at Curtis Corner Middle School.

6. When Nelson needs assistance with collective bargaining or labor relations matters, he contacts me and we work together on those issues.

7. Both Brian and I work with the South Kingstown School Department administration on all labor relations matters related to teachers. It is a normal day to day occurrence that the School Department administration notifies Brian and/or me of any ongoing issues that may be of interest or concern to the Union and its members. This includes notice of any issues that might impact the CBA or teacher rights generally.

8. At the time this issue initially arose, the Superintendent of Schools was Linda Savastano ("Savastano"). Savastano was someone who both Brian and I regularly communicated with about issues affecting teachers.

9. On or about May 19, Savastano sent an e-mail to the School Committee about the fact that a large amount of requests had been made for School Department records pursuant to the Access to Public Records Act. Savastano shared that e-mail with other school administrators and with Brian. Brian then shared that e-mail with me.

10. We reviewed the list attached to the e-mail. Most of the requests were not directed at any records specific to individual teachers. However, there were some that were directed at individual teachers (such as a request for Michael Alper's e-mails).

11. Another request asked for "digital copies of documents pertaining to AFL-CIO in the last four months." The AFL-CIO is the umbrella organization of which NEARI is a member.

12. At or around this time, I reached out to Aubrey Lombardo ("Lombardo") to discuss the APRA requests that concerned individual members. From what I recall, Lombardo told me something to the effect that the School Department would tell us if they were going to be producing documents that concerned individual members.

13. I notified Azevedo of the existence of this issue because it was somewhat unusual and involved records that could impact teacher privacy rights.

14. I was not focused on the requests that dealt with things like curriculum or School Committee matters because they did not target records related to individual teachers.

15. In late May 2021, Savastano shared with Brian that the number of requests was now up to 160 and the majority of the newer requests appeared to involve teachers. Brian contacted me and I told him again that based on my discussions with School Department counsel, "teacher" e-mails were not being produced at this time but that if that was going to happen, we would be notified.

16. In early June 2021, the APRA requests were discussed at a School Committee meeting. This generated more public discussion about the requests in general.

17. There was some public disagreement following the School Committee meeting and it seemed that the School Department may have changed position on whether teacher-related documents would be disclosed.

18. As a Union, we were still only focused on the documents that were potentially related to individual teachers. I discussed with Azevedo whether the Union can or should take any actions to prevent disclosure of documents that involved teacher disciplinary records, teacher e-mails, personnel files, etc.

19. We engaged counsel to find out if there were documents that were going to be produced that related to individual teachers because even if Lombardo said she would notify us, it was not clear if she would notify us with enough time to seek court intervention, if necessary.

20. For example, what if the School Department (due to public pressure) planned to release a teacher's disciplinary record or personnel file and only told us after-the-fact. We would not be protecting our member's privacy rights under this scenario.

21. On July 13, our counsel reached out to the School Department's counsel seeking confirmation about the pending requests, whether the School Department was going to produce documents and when they were due.

22. The Union was told to submit our own APRA request. We did this through counsel.

23. The School Committee responded with a letter acknowledging acceptance of the request and confirmation that records would be produced upon payment of the cost associated with preparation and copying.

24. The request was paid for, and the School Department produced a more detailed color-coded list of pending requests on July 30, 2021.

25. The list indicated the open requests as of July 14. In total, it appeared the School Department received over three hundred (300) APRA requests from April 2021 to July 2021 and that about 100 remained outstanding.

26. The document revealed that following some requests by Ms. Solas, the School Department began receiving more requests from other individuals and entities. For example, there were a number of similar requests that were teacher-related from Requestor Hartman.

27. I did not know Ms. Solas and Mr. Hartman were related at that time. I knew was that both of them were requesting documents directed at gathering information about individual teachers.

28. As to many of the requests, the Union still expressed no opinion. For example, I was not concerned about whether a private citizen is entitled to copies of school curriculum or information about legal expenses of a particular school district.

29. I reviewed the list of open APRA requests which confirmed that some of the requests did relate to things like teacher personnel files. For example, the new list called for teacher discipline records, teacher personnel files and more teacher e-mails.

30. We later learned that Response to No. 47 would ultimately result in the production of about 90,000 pages of e-mails between Savastano and other individuals, including teachers.

31. Given the volume of work and the timeline, the School Department was not making any guarantees as to what documents related to individual teachers would be produced or not produced prior to the filing of this action.

32. I participated in discussions about reasons to file suit and the reasons were all based on protecting member and employee privacy rights.

I swear under penalty of perjury, that the foregoing is true and correct.

Dated: October 19, 2021

Mary Barden
Mary Barden

Subscribed and sworn to before me this 19th day of October 2021.

[Signature]
Notary Public

My commission expires
5/18/24

EXHIBIT C

[REDACTED]

[REDACTED]

----- Forwarded message -----

From: **Linda Savastano** <lsavastano@sksd-ri.net>

Date: Wed, May 19, 2021 at 11:15 PM

Subject: Fwd: Important Note About Recent APRA Requests

To: Brian Nelson <bnelson@sksd-ri.net>, Mick Lefort <mlefort@sksd-ri.net>, Bridget Gonsalves <bgonsalves@sksd-ri.net>, Melissa Taylor <mtaylor@sksd-ri.net>, Sharon Henry <shenry@sksd-ri.net>

Hi

Please review the email trail below. I wanted to keep you in the loop.

Thank you for your support.

Linda

Linda Savastano
Superintendent
South Kingstown School District
LSavastano@SKSD-RI.net

307 Curtis Corner Road
Wakefield, RI 02879
401.360.1307

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----- Forwarded message -----

From: **Linda Savastano** <lsavastano@sksd-ri.net>

Date: Wed, May 19, 2021, 11:11 PM

Subject: Fwd: Important Note About Recent APRA Requests

To: Chip McGair <cmcgair@sksd-ri.net>, Jon Rapport <jrapport@sksd-ri.net>, Terrence Lynch <tlynch@sksd-ri.net>, Patricia Aull <paull@sksd-ri.net>, Jonathan Devolve <jdevolve@sksd-ri.net>, Tammy McNeiece <tmcneiece@sksd-ri.net>, Ryan Borden <rborden@sksd-ri.net>, Kimberly Komocar <kkomocar@sksd-ri.net>, Coleen Smith <csmith@sksd-ri.net>, Elizabeth McGuire <emcguire@sksd-ri.net>, Jennifer Enck <jenck@sksd-ri.net>, Jodi Anthony <jodianthony@sksd-ri.net>, Charity Shea <cshea@sksd-ri.net>, Tracy A-M <tandrews@sksd-ri.net>, Ginamarie Masiello <gmasiello@sksd-ri.net>, Douglas Snow <dsnow@sksd-ri.net>, Russell Hill <rhill@sksd-ri.net>, Brian Mahoney <bmahoney@sksd-ri.net>, Raquel Pellerin <rpellerin@sksd-ri.net>

Hi all

I am sharing an update that I gave the SC earlier tonight. Please read the message below and review the attachment. It is important that you know about this. There are staff members that have been focused on. I would like building leadership to talk with those staff members.

Thank you,
Linda

Linda Savastano
Superintendent
South Kingstown School District
LSavastano@SKSD-RI.net

307 Curtis Corner Road
Wakefield, RI 02879
401.360.1307

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----- Forwarded message -----

From: **Linda Savastano** <lsavastano@sksd-ri.net>

Date: Wed, May 19, 2021, 10:40 PM

Subject: Important Note About Recent APRA Requests

To: Christine Fish <cfish@sksd-ri.net>, Emily Cummiskey <ecummiskey@sksd-ri.net>, Kate Macinanti <kmacinanti@sksd-ri.net>, Melissa Boyd <mboyd@sksd-ri.net>, Michelle Brousseau <mbrousseau@sksd-ri.net>, Paula Whitford <pwhitford@sksd-ri.net>, Sarah Markey <smarkey@sksd-ri.net>, Andrew Henneous <ahenneous@hcllawri.com>, Aubrey Lombardo <alombardo@hcllawri.com>

**This email is being sent to the entire school committee. Please do not reply to all.
Andrew & Aubrey are copied on this email.**

Hi all,

I felt like I needed to let you know that my office has been inundated with public record requests (APRAs). I know that many are not familiar with APRAs. When a member of the public [requests public records](#) then we are required [by law to respond](#). We must do so within 10 days. There are some exceptions. We do use our legal to review the request and then review our response. Jenna, my Executive Assistant manages all of this. She is amazing. She handles this with the utmost professionalism and excellence.

Since March we have had 87 requests. **We have had one person submit 66 of these requests.** Most of these responses were in recent days. **I have attached these 66 requests** because I believe that you should know what my office is working on and why we may have some delays in other work, etc.

I know that these are challenging days and we have all felt like there is so much conflict in the community. I am asking us to keep our heads high and work as a united team. Now more than ever, we need to stay focused on our commitment to equity. I am asking for your support and understanding. I had shared emails last week. You now see another layer that is crippling us from being able to move forward together.

Again, **please take a look at the attached requests so you can see the huge undertaking that we have**, not only in the response but in the threat to equity and an antiracist culture in SKSD.

I hope you will help me to move through this with grace and strength. As always, please reach out with any questions.

Thank you,
Linda

photo



Linda Savastano

Superintendent, South Kingstown School District

401.360.1307 | LSavastano@sksd-ri.net

www.skschools.net

307 Curtis Corner Road, Wakefield, RI 02879



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--

Brian Nelson - Ed.D
PAEMST RI - 2011

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To: mbarden@neari.org

Message Score: 1

High (60): **Pass**

From: bnelson@sksd-ri.net

My Spam Blocking Level: Custom

Medium (75): **Pass**

Low (90): **Pass**

[Block](#) this sender

Custom (100): **Pass**

[Block](#) sksd-ri.net

This message was delivered because the content filter score did not exceed your filter level.

