

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

*Electronically filed*

MOMS FOR LIBERTY – )  
WILSON COUNTY, TN; )  
ROBIN LEMONS; and AMANDA )  
DUNAGAN-PRICE, )

Plaintiffs, )

v. )

WILSON COUNTY BOARD OF )  
EDUCATION, also known as WILSON )  
COUNTY SCHOOLS; JAMIE )  
FAROUGH, individually and in her )  
official capacity as a member and )  
Chairman of the Wilson County Board )  
of Education; KIMBERLY MCGEE, in )  
her official capacity as a member and )  
Vice Chairman of the Wilson County )  
Board of Education; MELISSA LYNN, )  
in her official capacity as a member of )  
the Wilson County Board of Education; )  
BETH MEYERS, in her official capacity )  
as a member of the Wilson County )  
Board of Education; JOSEPH )  
PADILLA, in his official capacity as a )  
member of the Wilson County Board of )  
Education; CARRIE PFEIFFER, in her )  
official capacity as a member of the )  
Wilson County Board of Education; and )  
LARRY TOMLINSON, in his official )  
capacity as a member of the Wilson )  
County Board of Education, )

Defendants. )

Case No: \_\_\_\_\_

Judge: \_\_\_\_\_

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**COMPLAINT FOR DECLARATORY, INJUNCTIVE,  
AND OTHER RELIEF**

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## INTRODUCTION

Robin Lemons expected hostility when she appeared at a Wilson County school board meeting to complain that school officials ignored and mishandled an allegation of sexual misconduct involving her fourth-grade daughter. And that's exactly what she got. As soon as Lemons aimed her criticism at the Wilson County Director of Schools, the Board cut her off. Board Chairman Jamie Farough offered up an obviously pretextual reason for doing so—at the outset of her remarks, Lemons violated a widely ignored rule that the Board never enforced—and told Lemons to “stop talking.” So Lemons left the podium without finishing her comments about how school administrators failed to protect her daughter.

While the Board invites citizens to speak at its meetings about any topic related to school policy, it makes doing so a difficult and intimidating process—one that prevents the Board's sharpest critics from speaking freely. The Board requires potential speakers to obtain pre-approval that their topic is worth discussing. The Board warns speakers not to criticize school officials too harshly. And the Board demands that speakers publicly announce their home address no matter how sensitive or controversial their remarks may be.

These policies violate the First Amendment—and plainly so. The Wilson County Board of Education cannot open its meetings for public comment and then censor those who levy the strongest or most controversial disapproval, employing policies that intimidate and discourage individuals from speaking freely. This Court should

put an end to it all by declaring these speech restrictions unconstitutional and enjoining the defendants from further enforcement.

#### JURISDICTION AND VENUE

1. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 because the plaintiffs assert claims against the defendants arising under federal law.

2. This Court is the proper venue because a “substantial part of the events . . . giving rise to the claim[s] occurred” in the district, 28 U.S.C. § 1391(b)(2), and all the defendants reside in this district, 28 U.S.C. § 1391(b)(1).

#### PARTIES

3. Plaintiff Moms for Liberty – Wilson County, TN (“Moms for Liberty”) is the Wilson County Chapter of Moms for Liberty, a 501(c)(4) organization whose mission is to organize, educate, and empower parents to defend their parental rights at all levels of government.

4. Plaintiff Robin Lemons is a natural person residing in Wilson County, Tennessee. She is also the secretary of Moms for Liberty and the mother of a school-aged child who previously attended an elementary school operated by Wilson County Schools.

5. Plaintiff Amanda Dunagan-Price is a natural person residing in Wilson County, Tennessee. She is also the chair of Moms for Liberty and the mother of several school-aged children who currently attend schools operated by Wilson County Schools.

6. Defendant Wilson County Board of Education, also known as Wilson County Schools, is a local government unit created by the State of Tennessee charged with administering the public schools in Wilson County, Tennessee. See WCS Policy Manual 1.100; Tenn. Code Ann. § 49-1-102(c). “The Board is a policy-making body, legally authorized to administer that policy through the Director of Schools.” WCS Policy Manual 1.100; Tenn. Code Ann. § 49-2-203. It is made up of seven members, each of whom is elected to a four-year term representing a distinct geographic zone within the district. WCS Policy Manual 1.102; Tenn. Code Ann. § 49-2-201.

7. Defendant Jamie Farough is a member of the Wilson County Board of Education. She is Chairman of the Board, and in that capacity she presides over “all meetings of the board.” Tenn. Code Ann. § 49-2-205(1). The Chairman also presides over the Board’s Executive Committee alongside the Director of Schools. *Id.*; Tenn. Code Ann. § 49-2-206(a). The Board elected Farough as Chairman during its regular meeting on September 12, 2022. The plaintiffs are suing Farough in her individual and official capacities.