DateofRequest	Response_Due_D	Requester_LN	TextofRequest	Date_Responded
4/25/2021	5/7/2021	SOLAS	Implicit Bias Training Information;Cost, organization conducting training, and all relevant details.	5/3/2021
4/25/2021	5/7/2021 6/7/2021	SOLAS	Curriculum for grades K-12	Aubrey responded 5/12/2021 Extension Request Sent- 5/3/2021
5/3/2021	5/17/2021	SOLAS	Estimated cost of equity, diversity, and inclusion programs, materials, and curriculum	5/17/2021
5/3/2021	5/17/2021	SOLAS	All BIPOC advisory board formation documents; all BIPOC advisory board records including meeting minutes, budgets; and information about BIPOC members	5/12/2021
5/4/2021	5/18/2021	SOLAS	Records of all business dealings with The Collective in Wakefield, RI and Sarah Markey and Tara Apperson	emailed solas for clarification
5/4/2021	5/18/2021	SOLAS	Names and titles of all persons who have previously moderated, administrated, or posted on behalf of South Kingstown School District on the official SKSD Facebook Page. Names and titles of all persons who currently administrate, manage, or deal with the South Kingstown School District's Official Facebook Page. They may be Facebook admins, moderators, or persons who are not officially employed by the school district.	5/18/2021
5/10/2021	5/24/2021	SOLAS	All applications for all BIPOC Committee members which should have been submitted in order to form the BIPOC committee. These applications remain on file for one year.	5/12/2021
5/10/2021	5/24/2021	SOLAS	Accounting of all monies paid to be paid to Robin Wildman and RI Nonviolent Schools	5/17/2021
5/10/2021	5/24/2021	SOLAS	All public records requested by myself, Nicole Solas, submitted to date, 5/10/21	
5/11/2021	5/25/2021	SOLAS	Wakefield Elementary School and Peacedale Elementary School Kindergarten outcome assessments from all standardized tests in academic years 2020/2021; 2019/2020; 2018/2019; 2017/2018; 2016/2017	
5/12/2021	5/26/2021	SOLAS	Any public record whatsoever showing how the BIPOC Advisory Committee was approved, formed, or discussed by any public official. It may be meeting minutes or an email exchange. Literally looking for any information on how this committee was formed and who approved it. Additionally, which source is funding this committee and the service it is providing.	
5/12/2021	5/26/2021	SOLAS	Full accounting of all monies paid to Audrey Lombardo, Andrew Henneous, and Henneous Carrol Lombardo LLC to respond to my APRA request for curriculum.	
5/12/2021	5/26/2021	SOLAS	All reports of racial discrimination in the SKSD in the past ten years (september 2011 to May 2021)	
5/13/2021	5/27/2021	SOLAS	Current District Policy on In-Person Tours of Schools in SKSD	
5/14/2021	5/28/2021	SOLAS	All SKSD curriculum, policies, procedures, and all other materials provided to the BIPOC Advisory Committee or any individual member of the BIOPOC Advisory Committee to perform their audit or for any other reason.	
5/14/2021	5/28/2021	SOLAS	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.	
5/15/2021	5/28/2021	SOLAS	List of open lawsuits against the South Kingstown School District	
5/16/2021	5/28/2021	SOLAS	Digital copies of Sarah Markey's emails in the last six months.	
5/16/2021	5/28/2021	SOLAS	Digital copies of Emily Cummiskey's emails in the last six months.	
5/16/2021	5/28/2021	SOLAS	Digital copies of Linda Savastano's emails in the last six months.	
5/16/2021	5/28/2021	SOLAS	Digital copies of documents pertaining to AFL-CIO in the last four months.	
5/16/2021	5/28/2021	Solas	Digital copies of Christie Fish's emails in the last six months.	
5/16/2021	5/28/2021	SOLAS	Metrics, rubrics, standards, or parameters of the equity audit mandated by the school committee.	

5/16/2021	5/28/2021	SOLAS	The South Kingstown School District official definition of Antiracism as it applies to the school's policies, contracts, curriculum and school culture.	
5/16/2021	5/28/2021	SOLAS	The South Kingstown School District's official definition of "implicit bias training."	
5/16/2021	5/28/2021	SOLAS	1. When were changes to 06/23/2020 school committee agenda changed? 2. when were changes to the 6/23/2020 school committee meeting agenda voted upon for approval in public session? 3. why were changes to the 06/23/2020 school committee agenda made? 4. What is the process by which the school committee can alter agendas almost one year after the agenda was submitted and posted?	
5/17/2021	5/29/2021	SOLAS	Exactly one hour's worth of work to provide digital copies of Sarah Markey's most recent emails.	
5/17/2021	5/29/2021	SOLAS	Digital copies of data on out-of-school suspensions as it relates to race in the past ten years.	
5/17/2021	5/29/2021	SOLAS	Google link to the current SKSD math curriculum. The one you provided in the original google link is out of date and no longer used by the district.	
5/17/2021	5/29/2021	SOLAS	Exactly one hour's worth of work to provide digital copies of Linda Savastano's most recent emails.	
5/17/2021	5/29/2021	SOLAS	Current or most recent racial demographic of SKSD.	
5/17/2021	5/29/2021	SOLAS	Current or most recent racial demographic of teachers in SKSD	
5/17/2021	5/29/2021	SOLAS	Exactly one hour's worth of work to provide digital copies of Emily Cummiskey's most recent emails.	
5/17/2021	5/29/2021	SOLAS	Digital copy of comprehensive list of books and available or accessible material about gender theory, sex, sexuality, sexual development, or sexual orientation at Wakefield Elementary School's library. I suggest using an advanced search filter on the library catalog to compile this list.	
5/17/2021	5/29/2021	SOLAS	Digital copy of comprehensive list of books and available or accessible materials about antiracism, race, or equity at Wakefield Elementary School's library. I suggest using an advanced search filter on the library catalog to compile this list.	
5/18/2021	6/2/2021	SOLAS	Digital copy of comprehensive list of books by the American Reading Company available to SKSD students.	
5/18/2021	6/2/2021	SOLAS	Itemization of payments to Robin Wildman. Disclosure of ad hoc fee in her contract.	
5/18/2021	6/2/2021	SOLAS	Training materials from implicit bias training conducted by Robin Wildman. These are tax-funded materials that should be made available to the public by the school district, not Robin Wildman.	
5/18/2021	6/2/2021	SOLAS	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."	
5/18/2021	6/2/2021	SOLAS	Hiring and firing 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."	
5/18/2021	6/2/2021	SOLAS	Proposed changes or implemented changes to the SKSD Curriculum of all grades made in the name of "equity" or "culturally responsiveness" or "accessibility" or "antiracism."	
5/18/2021	6/2/2021	SOLAS	Proposed changes and implemented changes to the SKSD discipline policies of all grades made in the name of "equity" or "culturally responsiveness" or "accessibility" or "antiracism."	
5/18/2021	6/2/2021	SOLAS	All available public information on Jonathan Sigman.	
5/18/2021	6/2/2021	SOLAS	All public information relating to the Wakefield Elementary School Parent Book Club	

5/18/2021	6/2/2021	SOLAS	Digital copy of comprehensive list of all new books provided or funded by organizations committed to "equity," "antiracism," or "culturally responsive teaching" or in support of gender theory, transgenderism, sexual orientation, or sexual education.	
5/18/2021	6/2/2021	SOLAS	Digital copies of evidence of systemic racism in the South Kingstown School District.	
5/18/2021	6/2/2021	SOLAS	Video link to National Association of School Boards virtual conference attended by school committee members in 2021 as professional development training and all included materials. Cost of this conference.	
5/18/2021	6/2/2021	SOLAS	Policy on how parents access and view curriculum and whether your policy complies with the law.	
5/18/2021	6/2/2021	SOLAS	Resume or application of Carrie Brown, independent consultant managing the school district's facebook page. What are Carrie Brown's qualifications to be paid such a high hourly rate to manage the Facebook page?	
18-May	6/2/2021	SOLAS	Digital copies of all independent contractor contracts in the school district for fiscal years 2021, 2020, 2019, 2018.	
5/19/2021	6/3/2021	SOLAS	Digital copy of full accounting of all payments made to Carrie Brown by the Town of South Kingstown or School department.	
5/19/2021	6/3/2021	SOLAS	Digital copies of all lesson materials including handouts, virtual links, homework assignments, and writing prompts, used to teach the book, American Boys by Jason Reynolds at South Kingstown High School in the 2020/21 academic year.	
5/19/2021	6/3/2021	SOLAS	Public information (not including emails) on South Kingstown teachers Michael Alper and Amber Lambert.	
5/19/2021	6/3/2021	SOLAS	Digital copies of emails of Michael Alper in March 2021.	
5/19/2021	6/3/2021	SOLAS	Digital copies of emails of Amber Lambert for the month of March.	
5/19/2021	6/3/2021	SOLAS	Digital copies of Scope and sequence for each course / unit of study related to antiracism, racism, or race.	
5/19/2021	6/3/2021	SOLAS	Digital copies of scope and sequence for each course / unit of study related to or integrating anything relating to gender theory, transgenderism, and sex education.	
5/19/2021	6/3/2021	SOLAS	All reports and complaints of sexual harassment and sexual discrimination the South Kingstown District from September 2011 to June 30, 2021.	
5/19/2021	6/3/2021	SOLAS	Digital copies of all funding sources for anything related to antiracism, equity, cultural responsiveness, or race in the South Kingstown School District from 2011 to 2021.	
5/19/2021	6/3/2021	SOLAS	Digital copies of all funding sources for anything related to gender theory, transgenderism, and sexual education, in the South Kingstown School District from 2011 to 2021.	
5/19/2021	6/3/2021	SOLAS	South Kingstown School District Contract with Henneous, Carroll, Lombardo, LLC.	
5/19/2021	6/3/2021	SOLAS	South Kingstown School District Legal Budget for the 2020/21 and 2021/22 academic years.	
5/19/2021	6/3/2021	SOLAS	South Kingstown School District money spent on legal fees for academic years 2020/21, 2019/20, 2018/19.	
5/19/2021	6/3/2021	SOLAS	Digital copies of all APRA complaints against the Town of South Kingstown and South Kingstown School District from 2011 to 2021.	
5/19/2021	6/3/2021	SOLAS	Digital copies of all FOIA requests filed with the Town of South Kingstown and South Kingstown School District from 2011 to 2021.	
5/19/2021	6/3/2021	SOLAS	Digital copies of all OMA complaints and violations by Town of South Kingstown and South Kingstown School District from 2011 to 2021.	

**South Kingstown School Committee Executive Session & Special Meeting
Wednesday, June 2, 2021**

EXHIBIT D

**Curtis Corner Middle School Cafeteria
301 Curtis Corner Road
Wakefield, RI 02879**

Attendees - voting members

Emily Cummiskey – Chair
Christie Fish – Vice Chair
Sarah Markey
Michelle Brousseau
Kate Macinanti
Melissa Boyd
Paula Whitford

Attendees – other

Linda Savastano – Superintendent
Andrew Henneous - Attorney

1. 7:30 PM Executive Session

A. Convene Open Session and Recess to Executive Session

Ms. Cummiskey called the June 2, 2021 School Committee meeting to order at 7:32 PM.

Motion was made to move the agenda review (Item G.) up for discussion.

Motion made by Kate Macinanti

Motion seconded by Melissa Boyd

motion passed unanimously

Ms. Macinanti expressed concerns about having community comment after discussion/vote of item H.

Motion was made to move community comment before Item H.

Motion made by Kate Macinanti

Motion Seconded by Paula Whitford.

Ms. Markey asked if there was a way that additional information could be shared with the community to better inform them prior to community comment.

Motion amended to first discuss agenda Item I, proceed to community comment Item 3.A., then have action on Item I.

Motion made by Kate Macinanti

Motion seconded by Paula Whitford.

Motion passed unanimously

Motion was made to move to executive session.

Motion was made by Michelle Brousseau

Motion was seconded by Christie Fish.

B. The School Committee may seek to convene in executive session in accordance with R.I. Gen. Laws for the purpose(s) of: RIGL 42-46-5(a)(2): discussion / action Potential litigation related to South Kingstown Town Council investigation and joining Council in subpoena lawsuit to be filed and Potential litigation related to over 160 APRA requests filed by one individual

C. Adjourn Executive Session and Reconvene Open Session

A. Call to Order

Ms. Cummiskey called the June 2, 2021 School Committee meeting to order at 8:30 PM.

B. Pledge of Allegiance to the Flag

The Committee led in the Pledge of Allegiance to the Flag.

C. Roll Call

All members present

D. School Committee Agreements (norms)

Ms. Cummiskey reviewed the School Committee agreements (norms). She read four additional questions that she stated will direct us in all that we do as a school department and school committee.

E. Reporting of Votes Taken in Executive Session

No votes reported

F. Seal the Minutes of Executive Session

A motion was made to seal the minutes of executive session.

Motion made by Michelle Brousseau

Motion was seconded by Christie Fish

G. Chair - Agenda review

See above

H. Discussion /Action: Joining Town Council lawsuit to be filed related to enforcement of a subpoena

A motion was made to join the Town's lawsuit as a plaintiff in the enforcement of a subpoena

Motion was made by Sarah Markey

Motion was seconded by Paula Whitford

Motion passed unanimously

I. Discussion / Action: filing lawsuit against Nicole Solas to challenge filing of over 160 APRA requests

A motion was made to start the discussion

Motion was made by Christie Fish

Motion was seconded by Michelle Brousseau

Ms. Cummiskey read a statement explaining the school committee's concern regarding the large number of APRA requests received by the District, the District's commitment to equity and antiracist work, and the negative impact the requests have had on the District.

Superintendent Savastano shared a presentation that explained what an APRA request is as well as the District's current process of responding to these requests.

Superintendent Savastano shared a summary of the nature and quantity of the requests that have been submitted.

Discussion ensued regarding the APRA response process. the cost incurred by the District, and the events or conversations that have taken place leading up to the current situation.

3. Comments from the Community

A. Community Comment

Ms. Cummiskey read the committee's protocol for community comment.

Nicole Solas
Dave Cotay
Sarah LeClair
Jeanne Silversmith
Katie Reardon
Eve Mombelly
Ginger Mombelly
Jocelyn Leasca
Katie Garvin
David Smith
Steven Licht
Melanie Dyer
Brian Nelson
Diane Curran
Becky Davis
Kate Brewster
Joshua Clavin
Roland Benjamin
Ilana Shemkovitz
Phil Eden
Harold Smith
Lacy McGreavy
Edward Lawson
Sara Schofield
Wendy Duart
Alan Sampson
Anthony Clancy
Karen Humes
Hannah Hopkins
Nat Barnett
Sandra Tetreault
Wayne Everett
Chris Hubbard
Bill Tickner
Jesus de la Torre
Brunilda Valez
Amber Joy
Eli Nickson
Nicole Renzulli
Nate Perry
Raissa Mosher

I. Discussion / Action (continued): filing lawsuit against Nicole Solas to challenge filing of over 160 APRA requests

Motion was made to not file a lawsuit against Ms. Solas over APRA requests.

Motion made by Sarah Markey

Motion seconded by Michelle Brousseau

Discussion ensued regarding the reasoning behind the potential filing of an injunction against Ms. Solas, the communication that has taken place between Ms. Solas and the District up to this point, and the potential of working with Ms. Solas's legal counsel to initiate mediation.

Move to amend the motion to include first attempting to initiate mediation and direct our attorney to do that.

Motion made by Sarah Markey

Motion was seconded by Michelle Brousseau

Roll call vote:

Melissa Boyd- yes

Sarah Markey- yes

Kate Macinanti- yes

Michelle Brousseau- yes

Christie Fish- yes

Paula Whitford- yes

Emily Cummiskey-yes

Motion passed unanimously

Move to vote on the motion as amended to not file a lawsuit against Ms. Solas over APRA requests but to first attempt to initiate mediation and direct our attorney to do that.

Roll call vote:

Melissa Boyd- yes

Sarah Markey- yes

Kate Macinanti- yes

Michelle Brousseau- yes

Christie Fish- yes

Paula Whitford- yes

Emily Cummiskey-yes

Motion passed unanimously

4. Adjournment

A. Adjourn

Motion was made to adjourn the meeting at 12:08AM

Motion was made by Michelle Brousseau

Motion was seconded by Kate Macinanti

Motion passed unanimously

EXHIBIT E

From: [Aubrey Lombardo](#)
To: [Carly Iafrate](#)
Cc: jazevedo@neari.org
Subject: RE: South Kingstown APRA Requests
Date: Tuesday, July 13, 2021 4:23:33 PM
Attachments: [image001.png](#)

Hi Carly,

I have forwarded this request to the Acting Interim Superintendent and School Committee Chair and Vice Chair and am trying to set up a time to discuss tomorrow.

Thanks you.



Aubrey L. Lombardo
Henneous Carroll Lombardo, LLC
155 South Main Street, Suite 406
Providence, RI 02903
401.424.5224
alombardo@hcllawri.com
www.hcllawri.com

From: Carly Iafrate <ciafrate@verizon.net>
Sent: Tuesday, July 13, 2021 12:58 PM
To: Aubrey Lombardo <alombardo@hcllawri.com>
Cc: jazevedo@neari.org
Subject: South Kingstown APRA Requests

Aubrey,

Per our conversation, I am reaching out on behalf of NEARI concerning certain APRA requests which have been made to the South Kingstown School Department. It is my understanding, although I have not seen copies of the requests, that some or all of the requests may implicate the privacy interests of some of our members. I also understand that the School Department has complied with at least one request to date, or at least one that contained teacher e-mails. As indicated, it is my concern that the privacy interests of the members outweigh the public interest and thus, certain emails should not be produced or should be redacted. Because of that, I would like copies of the requests so that I can assess the situation. Please also let me know of any timelines that are currently in place so that we know what we are working with should we want to seek judicial relief prior to the School Department responding to these requests.

Thank you,

Carly

EXHIBIT F

APRA form #	Date of Request	Requester	Date billed:	Date Payment Received:	was an extension requested:	Response Due Date	Date Responded
Text of Request							
not yet started							
billed and awaiting payment							
needs to be billed or responded to by legal							
Jenna is working on it							
payment received; response pending							
35	5/10/2021	SOLAS	All public records requested by myself, Nicole Solas, submitted to date, 5/10/21	5/19/2021		5/24/2021	
39	5/12/2021	SOLAS	All reports of racial discrimination in the SKSD in the past ten years (september 2011 to May 2021)	5/21/2021		5/26/2021	
42	5/14/2021	SOLAS	All SKSD curriculum, policies, procedures, and all other materials provided to the BIPOC Advisory Committee or any individual member of the BIPOC Advisory Committee to perform their audit or for any other reason.	5/21/2021		5/28/2021	
45	5/16/2021	SOLAS	Digital copies of Sarah Markey's emails in the last six months.	5/21/2021		5/28/2021	
46	5/16/2021	g	Digital copies of Emily Cummiskey's emails in the last six months.	5/21/2021		5/28/2021	
47	5/16/2021	SOLAS	Digital copies of Linda Savastano's emails in the last six months.	5/21/2021	7/8/2021 ck 2188	5/28/2021	
48	5/16/2021	SOLAS	Digital copies of documents pertaining to AFL-CIO in the last four months.	5/21/2021		5/28/2021	
49	5/16/2021	Solas	Digital copies of Christie Fish's emails in the last six months.	5/21/2021		5/28/2021	
59	5/17/2021	SOLAS	Exactly one hour's worth of work to provide digital copies of Linda Savastano's most recent emails.	5/26/2021		6/1/2021	
63	5/17/2021	SOLAS	Exactly one hour's worth of work to provide digital copies of Emily Cummiskey's most recent emails.	5/26/2021		6/1/2021	
83	5/19/2021	SOLAS	Digital copies of all lesson materials including handouts, virtual links, homework assignments, and writing prompts, used to teach the book, American Boys by Jason Reynolds at South Kingstown High School in the 2020/21 academic year.	5/26/2021		6/3/2021	
85	5/19/2021	SOLAS	Digital copies of emails of Michael Alper in March 2021.	6/4/2021		6/3/2021	
86	5/19/2021	SOLAS	Digital copies of emails of Amber Lambert for the month of March.	6/4/2021		6/3/2021	
89	5/19/2021	SOLAS	All reports and complaints of sexual harassment and sexual discrimination the South Kingstown District from September 2011 to June 30, 2021.	6/4/2021		6/3/2021	
94	5/19/2021	SOLAS	South Kingstown School District money spent on legal fees for academic years 2020/21, 2019/20, 2018/19.	6/2/2021- 45.00		6/3/2021	
95	5/19/2021	SOLAS	Digital copies of all APRA complaints against the Town of South Kingstown and South Kingstown School District from 2011 to 2021.	6/2/2021- 75.00		6/3/2021	
96	5/19/2021	SOLAS	Digital copies of all FOIA requests filed with the Town of South Kingstown and South Kingstown School District from 2011 to 2021.	6/2/2021- 225.00		6/3/2021	
97	5/19/2021	SOLAS	Digital copies of all OMA complaints and violations by Town of South Kingstown and South Kingstown School District from 2011 to 2021.	6/2/2021- 75.00		6/3/2021	
100	5/21/2021	SOLAS	Digital copies of public documents relating to Patrick Crowley in the months of March, April, and May 2021.	6/2/2021- 150.00		6/7/2021	
110	5/22/2021	SOLAS	Digital copy of all names and titles of individuals in "transgender and gender expansive point teams" at each school under policy 1236.	6/2/2021- 15.00		6/7/2021	