8. Defendant Kimberly McGee is a member of the Wilson County Board of Education. She is Vice-Chairman of the Board, and in that capacity she “assume[s] the duties of the chairman in his/her absence,” including presiding over Board meetings. WCS Policy Manual 1.201; Tenn. Code Ann. § 49-2-205(1). The Board elected McGee Vice-Chairman at its regular meeting on September 12, 2022. The plaintiffs are suing McGee in her official capacity.

9. Defendant Melissa Lynn is a member of the Wilson County Board of Education. The plaintiffs are suing Lynn in her official capacity.

10. Defendant Beth Meyers is a member of the Wilson County Board of Education. The plaintiffs are suing Meyers in her official capacity.

11. Defendant Joseph Padilla is a member of the Wilson County Board of Education. The plaintiffs are suing Padilla in his official capacity.

12. Defendant Carrie Pfeiffer is a member of the Wilson County Board of Education. The plaintiffs are suing Pfeiffer in her official capacity.

13. Defendant Larry Tomlinson is a member of the Wilson County Board of Education. The plaintiffs are suing Tomlinson in his official capacity.

#### FACTS

##### *Public Participation at Wilson County School Board Meetings*

14. Wilson County Schools is governed by a 7-member school board, which meets monthly to conduct its regular business. *See* WCS Policy Manual 1.400.

15. Board meetings are open to the public. Tenn. Code. Ann. § 8-44-102(a). The Board also streams each meeting online and posts videos of past meetings on its website.<sup>1</sup> Anyone interested can watch meetings dating back to March 4, 2019.

16. The Board holds a period for public comment at each regular meeting. Citizens have three ways of participating. *See* WCS Policy Manual 1.404.

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<sup>1</sup> The video archive of past Board meetings is available at <http://bit.ly/3JhiYQ9> (last visited Mar. 8, 2023).

17. *First*, an individual can ask for time on the meeting agenda. That requires contacting the Director of Schools ten business days before the meeting and making a “written request with descriptive materials” about the proposed topic of discussion. *Id.* The Executive Committee (comprised of the Board Chairman and the Director of Schools) must then approve the request. *Id.* Individuals who go through these hoops get to speak for five minutes.

18. *Second*, individuals can ask to speak about items already on the agenda. *Id.* To do so, they must sign up or ask a Board member for permission before the meeting starts. *Id.* These individuals get to speak for three minutes. *Id.*

19. *Third*, an individual can ask any Board member for permission to speak about an issue not on the agenda. A Board member can grant that request only if he or she determines that doing so is “in the public interest.” *Id.* The Board’s Policy Manual does not provide guidelines for deciding what comments are in the public interest. Nor does the Policy Manual provide a time limit for individuals speaking on non-agenda items. The Chairman typically limits these comments to three minutes.

20. The Board has adopted several rules that apply to all speakers who appear during the public-comment period. The Board’s Policy Manual lays out some of those rules. And the Chairman announces several other rules before each comment period begins.

21. Under the Policy Manual, every individual must publicly announce his or her address before speaking. *Id.* (“Each person speaking shall state his name,

address, and subject of presentation.”). The Chairman consistently reminds each speaker about this rule, but—as discussed below—rarely enforces it.

22. The Policy Manual also provides that “[t]he Chairman shall have the authority to terminate the remarks of any individual who is disruptive or does not adhere to Board Rules.” *Id.* The Policy Manual cites a criminal statute for support—suggesting that violating any of the Board’s rules for speaking during the public-comment period could lead to a criminal charge. *Id.* (citing Tenn. Code Ann. § 39-17-306).

23. The Chairman emphasizes these rules by reading a warning to the speakers at the beginning of each public-comment period. This warning reminds speakers to state their address before speaking.

24. The Chairman also informs speakers of additional rules, not found in the Policy Manual. In addition to disruptive behavior, the Board prohibits comments that are “abusive to an individual board member, the board as a whole, or the director of schools or any employee of the school system.” *See, e.g.,* 10/3/22 Board Meeting at 35:38–53.<sup>2</sup> The Board does not define “abusive” or give speakers guidance as to what kind of critical or offensive speech is not allowed.

25. The verbal warning also instructs speakers that their “topic must be specific in nature dealing only with policies and procedures.” *Id.* at 35:33–38.

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<sup>2</sup> A video of the October 3, 2022, meeting is available at <http://bit.ly/3X1ZPop> (last visited Mar. 8, 2023).

26. Finally, the Chairman reminds every speaker that the Board reserves its right “to terminate remarks” if a speaker “fail[s] to adhere to the guidelines.” *Id.* at 35:38–53. Board members are under no obligation to respond to public comments, but they are free to ask questions. *Id.* at 35:53–55.

27. An example of the warning given at each meeting reads as follows:

Please state your name, address, and subject of your presentation. Your topic must be specific in nature dealing with only policies and procedures. We reserve the right to terminate remarks at any time if you fail to adhere to the guidelines or [if] your comments become abusive to an individual board member the board as a whole or the director of schools or any employee of the school system. The board shall have no obligation to respond. At the conclusion of your remarks, the board and the Director of Schools shall have the privilege to ask questions.

*Id.* at 35:30–36:02.

28. In past meetings, the Chairman would read the warning to every individual who walked up to the podium. *See, e.g.*, 04/04/22 Board Meeting at 43:02–38, 48:28–49:02, 53:14–48, 56:35–57:08, 1:00:09–44.<sup>3</sup> More recently, Defendant Farough reads the warning once and then asks subsequent speakers if they need her to read it again. Almost invariably, though, Farough reminds each speaker to state his or her name and address.

#### *The Board’s Inconsistent Enforcement of its Rules*

29. The Board does not consistently enforce its rules for public comment. And it almost never enforces the requirement that individuals announce their address before speaking.

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<sup>3</sup> A video of the April 4, 2022, meeting is available at <http://bit.ly/3DB6u1S> (last visited Mar. 8, 2023).



30. During 2022, the Board heard 45 public comments across its 12 regularly scheduled meetings. But in 26 of those comments, the speaker never disclosed an address. Yet the Chairman exercised authority to terminate a speaker's remarks for failing to abide by this rule on only one occasion: when Robin Lemons began criticizing the Director of Schools. *See infra* at ¶¶ 38–53.

31. One example of non-enforcement stands out. Ordinarily, when a speaker does not disclose his or her address, no one says anything about it. Rather, the speaker will stand up and just start talking—perhaps stating his or her district zone,<sup>4</sup> but not always. Either way, the Chairman then quietly acquiesces in the speaker's decision to ignore the address-disclosure requirement.

32. But on June 6, 2022, an individual stood up at the podium and began his remarks by asking, “First of all, do I need to do my address? Are we good there?” 06/06/22 Board Meeting at 12:30–34.<sup>5</sup> The Chairman's response is inaudible on the video recording. But whatever he said, it is clear the Chairman did not require the speaker to do so. That's because the speaker moved on with a simple “Thank you,” without giving his address. *Id.* at 12:34–37. In fact, the speaker never even said his name. Yet neither the Chairman nor anyone else on the Board interrupted to stop him.

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<sup>4</sup> The Wilson County school district is divided into 7 zones, with one board member representing each zone.

<sup>5</sup> A video of the June 6, 2022, meeting is available at <http://bit.ly/3WZ5MCz> (last visited Mar. 8, 2023).

*Moms for Liberty Organizes to Advocate Against  
Harmful School Policies*

33. In early 2021, Plaintiff Price grew concerned about Wilson County's education policies. The school district's response to the Covid pandemic troubled her, and she grew worried about what she saw as an overly political curriculum that tended to favor one ideological viewpoint.

34. So Price decided to do something about it. She founded a local chapter of Moms for Liberty, organizing parents in Wilson County to work toward a common goal of unifying, educating, and empowering parents to defend their parental rights.

35. Price also began attending Wilson County school board meetings and speaking during the public-comment period. She sought to raise awareness about problems with Wilson County's educational policies and to advocate for change.

36. But Price and other members of Moms for Liberty never felt comfortable sharing their honest, uncensored views about many of these problems. The Policy Manual warns speakers that the Board will "terminate the remarks of any individual who is disruptive or does not adhere to Board rules." WCS Policy Manual 1.404. And the Chairman warns speakers at every meeting that the Board does not allow "abusive" speech. Whenever Price heard that warning, she worried that a Board member would take offense and stop her from speaking. So Price would spend significant time censoring her own remarks and refraining from delivering her harshest criticism out of fear that the Board would consider her comments "abusive" and terminate her speaking time.

37. Price also worried about disclosing her personal address. She disclosed her address the first time she spoke. But it made her uneasy. Price discussed many controversial topics, which led to heated debate on all sides. She grew concerned that people hostile to her viewpoint might show up at her house where she lived with her kids. And she feared what might happen if she continued to announce her home address right before making such controversial remarks—particularly given that the Board broadcasts its meetings online and archives them for anyone to view.