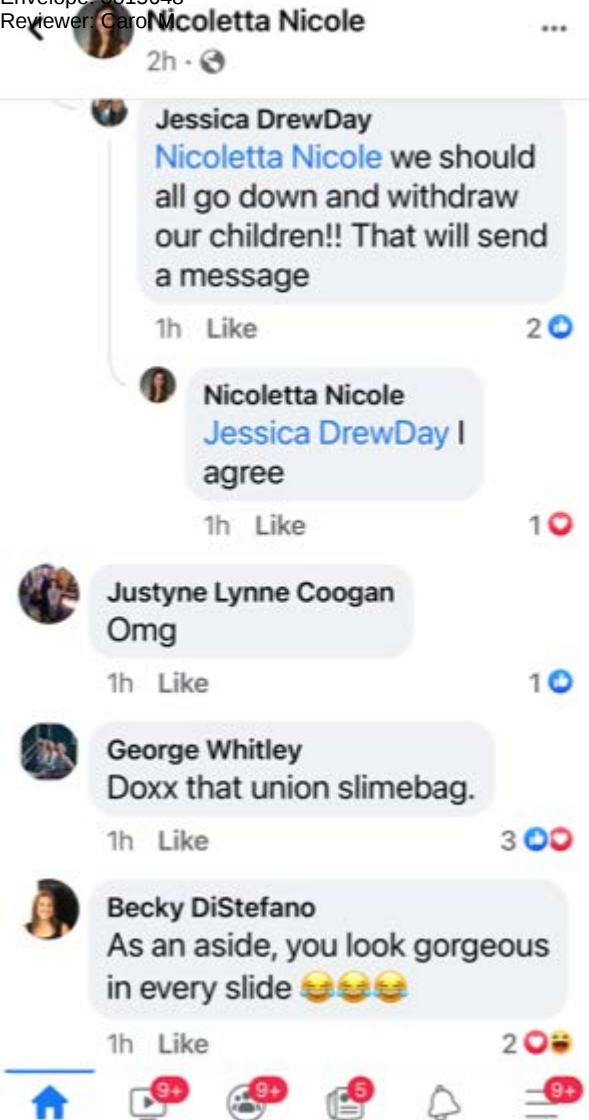
136	5/25/2021 SOLAS	Digital copies of emails of Jacy Northup during May, June, July, August, September, and October, 2020.	6/2/2021-150.00	6/9/2021
140	5/27/2021 SOLAS	RFP for implicit bias training		6/11/2021
145	5/27/2021 SOLAS	All documents related to the hiring of school committee attorneys.		6/11/2021
151	5/27/2021 SOLAS	All documents related to the hiring of Ginamarie Masiello; all performance reviews.		6/11/2021
152	5/27/2021 SOLAS	CV of Coleen Smith; all documents related to her hiring; job performance reviews.		6/11/2021
156	5/27/2021 SOLAS	All reports of sexual harassment and sexual assault and violations of Title IX in the South Kingstown School District in the past ten years.	6/30/2021	6/11/2021
157	5/27/2021 SOLAS	All complaints against Linda Savastano.		6/11/2021
158	5/27/2021 SOLAS	All complaints against Robin Wildman.		6/11/2021
159	5/27/2021 SOLAS	All emails to or from Linda Savastano mentioning the word "equity."	6/21/2021	6/11/2021
160	5/27/2021 SOLAS	All emails to or from Linda Savastano containing the word, "race."	6/21/2021	6/11/2021
161	5/27/2021 SOLAS	All emails to or from Linda Savastano pertaining to myself, Nicole Solas, but excluding emails between myself and Linda Savastano	6/21/2021	6/11/2021
162	5/27/2021 SOLAS	All reports of bullying in the district in the past ten years.	6/21/2021	6/11/2021
163	5/27/2021 SOLAS	All emails to or from Linda Savastano continuing the word, "whiteness."	6/21/2021	6/11/2021
164	5/27/2021 SOLAS	All emails between Linda Savastano and Robin Wildman in the past two years.	6/21/2021	6/11/2021
165	5/27/2021 SOLAS	All emails to or from Linda Savastano containing the phrase, "implicit bias training."	6/21/2021	6/11/2021
166	5/27/2021 SOLAS	All emails to or from Linda Savastano discussing tours in the years 2020 and 2021.	6/21/2021	6/11/2021
169	5/27/2021 SOLAS	All reports of violations of the Americans with Disabilities Act in the past ten years.		6/11/2021
172	5/28/2021 SOLAS	Details of implicit bias training/kingian nonviolence training described in PO #21000244 for \$4,999.00 including location of training, length of training, materials of training, and any certifications awarded.		6/14/2021
175	5/28/2021 SOLAS	Data on reading levels of students in South Kingstown School District in the past three years. Which students are reading at grade level?		6/14/2021
182	5/28/2021 SOLAS	All disciplinary actions and relevant details taken against any teacher in the school district in the past three years. If actions or details are not public information, provide how many disciplinary actions are private and against which teachers.	6/29/2021	6/14/2021
188	5/28/2021 SOLAS	Hours worked by all physical education teachers during Covid restrictions when they were teaching physical education via zoom; coursework of physical education by all physical education teachers when they taught on zoom during covid restrictions. Did they receive the same salary for teaching physical education on zoom?		6/14/2021
202	5/28/2021 SOLAS	Name of song performed by SKHS choir with lyrics, "I watched from my window as they gunned down an unarmed man." This performance was posted on SKSD facebook page on May 26. What qualifications does Ryan Muir have to talk about race and equality with choir students?		6/14/2021
204	5/28/2021 SOLAS	Lesson plans of Ryan Muir where he talked about race and equality with choir students; lesson plan approval process.		6/14/2021

	206	5/28/2021	SOLAS	CV of Director of Guidance at SKHS, Barbara Crudale; salary, contract, all documents related to her hiring.		6/14/2021	
	232	5/29/2021	HARTMAN	azhartman@ All lesson plans in which the concept of "whiteness" as a social construct is discussed, at all grade levels.		7/16/2021	
	235	5/29/2021	HARTMAN	Azhartman@ Names of all individuals who submitted public records requests via APRA since September 1, 2020.		6/17/2021	6/14/2021
	237	5/29/2021	HARTMAN	azhartman@ All past APRA complaints and OMA complaints filed against the school district since September 1, 2020.	6/29/2021	6/17/2021	7/16/20216/14/2021
	241	5/29/2021	HARTMAN	azhartman@ CVs, contracts, job descriptions, and all documents related to hiring of the first 50 teachers listed in the staff directory on the website of South Kingstown High School.	6/29/2021	6/17/2021	7/13/20216/14/2021
	243	5/29/2021	HARTMAN	azhartman@ Last six months of emails of Paula Whitford.	6/21/2021	6/17/2021	7/13/20216/14/2021
	244	5/29/2021	HARTMAN	azhartman@ Last six months of emails of Melissa Boyd.	6/21/2021	6/17/2021	7/13/20216/14/2021
	245	5/29/2021	HARTMAN	azhartman@ Last six months of emails of Michelle Brousseau.	6/21/2021	6/17/2021	7/13/20216/14/2021
	246	5/29/2021	HARTMAN	azhartman@ Last six months of emails of Kate Macinanti.	6/21/2021	6/17/2021	7/13/20216/14/2021
email	5/31/2021	PETRUCCI	petruccialex@ I would like to know South Kingstown schools district legal fees by year for 2016, 2017, 2018, 2019, 2020 and monthly for 2021.	75.00	6/15/2021	6/14/2021	
	261	6/2/2021	FRIEDMAN	mfriedma@ All emails sent or received by school committee members that include the phrase "Nicole Solas", "Ms Solas", or "Mrs Solas" including all attachments. Data to be returned in electronic form.	6/21/2021	6/17/2021	7/15/20216/16/2021
	264	6/3/2021	KINGKADE-	tyler.kingka@ I am seeking copies of all emails and records requests sent to the district by Nicole Solas AKA Nicoletta Solas, Erika Sanzi, Asra Nomani, and Nicole Neily since March 1, 2021.	6/21/2021	6/17/2021	7/16/20216/17/2021
	265	6/3/2021	RICHES	jonathan.ri Open Records Request. I, Jonathan Riches with Original Media Group is requesting every Open Record request Nicole Solas made to this district	15.00 7/7/2021	6/17/2021	7/16/20216/17/2021
	266	6/3/2021	RICHES	jonathan.ri Open Records Request. I, Jonathan Riches with Original Media Group request all records your School District has on Critical Race theory	15,360.00 7/7/2021	6/17/2021	7/16/20216/17/2021
	271	6/9/2021	Coogan	I am requesting the following information on June 9, 2021: Digital copies of meeting minutes or other documents approving the hiring of PR firm which produced defamatory statement read on 6/2/21 school committee meeting; RFP for PR firm; email communications of Henneous, Carroll, Lombardo, Superintendent Savastano, or any school committee member discussing matters relating to Nicole Solas and her APRA requests or preparation of the defamatory statement. Digital copy of trust or other source from which legal fees and settlements may be paid in relation to litigation involving South Kingstown school committee, school department, and/or Town of South Kingstown.		7/22/2021 6/24/2021	6/23/2021
	272	6/10/2021	SCHOLD	What PR firm prepared the statements reviewed and read by then Chair Emily Cummiskey? Please include contract, invoices, all prepared statements reviewed or read by School Committee members and/or Superintendents, email communications with PR firm and invoices. Also indicate hire date and School Committee approval date to use PR firm to prepare and work with School Committee for media and meeting purposes.	7/21/2021643.50	6/24/2021	7/22/20216/23/2021