*The Board Censors Robin Lemons  
for Not Disclosing Her Address*

38. Plaintiff Lemons is an active member of Moms for Liberty. Soon after joining the group, Lemons began attending Board meetings with other Moms for Liberty members. She observed how the Chairman opened every public-comment period with a warning that speakers must disclose their address before speaking and that the Board can terminate anyone’s remarks for violating the rules or becoming “abusive.”

39. Despite these warnings, Lemons observed how the Chairman routinely allowed individuals to speak without giving their address.

40. Lemons eventually felt compelled to speak at a Board meeting in the fall of 2022 after experiencing firsthand the failures of several Wilson County school officials.

41. Lemons’s fourth-grade daughter told her that she had been sexually propositioned by another student at school. Lemons alerted the school’s principal, who is responsible for handling this problem. But Lemons believes that the

principal failed to investigate the incident or make the required report to Tennessee's Department of Children's Services, and that the Director of Schools lied about whether the incident had been reported. So Lemons decided to speak directly to the Board about these problems.

42. Lemons spent significant time writing—and re-writing—her planned remarks because she worried that the Board would dislike her message and interrupt her or cut off her time. She did not want the Board to prevent her from speaking by labeling her comments “abusive.” So Lemons carefully tailored her message to avoid stepping over whatever line the Board might arbitrarily enforce against her.

43. Lemons planned to speak at the regularly scheduled meeting on October 3, 2022. She contacted Defendant Padilla for permission to speak on a non-agenda item. Padilla granted her request.

44. At the beginning of the public-comment period, Defendant Farough read the usual warning. Several individuals spoke before Lemons. The speaker immediately before Lemons declined to give her address.

45. As Lemons approached the podium, Defendant Farough asked Lemons whether she needed to have the warning repeated. 10/3/22 Board Meeting at 1:13:52–1:14:00. Lemons answered “No,” to which Farough responded, “Okay, name and address please.” *Id.* at 1:14:00–02.

46. Lemons explained that “for privacy concerns and my situation, I’m not going to disclose my address.” *Id.* 1:14:04–08.

47. Defendant Farough did not bar Lemons from speaking after she declined to reveal her address. Instead, and just like every other time an individual declined to give his or her address during 2022, Farough allowed Lemons to continue speaking.

48. Lemons began by describing the incident in which her young child was propositioned for sex by another student. She spoke for almost a full minute—about a third of her allotted time:

On August 30, 2022, my fourth-grade daughter was propositioned sex by another fourth-grade child in the restroom stall at Springdale Elementary School. My daughter was missing for 30-plus minutes and I wasn't notified until four hours later. I went and picked my child up from school immediately because this was completely out of character and behavior of my daughter, and I knew that something wasn't right. When I got home my child disclosed to me what had happened that day at first writing it on paper because she was embarrassed to say it out loud, then said that the other child had her meet her in the restroom stall and then asked her to "do sex." This is completely inappropriate behavior for any child. At that moment, my child could only think to play rock, paper, scissors, hoping to win so that, in her words, she didn't have to do sex. I went back to the school again—

*Id.* at 1:14:10.

49. At that point, Mike Jennings, the county attorney and legal advisor to the Board, interrupted. "Let me, let me interrupt here if you don't mind," he said. "Is this not, and I have to be careful here with confidentiality, is this not something that has been referred to the appropriate agency to look into?" *Id.* at 1:14:54–15:11 (cross-talk omitted). He continued: "It doesn't need to be discussed here openly, then." *Id.* at 1:15:17–19.

50. Lemons clarified that she would not be disclosing any names in her comments and so there would be no privacy concerns. *Id.* at 1:15:20–27.

51. Lemons explained that the principal, who serves as the child-abuse coordinator for the school, “failed to report it to [the Department of Children’s Services], failed to investigate it whatsoever.” *Id.* at 1:15:32–43. She then turned her criticism toward the Director of Schools, Jeff Luttrell, whom the Board had recently hired: “Mr. Luttrell was told about this, lied about it being reported—” *Id.* 1:15:43–47.

52. Defendant Farough then cut her off, invoking Lemons’s earlier refusal to abide by the address-disclosure requirement: “Ms. Lemons, you also refused to adhere to the guidelines of giving your address, so we’ve asked you to stop talking today, because there’s, from my understanding there’s more than one involved. And so we’ve asked that you stop, for now, and let this process continue.” *Id.* at 1:15:46–16:03 (cross-talk omitted). Farough identified no other rule or policy that Lemons “refused to adhere to” other than failing to announce her address.

53. The following month, only two of the ten individuals who spoke during the Board meeting’s public-comment period announced their address. Defendant Farough did not terminate any of the other eight individual’s remarks.

*The Continuing Impact of the Board’s Censorship*

54. Lemons intends to continue speaking before the Board about various subjects, including the school principal and the Director of Schools’ failure to report an incident of sexual misconduct, failure to investigate that incident, and subsequent lie about whether a report was made. But Defendant Farough’s prior censorship has caused Lemons to refrain from speaking at Board meetings altogether. Lemons worries about the consequences from discussing a sensitive and

controversial issue if the Board requires her to first announce her home address. She does not want to publicly expose private information about her family. And she fears reprisal from those who disagree with her criticism and who would learn her home address while listening.

55. Lemons also fears that Defendant Farough will invoke the verbal policy against abusive speech to censor her remarks if she continues to criticize the Director of Schools or other school officials. Defendant Farough warns speakers at every meeting that she can terminate their remarks if they “become abusive,” and Defendant Farough demonstrated hostility to speakers who criticize school officials when she censored Lemons. Lemons reasonably fears that Defendant Farough will censor further criticism of school officials as “abusive.” Because of this, Lemons has refrained from speaking to the Board since October 3, 2022.

56. Price intends to continue speaking at Board meetings to criticize the Board and other school officials for adopting harmful policies. Price, however, must modify her speech or refrain from speaking because she reasonably fears being censored. Like Lemons, Price refuses to disclose her address before speaking because she fears reprisal against herself and her family from those who disagree with her view on the controversial issues she discusses. But that means Price must modify her speech to avoid criticizing school officials too harshly so that Defendant Farough will not invoke the address-disclosure requirement to terminate her remarks. Price also modifies her speech because she fears that Defendant Farough

will censor harsh criticism of school officials as “abusive” under the Board’s verbal policy.

57. Other members of the public, including Moms for Liberty members, are modifying their speech before the Board or foregoing speaking altogether because they fear disclosing their address to the public and they fear that the Board will censor their remarks if they criticize school officials like the Director of Schools or members of the Board.

#### CLAIMS FOR RELIEF

##### COUNT ONE

##### RIGHT OF FREE SPEECH, U.S. CONST. AMENDS. I, XIV – 42 U.S.C. § 1983 FACIAL CHALLENGE TO THE ADDRESS-DISCLOSURE REQUIREMENT

58. The plaintiffs reallege and incorporate by reference all preceding allegations.

59. The First Amendment embodies “a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

60. “The Free Speech Clause limits the government’s power to regulate speech on public property.” *Am. Freedom Def. Initiative v. Suburban Mobility Auth.*, 978 F.3d 481, 485 (6th Cir. 2020).

61. “[A] public forum may be created by government designation of a place or channel of communication for use by the public at large for assembly and speech, for use by certain speakers, or for the discussion of certain subjects.” *Cornelius v.*



*NAACP Legal Def. & Educ. Fund*, 473 U.S. 788, 802 (1985) (citation omitted). A limited public forum exists where the government has reserved a forum “for certain groups or for the discussion of certain topics.” *Ison v. Madison Local Sch. Dist. Bd. of Educ.*, 3 F.4th 887, 893 (6th Cir. 2021) (quoting *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995)).

62. In a limited public forum, the government can restrict the content of speech so long as the restrictions “are reasonable in light of the purpose served by the forum and are viewpoint neutral.” *Cornelius*, 473 U.S. at 806. The government may also “regulate features of speech unrelated to its content through time, place, or manner restrictions.” *Ison*, 3 F.4th at 893 (cleaned up). When the government imposes content-neutral regulations in a limited public forum, such regulations must be narrowly tailored to advance a substantial government interest. *Id.*

63. A school board meeting at which the public is allowed to speak about school policies and governance is a limited public forum. *See Lowery v. Jefferson Cnty. Bd. of Educ.*, 586 F.3d 427, 432 (6th Cir. 2009).

64. The public-comment period at the Wilson County Board of Education meetings is a limited public forum for Wilson County citizens to discuss the operation and governance of the school district, including school policies and procedures.

65. Because the comment period at Board meetings is a limited public forum, any content-based regulation on speech must be “reasonable in light of the purpose served by the forum” and neutral as to “certain points of view.” *Ison*, 3 F. 4th at 893.

Any content-neutral regulations must be “narrowly tailored to serve a significant government interest[] and leave open ample alternative channels for communication of the information.” *Id.* (cleaned up).

66. The right to free speech also includes the right to refrain from speaking. *Janus v. AFSCME, Council 31*, 138 S. Ct. 2448, 2463 (2018).