		All Communications between Linda Savastano, Jenna Ouellette, Stacey Bodizony, and Emily Cummiskey relating to the facility bond election and Friends of SK Schools advocacy. Any and all documents related to Stacey Bodizony and Friends of SK Schools request for the district wide student directory. Any and all communications between Linda Savastano, Jenna Ouellette, Emily Cummiskey and Stacey Bodizony relating to the release of student information.	7/27/2021	2055.00	6/23/2021 7/27/20216/28/2021
	276 6/13/2021	SCHOLD			
		Please provide me with all email communication between Linda Savastano and Stephanie Canter, Jacy Northup, Emily Cummiskey, Brian Nelson, and Sarah Markey from April 5th, 2021 to April 9th, 2021.			
email	6/17/2021	<threeboysand1dog@vz		64.507/3/2021	6/30/2021 7/1/2021
	285 6/20/2021	Hartman	All public info about PR Firm hired to write statement	658.507/21/2021 J	7/2/2021
		Any documents showing that Critical Race Theory is or will be taught or is used or will be used as a resource for anything in the school district.			
	289 6/20/2021	Hartman		15,360.007/7/2021	7/2/2021
	290 6/20/2021	Hartman	All public information on West Kingston Parent Book Club.		7/2/2021
		I seek the Following Records in this Separate Request: All Emails from School Superintendent Linda Savastano from Present back to 3/1/21. I am a Journalist covering a Story for Original Media Group			
	295 6/21/2021	Riches	All Savastano emails from May 17, 2021 to the date this request is fulfilled.	7/14/2021\$109,125.00	7/6/2021
	297 6/27/2021	Hartman		6/29/2021	7/12/2021
	298 6/27/2021	Hartman	All docs and emails with NE Basecamp and any individual associated with NE Basecamp.		7/12/2021
	299 6/27/2021	Hartman	All CRT practices that have been implemented in the past in SKSD, or are currently implemented, or will be implemented.	15,360.007/7/2021	7/12/2021
	300 6/29/2021	Peterson jpeterson@	Records of all communications of school committee member Kate McMahon Macinanti from January 1, 2021 to the present. This request is on behalf of Judicial Watch, Inc., a 501c3 educational foundation, which by definition has no commercial purpose. Judicial Watch seeks these records to shed light on the operations of the South Kingston School District and will make publicly available the records it receives. Judicial Watch seeks a waiver of fees associated with this request. R.I. Gen. Laws § 38-2-4(e); Direct Action for Rights & Equality v. Gannon, 819 A.2d 651, 661-2 (R.I. 2003).	2670.007/3/2021	7/16/2021
				7/27/2021 \$120.00 =payment for requests	
	301 7/1/2021	Goldwater Institute-Riches	Request is linked here 1. Lesson plans or cour	7/13/2021\$74 #1 & #3	7/16/2021
		Please provide me with any and all texts, documents, and/or emails between Linda Savastano and ANYBODY regarding the topic of redistricting			
email	7/2/2021	<threeboysand1dog@vz	between January 1st, 2021 and April 9th, 2021.		7/16/2021 8/17/20217/19/2021
email	7/8/2021	<threeboysand1dog@vz	Please provide me with all email communication between Linda Savastano and Stephanie Canter from April 5th, 2021 to April 9th, 2021.	7/20/2021105.00	7/16/2021 8/20/20217/22/2021

email	7/8/2021	sthreeboysand1dog@v	Please provide me with all email communication between Linda Savastano and Brian Nelson from April 5th, 2021 to April 9th, 2021.	7/20/2021540.00	7/16/2021 8/20/20217/22/2021
email	7/9/2021	sthreeboysand1dog@v	Please provide me with all email communication between Linda Savastano and Stacey Bodziony for the month of April, 2021.	7/20/202145.00	7/16/2021 8/21/20217/23/2021
303	7/10/2021	Hartman	All communications between Advocacy Solutions and anyone affiliated with South Kingstown School District; Advocacy Solutions contract and full accounting of monies paid to it.	658.50 7/21/2021 J	7/26/2021
305	7/14/2021	IAFRATE	1 - A copy of all pending APRA requests as of today, July 14, 2021; 2 - A list of all pending APRA requests with the following information: (a) the date of the request; (b) the name of the person/entity making the request; (c) the substance of the request (what documents are being requested). 3 - A copy of any and all responses by the SK School Department (including documents produced) to any APRA requests in the last seven (7) days.	7/14/2021 30.00	7/29/2021 7/28/2021
email	7/14/2021	sthreeboysand1dog@v	Please provide me with all email correspondence related to the subcommittee established by the School Building Committee on March 11 regarding the RFQ of the architectural firms involving any and all of the following Emily Cummisky, Raquel Pellerin, Kate Macinanti, the Superintendent, former Town Manager Zarnetske, Zack Saul, and Abel Collins.		7/28/2021

EXHIBIT G



Mentions

 Fredri liked a Tweet you were mentioned in

Someone should APRA all communications concerning NEA in the past 6 months.



Nicole Solas @Nicoletta... · 1h ...

Replying to @laurieinri
[@NEARhodelsland](#) and 4 others

Someone should APRA all communications concerning NEA in the past 6 months.



Nicole Solas @Nicoletta... · 1h ...

Replying to @laurieinri
[@NEARhodelsland](#) and 4 others

Someone should APRA that submitted request and all responses. Along with the turn around time. Betting the school hopped right to it.



teaching CRT and emails in
South Kingstown? Anyone i...



Nicole Solas @Nicoletta... · 1h ...

Specifically, "emails of teachers containing words, critical race theory, CRT, BLM, Black Lives Matters, Privilege, Oppressor, Equity, bias, justice, equitable, right wing, conservative, 'Nicole Solas,' whiteness, racist, antiracism, inequity, systemic racism, culturally responsive"



Laurie @laurieinri · 1h ...

Oh hey forgot to mention, I learned today that @NEARhodelsland bragged about submitting an APRA request about Nicole Solas' APRA requests.



Tweet your reply



about submitting an APRA request about Nicole Solas' APRA requests.

Turnabout is fair play. Let's see if anyone submits an APRA request seeking info about the teachers union's APRA requests. Oopsy daisy!



Nicole Solas

@Nicoletta0602

Replying to @laurieinri

@NEARhodelsland and 4 others

Someone should APRA that submitted request and all responses. Along with the turn around time. Betting the school hopped right to it.

7:48 PM · 8/8/21 · [Twitter for Android](#)



Tweet your reply



Nicole Solas

448 Tweets

Tweets**Tweets & replies****Media****Nicole Solas** @Nicoletta... · 4h ...

Will teacher union NEA sue ANYONE who submits requests about teachers teaching CRT and emails in South Kingstown? Anyone in the country can submit requests in the link below and retaliation is illegal. Just sayin'. @JackPosobiec

@ConceptualJames @DrKarlynB



South Kingstown
School Department:....
docs.google.com

5

57

134



Who to follow



TeacherGoals and 2 others follow

**Zearn**

@zearn

Supporting teachers to help kids

Follow



Tweet



Nicole Solas

@Nicoletta0602



Will teacher union NEA sue ANYONE who submits requests about teachers teaching CRT and emails in South Kingstown? Anyone in the country can submit requests in the link below and retaliation is illegal. Just sayin'.

[@JackPosobiec](#)

[@ConceptualJames](#)

[@DrKarlynB](#)



South Kingstown School Department: Request for...
docs.google.com



Tweet your reply





Adam Beis - Patriot 🇺🇸 · 3h ...

Replying to [@Nicoletta0602](#)

All of these teachers need to be called out by Name. Every time, call them out.

Sarah Hawksley Schofield supports CRT and indoctrinates your children with state sanctioned RACISM.



1



1



4



Nicole Solas @Nicolett... · 1h ...

Exactly. Expose all all state employees who target parents who advocate with for their kids. These unprofessional, low-caliber teachers model bullying when they should model civility, critical thinking, and debate skills. Is it any wonder bullying is such a problem in school?



2



Tweet your reply





Darth Vaderstein M.D., Ph... ...

@DVaderstein

Replying to [@Nicoletta0602](#)

Get private detectives to dig dirt out on all these people. I'm sure there's plenty.

7:52 AM · 8/17/21 · [Twitter Web App](#)

12 Likes



Nicole Solas @Nicolet... · 22h ...

Replying to [@DVaderstein](#)

Great idea.



Darth Vaderstein M.... · 20h ...

And dig out dirt on their family members too.



Tweet your reply





Tweet



Nicole Solas

@Nicoletta0602



The hearing on
[@NEARhodelsland](#)'s
shameful and legally
unsupported Temporary
Restraining Order on my civil
rights will be remote so
everyone can watch the
[@NEAToday](#) be humiliated in
real time. August 23, 10:30
am EST. Link to follow.

7:54 PM · 8/18/21 · [Twitter for Android](#)

2 Likes

Tweet



Nicole Solas

@Nicoletta0602

Replying to @dmjacksonrny

The only reason why
monoliths like

@NEARhodelsland

@NEAToday battlecry about
"dismantling unjust systems"
is to distract u from the real
oppressive, unjust system of
teachers unions usurping
public education. Dismantle
@NEARhodelsland .

Dismantle @AFTteach.

Dismantle @NEAToday.

12:03 PM · 8/22/21 · [Twitter for Android](#)



Tweet your reply



Nicole Solas

1,578 Tweets

Tweets Tweets & replies Media**Nicole Solas** @Nicole... · 26m ...

Replying to @Nicoletta0602

In case anyone wants to check out the Twitter if the teachers union suing me, here it is: [@NEARhodelsland](#). The executive director of this oppressor teachers union is [@RobertAWalshJr](#). The attorney who filed this harassing litigation is Carly lafrate.

Carly lafrate Law Office

4.7 ★★★★★ (3)

Lawyer in Providence, Rhode Island



Overview

Reviews

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About



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DIRECTIONS



SHARE



SAVE



38 N Court St, Providence, RI 02903



(401) 421-0065



Tweet



Nicole Solas

@Nicoletta0602

Diversity Equity and Inclusion
is what you do when you
can't do anything else.

I said it.

12:23 PM · 9/1/21 · [Twitter for Android](#)

39 Retweets **3** Quote Tweets

211 Likes



Ron Coleman @Ro... · 57m ...

Replying to [@Nicoletta0602](#)

Like teaching Phys. Ed. but no
sweating required

5

2

32



Tweet your reply



Nicole Solas

1,828 Tweets

Tweets

Tweets & replies

Media



Nicole Solas @Nicolet... · 21h ...

Submit a public records request for total amount spent on SEL and CRT learning, materials, instructions, professional development, integration, etc.

Indoctrination is the Afghanistan of public education. It is an abyssmal failure and future generations will pay the cost.

 **Heather Rooks** @... · 21h

Wow! This is how much Peoria Unified School District spent on Social&Emotional learning/ Diversity committee. Why are we spending money on how to insert CRT/SEL ideas into kids classroom when kids are having



Tweet



Nicole Solas Domestic Ter... ...

@Nicoletta0602

There has been a 30% increase in homicides in 1 year in America. That's the single largest increase in American history.

This is precisely bc of laws & policies driven by the anti-equality philosophy of "equity."

And ur children are learning to worship equity in public school.

8:44 PM · 12/7/21 · [Twitter for Android](#)



Tweet your reply



Nicole Solas Domestic Terrorism

9,154 Tweets

Tweets

Tweets & replies

Media



1



3



11

**Nicole Solas Domestic...** · 4h ...

Call in to the Dan Yorke Show today at 3 pm to tell teachers union Executive Loser Director Bob Walsh what you think of the teachers union closing schools. Give a fake name and pretend to be on the side of the teachers union if the producer screens you. Then lay into him.

**Robert A Walsh Jr**

@RobertAWalshJr

The responsible decision, based on the overwhelming number of cases, the inability to do meaningful contact tracing, the arctic temperatures we are expecting so windows cannot be opened, the insufficiency of supplies, etc. etc. is to move to distance learning until next Tuesday.

8:38 AM · 10 Jan 22 · Twitter for iPhone



Tweet



Nicole Solas Domestic Ter... ...

@Nicoletta0602

Please run for Congress,
Executive Loser of the
Teachers Union who sued
me.

I know someone who would
looooooove to run against
you.



Dan McGowan ✓ @Dan... · 3h

More adds: @RobertAWalshJr
from the NEA isn't ruling it out.
[twitter.com/DanMcGowan/sta...](https://twitter.com/DanMcGowan/status/1492444444)

4:47 PM · 1/18/22 · [Twitter for Android](#)



Tweet your reply





Nicole Solas Domestic Terrorist

10.9K Tweets



Tweets

Tweets & replies

Media



Nicole Solas Domest... · 55m ...

The teachers union that sued me is threatening Rhode Island school committees with lawsuits if they remove masks mandates.

The teachers union is the education mafia.



Jody Stone @TheSt... · 1h

Replying to @TheStonesEG

BOB Walsh — is threatening School Committees w/ lawsuits on Public Radio.
@Nicoletta0602



Tweet

@laurieinri



rumble.com

Westerly, Rhode Island

Teacher Says People Aren't...

37

63

114



Nicole Solas Domestic Ter...

@Nicoletta0602

Replying to @bchiaradio14

@RamonaBessinger and 2 others

"I got a bachelor's degree from Rhode Island College when I was 21 I know everything about education"



Tweet your reply



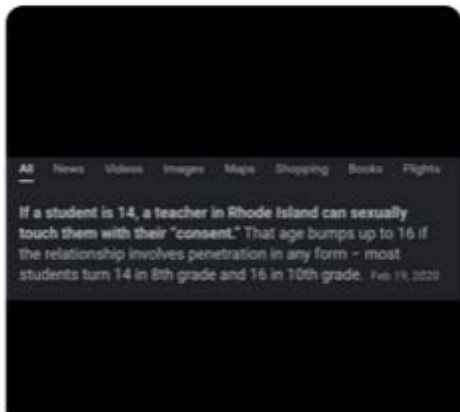
Thread



Nicole Solas Domestic... · 1h ...

The Rhode Island teachers unions [@NEArhodeisland](#) [@NEAToday](#) [@robertawalshjr](#) have fought for years to maintain their right to molest and rape their students.

And last night the [@RIACLU](#) testified in SUPPORT of the sexual assault of students by teachers in Rhode Island.



Tweet your reply





Nicole Solas Domestic Ter...

@Nicoletta0602

Executive Loser, Bob Walsh

@RobertAWalshJr, of

teachers union

@@NEARhodelsland says

that he doesn't condone
teachers raping kids but
doesn't want a law making it
a crime for teachers to rape
kids.

So, teachers raping kids bad
& a law against teachers
raping kids also bad.

Robert Walsh, executive director of the National Education Association Rhode Island, said Monday that "It is patently ridiculous for anyone to imply that our organization, or any individual teacher, would condone any



Tweet your reply



Thread



Nicole Solas Domestic Ter... ...

@Nicoletta0602

"When Rhode Island mom Nicole Solas asked her school district what her kindergartener would be learning, she got sued by a major teachers union."

Academic transparency legislation prevents teacher union bullying.

[@RobertAWalshJr](#)

Goldwater Institute @G... · 19h

87% in Louisiana.

72% in Missouri.

71% in Iowa.

64% in Kansas.



Tweet your reply



Report



An update on your report

Thanks again for letting us know. Our investigation found this account violated the [Twitter Rules](#):



Nicole Solas Domestic Terrorist!

@Nicoletta0602

Violating our rules against [hateful conduct](#).

We appreciate your help in improving everyone's experience on Twitter. You can learn more about reporting abusive behavior [here](#).



Nicole Solas Domestic Terrorist!

@Nicoletta0602

1,365 Following 26K Followers

Account suspended

Twitter suspends accounts that violate the Twitter Rules. [Learn more](#)





Not Nicole Solas

@NotNicoleSolas

871 Following **516** Followers

Account suspended

Twitter suspends accounts that violate the Twitter Rules. [Learn more](#)



The National Education Association (NEA)—the nation's largest public sector teachers' union with a budget of over \$300 million—has sued a Rhode Island mom (<https://www.goldwaterinstitute.org/wp-content/uploads/2021/08/NEA-complaint.pdf>) for asking what her daughter would be taught in kindergarten. With the help of the Goldwater Institute, Rhode Island mom Nicole Solas is fighting back.

Mom Continues Fight against NEA Attack



"This brazen and unprecedented act of intimidation by the NEA will not stand," said Jon Riches, Director of National Litigation at the Goldwater Institute, who is representing Solas. "Nicole Solas is entitled to know what her daughter's school is teaching in the classroom. She's entitled to ask questions. And she does not deserve to face legal action just for asking questions any concerned parent would ask."

Like many parents, Nicole was concerned about whether her daughter would be exposed to politically charged curriculum in the classroom. So in April, Nicole emailed the principal of her school in the South Kingstown School District asking for the kindergarten curriculum—and whether it would include teaching children politically charged materials, including those influenced by Critical Race Theory and gender theory, holding them out to be true. She immediately faced stonewalling from the school, and even a threat of legal action for asking too many questions. Ultimately, Nicole received a bill for \$74,000 to fulfill a public records request filed by the Goldwater Institute on her behalf in July.

If that were not enough, Nicole is now facing an unprecedented lawsuit by the NEA, a veritable goliath of a public sector union, representing over 2.3 million people nationwide. She is under attack with the costs and expenses associated with defending herself in a lawsuit for simply acting as a conscientious parent. This is not the first time that the NEA has shown that it's more concerned with politics and indoctrination than actually helping kids learn and succeed. At the 2019 Representative Assembly of the NEA, the union's delegates voted down a proposed resolution that called on the organization to "rededicate itself to the pursuit of increased student learning in every public school in America by putting a renewed emphasis on quality education" and "make student learning the priority of the Association." Nicole, though, is determined to put her daughter's education first and refuses to be deterred by the union's politically motivated attack.

"The NEA is so determined to push its political agenda that they are willing to expose themselves in a court of law for who they really are: an association of bullies eager to challenge a stay-at-home mom who simply wanted to know what her daughter would be taught," Nicole said. "This lawsuit won't deter me from asking questions, and I encourage all parents to do the same, so that they are empowered to make informed decisions regarding their children's education."

Rhode Island law does not permit private parties to seek to punish those who exercise their rights to public information. The NEA's lawsuit is a brazen assault on the public's right to know what their government is up to and parents' right to know what their children are learning in school. The Goldwater Institute is fighting to guarantee that right and to ensure public schools are transparent about their curriculum.

Parents like Nicole shouldn't have to fight to learn what their children will be taught in school. The Goldwater Institute is working to shine a light on public schools' curriculum—to learn more about our Academic Transparency Act, visit [goldwaterinstitute.org/academictransparency](https://www.goldwaterinstitute.org/academictransparency). (<https://www.goldwaterinstitute.org/academictransparency/>).

EXHIBIT I

From: [Aubrey Lombardo](#)
To: ciafrate@verizon.net
Subject: RE: South Kingstown APRA Requests
Date: Wednesday, September 22, 2021 3:26:25 PM
Attachments: [image001.png](#)

Hi Carly,

The response to APRA #47 (the Savastano emails) has been produced and sent to Ms. Solas. I will forward what was sent to you. As a warning, it is quite voluminous. There have been a number of additional requests, but none have been paid for.