67. That means “[c]ompelled speech is subject to the same analysis as prohibitions from speaking.” *Marshall v. Amuso*, 571 F. Supp. 3d 412, 426 (E.D. Pa. 2021) (citing *Riley v. Nat’l Fed’n of Blind, Inc.*, 487 U.S. 781, 796–97 (1988)).

68. The Board’s policy requiring that citizens publicly disclose their address before speaking is an unreasonable content-based speech regulation. It is a “content regulation” because it “command[s]” individuals to speak on a subject (their address) that they would not otherwise speak. *See Riley*, 487 U.S. at 796–97. And it is unreasonable because it does not advance the “purpose served by the forum.” *Ison*, 3 F.4th at 893. While it is reasonable for the Board to verify that individuals speaking during its public-comment period are Wilson County residents, requiring speakers to publicly identify their address at the podium is unrelated to that purpose. Wilson County already requires that speakers contact the Board before speaking, and the Board could easily verify addresses during that process. Requiring speakers to publicly announce their address, rather than doing so privately, furthers no legitimate interest that the Board has in regulating its public-comment period.

69. Yet the disclosure requirement carries with it obvious negative consequences. Public disclosure of one's personal address exposes the speakers, their homes, and their families, to potential reprisals for unpopular speech. Individuals, including the plaintiffs, who might otherwise express controversial views are unlikely to do so if required to disclose their personal address during a public meeting. And that is even more so given that the Board streams its meetings online and archives them indefinitely for anyone to view. This chilling effect compounds the unreasonableness of the disclosure requirement.

70. Even if the disclosure requirement is content-neutral, it unconstitutionally burdens speech because it is not narrowly tailored to serve a significant government interest. *See Ison*, 3 F.4th at 893. A regulation fails narrow tailoring whenever it burdens "substantially more speech than necessary." *Sisters for Life, Inc. v. Louisville-Jefferson Cnty.*, 56 F.4th 400, 404 (6th Cir. 2022) (cleaned up). To pass narrow tailoring, the government must show that its "interest would be achieved less effectively absent the regulation." *Ison*, 3 F.4th at 896.

71. By enforcing this provision, Defendants, under color of law, deprive Plaintiffs of the right of free speech in violation of the First and Fourteenth Amendments to the United States Constitution. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and are entitled to damages; declaratory relief; preliminary and permanent injunctive relief against continued enforcement of this unconstitutional address-disclosure requirement; and attorneys' fees and expenses under 42 U.S.C. § 1988.

COUNT TWO  
RIGHT OF FREE SPEECH, U.S. CONST. AMENDS. I, XIV – 42 U.S.C. § 1983  
AS-APPLIED CHALLENGE TO THE ADDRESS-DISCLOSURE REQUIREMENT

72. Plaintiffs reallege and incorporate by reference paragraphs 1 through 57.

73. On October 3, 2022, Defendant Faraugh terminated Lemons’s protected political speech on the basis that she refused to disclose her personal address. But she did so only after Lemons began criticizing the Director of Schools and other public officials for failing to adequately respond to allegations of sexual misconduct at an elementary school. Before Lemons began criticizing the Director of Schools, Faraugh allowed Lemons to speak for almost a third of her allotted time.

74. The Board had no recent history of enforcing the address-disclosure requirement against anyone before Lemons.

75. A facially neutral policy turns discriminatory when enforced selectively. *Sisters for Life*, 56 F.4th at 404.

76. Defendant Faraugh enforced the address-disclosure requirement as pretext for discriminating against Lemons because of her viewpoint critical of school personnel. No Board rule bars citizens from criticizing the Board or the Director of Schools about an issue that is also being investigated by a government agency. Nor did Faraugh invoke such a rule for terminating Lemons’s remarks. Rather, Faraugh cited Lemons’s refusal to disclose her address—something that happened more than a minute earlier—as grounds for cutting her off.

77. Defendant Faraugh violated Lemons’s First Amendment rights by applying the address-disclosure requirement to her as pretext for preventing her

from continuing to criticize the Director of Schools, the school principal, and other public officials.

78. By enforcing this provision to bar speech that is critical of school personnel or otherwise conveys viewpoints disfavored by Defendants, Defendants, under color of law, deprived Plaintiff Lemons of the right of free speech in violation of the First and Fourteenth Amendments to the United States Constitution, and continue to deprive Plaintiffs of this fundamental right. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and are entitled to damages; declaratory relief; preliminary and permanent injunctive relief against continued enforcement of this unconstitutional address-disclosure requirement; and attorneys' fees and expenses under 42 U.S.C. § 1988.