Thank you.



Aubrey L. Lombardo
Henneous Carroll Lombardo, LLC
155 South Main Street, Suite 406
Providence, RI 02903
401.424.5224
alombardo@hcllawri.com
www.hcllawri.com

From: ciafrate@verizon.net <ciafrate@verizon.net>
Sent: Wednesday, September 22, 2021 1:26 PM
To: Aubrey Lombardo <alombardo@hcllawri.com>
Subject: South Kingstown APRA Requests

Aubrey,

I am reaching out regarding the status of the APRA requests that were the subject of the litigation just for informational purposes. Did the request that was scheduled to be produced (I believe Linda Savastano e-mails #47) get produced? May I have a copy? Are there any others that have been paid and are in process? If so, can you send me an updated list or some type of update?

Thanks so much,

Carly

Carly Beauvais Iafrate, Esq.
Law Office of Carly Beauvais Iafrate, PC

38 N. Court Street, 3rd Floor
Providence, RI 02903
(401) 421-0065
(401) 421-0964 (fax)
(401) 837-4777 (cell)

EXHIBIT J

From: ciafrate@verizon.net
To: ["Jonathan Riches"](#); ["Stephen Silverman"](#); ["Aubrey Lombardo"](#); ["Giovanni Cicione"](#)
Subject: RE: Proposed Order
Date: Monday, June 20, 2022 9:20:00 AM

Jonathan,

Received and understood. We will proceed as indicated.

Thank you,

Carly

Carly Beauvais Iafrate, Esq.
Law Office of Carly Beauvais Iafrate, PC
408 Broadway, 1st Floor
Providence, RI 02909
(401) 421-0065
(401) 837-4777 (cell)
***Please note new address.**

From: Jonathan Riches <jriches@goldwaterinstitute.org>
Sent: Friday, June 17, 2022 2:20 PM
To: ciafrate@verizon.net; Stephen Silverman <ssilverman@goldwaterinstitute.org>; 'Aubrey Lombardo' <alombardo@hcllawri.com>; 'Giovanni Cicione' <g@cicione.law>
Subject: RE: Proposed Order

Hi Carly,

Because Parent Defendants still have affirmative relief under the anti-SLAPP statute, and because the Court found fact questions regarding Parents' anti-SLAPP claim, we cannot agree to a dismissal at this point.

We would be happy to discuss a stipulation and any fact-finding necessary so that we can bring this matter back to the court for a final judgment.

Please let me know if you have any questions.

Best,

Jon

Jon Riches

Director of National Litigation & General Counsel

Goldwater Institute | www.GoldwaterInstitute.org

The Goldwater Institute accomplishes real results for liberty by working in state courts, legislatures, and communities nationwide to advance, defend, and strengthen the freedom guaranteed by the constitutions of the United States and the fifty states.

CONFIDENTIALITY NOTICE: The information contained in this message is privileged and confidential. It is intended only to be read by the individual or entity named above or their designee. Any distribution of this message by any person who is not the intended recipient is strictly prohibited. If you have received this message in error, do not read it. Please immediately notify the sender and delete it. Thank you.

From: ciafrate@verizon.net <ciafrate@verizon.net>

Sent: Tuesday, June 14, 2022 11:29 AM

To: Jonathan Riches <jriches@goldwaterinstitute.org>; Stephen Silverman <ssilverman@goldwaterinstitute.org>; 'Aubrey Lombardo' <alombardo@hcllawri.com>; 'Giovanni Cicione' <g@cicione.law>

Subject: RE: Proposed Order

All –

In follow up to the proposed order, and given the fact that there has been no change in circumstances since the argument on the summary judgment motion (no non-public documents have been released nor does it appear the SC has any imminent plans to do so) the Union proposes that the parties agree that the case shall be dismissed, no interest, costs or attorneys' fees to either party and execute a dismissal stipulation pursuant to Rule 41.

If you folks can let me know if you are in agreement by close of business Friday, that would be helpful. Otherwise, I will file a motion.

Thank you,

Carly

Carly Beauvais Iafrate, Esq.
Law Office of Carly Beauvais Iafrate, PC

408 Broadway, 1st Floor
Providence, RI 02909
(401) 421-0065
(401) 837-4777 (cell)
***Please note new address.**

From: ciafrate@verizon.net <ciafrate@verizon.net>
Sent: Tuesday, June 14, 2022 11:33 AM
To: 'jrishes@goldwaterinstitute.org' <jrishes@goldwaterinstitute.org>;
'ssilverman@goldwaterinstitute.org' <ssilverman@goldwaterinstitute.org>; 'Aubrey Lombardo'
<alombardo@hcllawri.com>; 'Giovanni Cicione' <g@cicione.law>
Subject: Proposed Order

All,

Please see attached a proposed order relative to the recent decision of the Court. Please let me know if you have any comments or proposed changes.

Thank you,

Carly

Carly Beauvais Iafrate, Esq.
Law Office of Carly Beauvais Iafrate, PC
408 Broadway, 1st Floor
Providence, RI 02909
(401) 421-0065
(401) 837-4777 (cell)
***Please note new address.**

EXHIBIT K

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

SUPERIOR COURT

**NATIONAL EDUCATION ASSOCIATION
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 Masiello,
NICOLE SOLAS, and ADAM HARTMAN,**

Defendants.

C.A. No. PC 21- 05116

DISMISSAL STIPULATION

The below named parties, by and through the undersigned attorneys of record, hereby stipulate and agree that pursuant to R.I. Rule Civ. Pro. 41(a)(1)(B), Plaintiffs' claims against Defendant South Kingstown School Committee, by and through its members, and the South Kingstown School Department, by and through its Superintendent ("South Kingstown Defendants") may be dismissed. No costs or fees to either party.

Plaintiffs,
By their Attorney,

/s/ Carly Beauvais Iafrate

Carly Beauvais Iafrate, #6343
Law Office of Carly B. Iafrate, PC
408 Broadway, 1st FL.
Providence, RI 02909
(401) 421-0065
ciafrate@verizon.net

South Kingstown Defendants,
By their Attorney,

/s/ Aubrey Lombardo

Aubrey Lombardo, #7546
Henneous, Carroll & Lombardo, LLP
155 South Main St., Suite 406
Providence, RI 02903
(401) 424-5224
alombardo@hcclawri.com

EXHIBIT L

Keeping Radical Politics Out of the Classroom

*Van Sittert Center for Constitutional Advocacy,
Goldwater Institute*

Critical Race Theory (“CRT”) and similarly divisive political ideologies have descended upon our institutions, our schools, and our children, setting them against each other and shaming them on the basis of race.

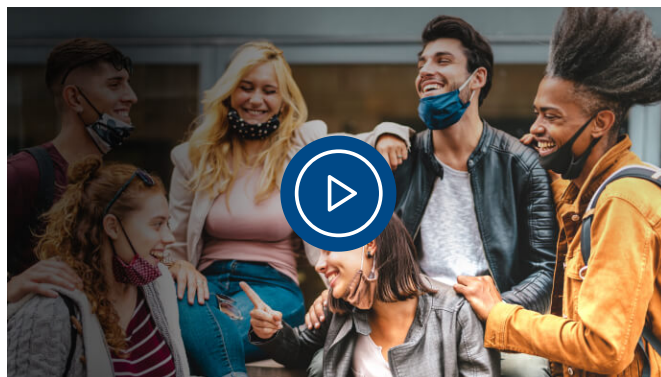
Perhaps worse, politicians in Washington D.C. and leaders of the education establishment are not only actively pushing such ideas in classroom instruction, they are also demanding a return to state-sanctioned racial discrimination in our public schools and institutions under the banners of more agreeable sounding slogans like ‘anti-racism’ and ‘diversity, equity, and inclusion.’ In many cases, they’re now even masking these ideologies in broader, more neutral sounding initiatives such as social emotional learning, culturally relevant pedagogy, and others.

Such efforts must be stopped. In their place, America’s constitutional principles must be restored and the rights of parents defended.

To that end, the Goldwater Institute is leading the defense of the constitution and parents’ rights through two related initiatives:

1. Stopping CRT and racial discrimination, and;
2. Promoting academic transparency to bring sunlight to our K-12 schools

What is Critical Race Theory?



Here's how we can stop Critical Race Theory and defend parents' rights:

(<https://www.goldwaterinstitute.org/issues/academic-transparency/stopping-critical-race-theory/>)



(<https://www.goldwaterinstitute.org/transparency/sunlight-in-learning/>)

Stopping Critical Race Theory And Racial Discrimination In Public Institutions Act

(<https://www.goldwaterinstitute.org/issues/academic-transparency/stopping-critical-race-theory/>)

[Learn More](#) (<https://www.goldwaterinstitute.org/issues/academic-transparency/stopping-critical-race-theory/>)

Stay informed on the fight to stop radical politics in schools:

MAIN STORY

Teacher Blows the Whistle on Critical Race Theory

(<https://indefenseofliberty.blog/2022/01/31/teacher-blows-the-whistle-on-critical-race-theory-in-california-schools/>)
During the 2020 fall semester, Kali Fontanilla—a high school English language teacher working in California—was failing one of their other classes: ethnic studies. This was at the height of the pandemic, and in Fontanilla's mind, she thought it was odd to see so many Fs.

[Read more about the story.](#) →(<https://indefenseofliberty.blog/2022/01/31/teacher-blows-the-whistle-on-critical-race-theory-in-california-schools/>)

(<https://indefenseofliberty.blog/2022/01/31/teacher-blows-the-whistle-on-critical-race-theory-in-california-schools/>)

More Issues

Property Rights

Jobs & Economy

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Constitutional Rights

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Education

Academic

Transparency

Property Rights



Whether it's a home or a business, the right to own property is a basic part of what it means..

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Since 1988, the Goldwater Institute has been in the liberty business — defending and promoting freedom, and achieving more than 400 victories in all 50 states. Donate today to help support our mission.



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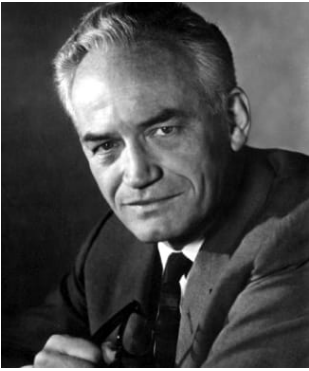
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Barry Goldwater's Legacy

"This country has grown great and strong and prosperous by placing major reliance on a free economy...Private property, free competition, hard work-these have been our greatest tools."

Barry Goldwater made his mark on the nation—and the world—as a staunch defender of the U.S. Constitution and America's founding principles. We're proud to carry on his legacy by standing in defense of liberty.

Senator Goldwater made his mark on the nation—and the world—as a staunch defender of the U.S. Constitution and America's founding principles. We're proud to carry on his legacy by standing in defense of liberty.

EXHIBIT M

November 6, 2021

Freedom works. That simple yet lofty principle this nation was founded on has lifted millions out of poverty and provided choices for Americans in all facets of life. But freedom forgotten is no freedom at all, and if we are to maintain our liberty and strive for more of it, we must never forget where we came from and how we got here.

Goldwater Institute 2021 Annual Dinner, featuring G...



In short, we must not take out freedoms for granted. This was a prominent theme at the Goldwater Institute's Annual Dinner on Friday in Scottsdale, Arizona, where a room full of friends and supporters of our mission celebrated what the Institute has accomplished in the past year and looked forward to what we can achieve in the next one.

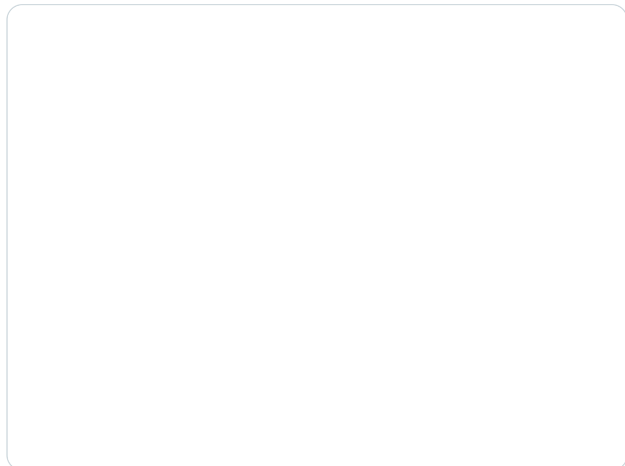
Driving this theme home was the event's keynote speaker, Florida Governor Ron DeSantis, a strong supporter of school choice and parents' rights, among other pro-liberty policies. Even as governors of other large states kept their citizens under lockdown for months on end amid the COVID-19 pandemic, DeSantis opened up Florida for business and pledged (<https://www.wptv.com/news/state/florida-gov-ron-desantis-we-will-never-do-any-of-these-lockdowns-again>) in August 2020 there would be no more lockdowns. DeSantis has also refused to impose mask mandates on Floridians, and while he has strongly encouraged citizens to get vaccinated, he's made it clear that he won't force them to do so.

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Governor Ron DeSantis is in the house!

Welcome, [@GovRonDeSantis](#)! We're honored you could join us as keynote speaker to discuss liberty and how to maintain it at the [#GoldwaterAnnualDinner](#).



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17



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De Santis is also a vocal critic of Critical Race Theory (CRT), which rejects the ideals on which our freedoms are based (<https://www.goldwaterinstitute.org/criticalracetheory/>) in exchange for a culture of fear that tries to explain everything in terms of racial identity and is obsessed with victimization.

Rather than take a nuanced perspective that celebrates America's founders for championing the ideals of liberty and equality under the law—while recognizing that they themselves did not always live up to those ideals—adherents of CRT want to erase our history and destroy the monuments commemorating the founders' achievements.

CRT was a topic addressed by nationally syndicated radio host Kevin Jackson (<https://theanswertampa.com/radioshow/1315>), a featured speaker at Goldwater's Annual Dinner who spoke about how the ideology is a betrayal of the civil rights movement. And this destructive worldview is infiltrating our schools.

It's no wonder so many parents are furious over what Goldwater Institute President and CEO Victor Riches called "a Marxist fantasy that's being rejected by parents across the country," all while "education unions and school boards continue to embrace it, even as they deny it's being taught."

In a saga that's playing out in school board meetings across the country, CRT has become a lightning rod for controversy, as parents—concerned that their children are being politically indoctrinated by CRT and other destructive ideologies—demand to know what, exactly, is being taught (<https://www.goldwaterinstitute.org/academictransparency/>) in the classroom.

"Instead of teaching kids to live up to the American Dream, school officials are teaching them that the Dream is a lie, and that this nation is fundamentally based on slavery, racism, and hate," Goldwater Institute Executive Vice President Christina Sandefur said Friday. "Instead of judging kids based on the content of their character, the education bureaucrats are demanding that children be judged by the color of their skin. Instead of teaching them to respect the differences of opinion among people, public school activists are harassing, intimidating, and cancelling anyone who dissents from this new political correctness."

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Absolute 🔥🔥🔥 from @cmsandefur at the
[#GoldwaterAnnualDinner](#):

"It's a scary time to be the parent of a school-aged child. Our public schools have been co-opted by politically powerful teachers' unions who prioritize politics over students."

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defending in court, was even sued by the National Education Association

(<https://www.goldwaterinstitute.org/article/nea-sues-mom-for-asking-questions-about-curriculum/>), the

nation's largest public sector teachers union, all because she thought she had a right to know what her daughter would be taught about America.

"Parents have enough on their hands raising their children—it's a full-time job," said Sandefur. "They shouldn't have to fight self-righteous administrators and scheming special interests just to find out what their kids are being taught in classrooms that their tax dollars pay for."

It would have been easy for Solas to give up. But she didn't.

"Nicole won't be bullied, intimidated, or silenced. She's still fighting for her daughter—and for all our children," Sandefur said. "And she's showing parents across the country that they're not alone."

Solas, this year's recipient of the Goldwater Institute Freedom Award, offered a roadmap for all Americans interested in battling the growing wokeness in our schools. "You will be retaliated against," she said, adding, "Embrace dissent."

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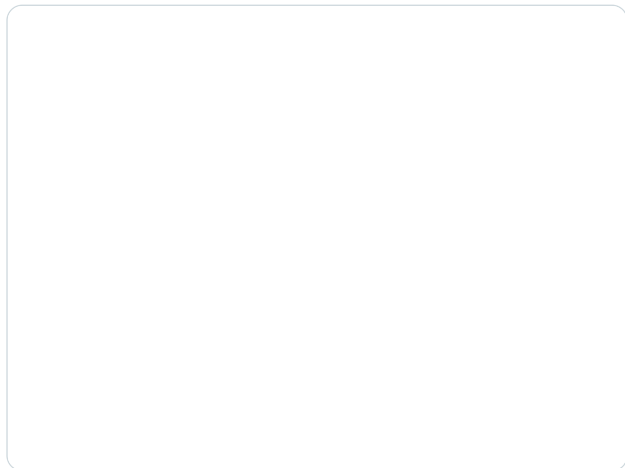
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Nicole Solas wanted to know what her daughter would be taught in kindergarten.

Her school district hit her w/a \$74K bill for asking. But she hasn't stopped fighting for academic transparency.

We're thrilled to honor [@Nicoletta0602](#) with the Goldwater Institute Freedom Award.



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356



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Parents like Nicole deserve to know what their children are learning in taxpayer -funded schools. That's why the Goldwater Institute continues to advocate for the Academic Transparency Act (<https://www.goldwaterinstitute.org/wp-content/uploads/2021/05/Academic-Transparency-Act.pdf>), which would require public schools to post their learning materials online. Armed with more knowledge, parents could choose for themselves where their children should be educated.

So much of what the Goldwater Institute fights for is meant to protect people's freedom to choose: a parent's freedom to choose (<https://www.goldwaterinstitute.org/esa/>) what school—and even what educational style—works best for their child; a property owner's freedom to choose (<https://indefenseofliberty.blog/2021/10/25/flagstaff-property-owners-win-an-important-fight-but-the->

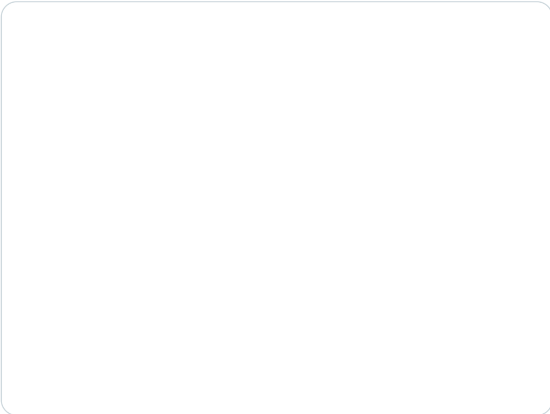
We know there are many who, given the opportunity, would take away the freedoms we dear. "Today the forces of collectivism and statism are tearing at the fabric of the very idea of America," Goldwater Institute Director of National Litigation Jon Riches said at Friday's Annual Dinner. "The statist tyrants of today believe in everything that is antithetical to America, and to freedom."

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Goldwater's @Jon_Riches nails it:

"The statist tyrants of today believe in everything that is antithetical to America, and to freedom. But we don't."
[#GoldwaterAnnualDinner](#)



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But we won't let that stop us from fighting for freedom, because we know that freedom works (https://www.goldwaterinstitute.org/wp-content/uploads/2021/09/GWI-DECADE-OF-SUCCESS.FINAL_.pdf).

"We will never back down in the fight against government tyranny," Victor Riches said. "After all, this remains the greatest country in the history of mankind and we have an obligation to defend it—and that's an obligation we take to heart every single day.

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Goldwater Institute President Victor Riches at the [#GoldwaterAnnualDinner](#):

"We will never back down in the fight against government tyranny."

"This remains the greatest country in the history of mankind, and we have an obligation to defend it."



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5



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Goldwater will never stop advocating for choice, so that people can live freer, happier lives.

Joe Setyon is a Digital Communications Associate at the Goldwater Institute.