COUNT THREE  
RIGHT TO PETITION, U.S. CONST. AMENDS. I, XIV – 42 U.S.C. § 1983  
FACIAL CHALLENGE TO THE ADDRESS-DISCLOSURE REQUIREMENT

79. Plaintiffs reallege and incorporate by reference paragraphs 1 through 57.

80. The First Amendment protects the right “to petition the Government for a redress of grievances.” U.S. Const. amend. I.

81. Claims under the Petition Clause “are viewed in kind with right-to-speech claims.” *EJS Props., LLC v. City of Toledo*, 698 F.3d 845, 864 (6th Cir. 2012).

82. The public-comment period during Wilson County's Board meetings is a forum that enables people to exercise their fundamental First Amendment right to petition their elected government officials. The address-disclosure requirement violates the First Amendment on its face by impermissibly prohibiting citizens from petitioning their government without first publicly announcing their personal

address. This prohibition is not designed to confine the forum to the limited purposes for which it was created. Instead, the address-disclosure requirement suppresses petitions for redress and makes it harder for citizens to criticize government officials and ask for changes in policy. Public disclosure of one's personal address exposes the speakers, their homes, and their families, to potential reprisals for unpopular petitions. Individuals who might otherwise petition the government about their controversial views are unlikely to do so if required to disclose their personal address during a public meeting. And that is even more so given that Board meetings in Wilson County are also streamed online and archived indefinitely for anyone to view. This requirement discourages individuals from petitioning the Board during its public-comment period. It also causes some individuals, including the plaintiffs, to self-censor any petition they may bring.

83. By enforcing this provision, Defendants, under color of law, deprive Plaintiffs of the right to petition in violation of the First and Fourteenth Amendments to the United States Constitution. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and are entitled to damages; declaratory relief; preliminary and permanent injunctive relief against continued enforcement of this unconstitutional address-disclosure requirement; and attorneys' fees and expenses under 42 U.S.C. § 1988.

#### COUNT FOUR

RIGHT TO PETITION, U.S. CONST. AMENDS. I, XIV – 42 U.S.C. § 1983  
AS-APPLIED CHALLENGE TO THE ADDRESS-DISCLOSURE REQUIREMENT

84. Plaintiffs reallege and incorporate by reference paragraphs 1 through 57.

85. The public-comment period during Wilson County’s Board meetings is a forum that enables people to exercise their fundamental First Amendment right to petition their elected government officials. Enforcing the address-disclosure requirement as a pretext for preventing speakers from criticizing the Director of Schools, the school principal, and other public officials, or expressing other viewpoints Defendants disfavor, as Defendant Faraugh did in terminating Lemons’s speech, violates the right to petition.

86. By enforcing this provision to bar speech that is critical of school personnel or otherwise conveys viewpoints disfavored by Defendants, Defendants, under color of law, deprived Lemons of the right to petition in violation of the First and Fourteenth Amendments to the United States Constitution, and continue to deprive Plaintiffs of this fundamental right. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and are entitled to damages; declaratory relief; preliminary and permanent injunctive relief against continued enforcement of this unconstitutional address-disclosure requirement; and attorneys’ fees and expenses under 42 U.S.C. § 1988.

COUNT FIVE  
RIGHT OF FREE SPEECH, U.S. CONST. AMENDS. I, XIV – 42 U.S.C. § 1983  
FACIAL CHALLENGE TO THE ABUSIVE-COMMENTS POLICY

87. Plaintiffs reallege and incorporate by reference paragraphs 1 through 57.

88. The Board’s policy against comments that are “abusive” violates the right of free speech on its face by impermissibly discriminating against speech based on viewpoint. *See Ison*, 3 F.4th at 893.

89. The Board has not defined “abusive.” The “common dictionary definition[]” for “abusive” is “harsh and insulting.” *Id.* (quoting Merriam-Webster). This term “plainly fit[s] in the ‘broad’ scope of impermissible viewpoint discrimination because . . . [it] prohibit[s] speech purely because it disparages or offends.” *Id.* at 894.

90. By enforcing this provision, Defendants, under color of law, deprive Plaintiffs of the right of free speech in violation of the First and Fourteenth Amendments to the United States Constitution. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and are entitled to damages; declaratory relief; preliminary and permanent injunctive relief against continued enforcement of this unconstitutional abusive-comments policy; and attorneys’ fees and expenses under 42 U.S.C. § 1988.

COUNT SIX  
RIGHT TO PETITION, U.S. CONST. AMENDS. I, XIV – 42 U.S.C. § 1983  
FACIAL CHALLENGE TO THE ABUSIVE-COMMENTS Policy

91. The plaintiffs reallege and incorporate by reference paragraphs 1 through 57.

92. The Board’s policy against comments that are “abusive” violates the right to petition on its face by impermissibly discriminating against petitions based on viewpoint.

93. The Board has not defined “abusive.” The “common dictionary definition[]” for “abusive” is “harsh and insulting.” *Ison*, 3 F.4th at 893 (quoting Merriam-Webster). This term “plainly fit[s] in the ‘broad’ scope of impermissible viewpoint



discrimination because . . . [it] prohibit[s] [petitions] purely because it disparages or offends.” *See id.* at 894.

94. By enforcing this provision, Defendants, under color of law, deprive Plaintiffs of the right to petition in violation of the First and Fourteenth Amendments to the United States Constitution. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and are entitled to damages; declaratory relief; preliminary and permanent injunctive relief against continued enforcement of this unconstitutional abusive-comments policy; and attorneys’ fees and expenses under 42 U.S.C. § 1988.

COUNT SEVEN  
RIGHT OF FREE SPEECH, U.S. CONST. AMENDS. I, XIV – 42 U.S.C. § 1983  
FACIAL CHALLENGE TO THE PUBLIC-INTEREST REQUIREMENT

95. The plaintiffs reallege and incorporate by reference paragraphs 1 through 57.

96. The Board’s requirement that individuals obtain approval to speak by persuading a Board member that their comments are in “the public interest” violates the First Amendment by discriminating against the viewpoint of a speaker. *See Ison*, 3 F.4th at 893.

97. The Board already restricts public comments during Board meetings to topics related to school policy and procedure. Whether any comments falling within that category of speech are also in “the public interest” depends on the viewpoint of the person, making such classification impermissible under the First Amendment.

98. By enforcing this provision, Defendants, under color of law, deprive Plaintiffs of the right of free speech in violation of the First and Fourteenth

Amendments to the United States Constitution. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and are entitled to damages; declaratory relief; preliminary and permanent injunctive relief against continued enforcement of this unconstitutional public-interest requirement; and attorneys' fees and expenses under 42 U.S.C. § 1988.

COUNT EIGHT  
VAGUENESS, U.S. CONST. AMENDS. I, XIV – 42 U.S.C. § 1983  
FACIAL CHALLENGE TO THE ABUSIVE-COMMENTS POLICY

99. The plaintiffs reallege and incorporate by reference paragraphs 1 through 57.

100. The Due Process Clause of the Fourteenth Amendment prohibits enforcement of vague laws. *See Miller v. City of Cincinnati*, 622 F.3d 524, 539 (6th Cir. 2010). The First Amendment likewise forbids enforcement of laws so vague as to chill protected speech. *Id.*

101. A law or regulation is void-for-vagueness when “a person of ordinary intelligence” cannot “readily identify” how it applies. *Id.* “The void-for-vagueness doctrine not only ensures that laws provide fair warning of proscribed conduct, but it also protects citizens against the impermissible delegation of basic policy matters for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.” *Id.* (cleaned up).

102. The abusive-comments policy is unconstitutionally vague. No “person of ordinary intelligence can readily identify the applicable standard for inclusion” within the prohibition. *See id.* This causes speakers and potential speakers—

including the plaintiffs—to self-censor their speech to avoid having their speech interrupted or terminated.

103. By enforcing this provision, Defendants, under color of law, deprive Plaintiffs of the right of free speech and due process in violation of the First and Fourteenth Amendments to the United States Constitution. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and are entitled to damages; declaratory relief; preliminary and permanent injunctive relief against continued enforcement of this unconstitutional abusive-comments policy, and attorneys' fees and expenses under 42 U.S.C. § 1988.

COUNT NINE  
OVERBREADTH, U.S. CONST. AMENDS. I, XIV – 42 U.S.C. § 1983  
FACIAL CHALLENGE TO THE ABUSIVE-COMMENTS POLICY

104. The plaintiffs reallege and incorporate by reference paragraphs 1 through 57.

105. The First and Fourteenth Amendments prohibit the enforcement of substantially overbroad laws that would punish protected speech. *See Speet v. Schuette*, 726 F.3d 867, 872–73 (6th Cir. 2013).

106. The prohibition against “abusive” speech is overbroad, sweeping in protected political speech, pure opinions, or true statements of fact.

107. By enforcing this provision, Defendants, under color of law, deprive Plaintiffs of the right of free speech and due process in violation of the First and Fourteenth Amendments to the United States Constitution. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and are entitled to damages; declaratory relief; preliminary and permanent injunctive relief against continued

enforcement of this unconstitutional abusive-comments policy, and attorneys' fees and expenses under 42 U.S.C. § 1988.

COUNT TEN  
PRIOR RESTRAINT, U.S. CONST. AMENDS. I, XIV – 42 U.S.C. § 1983  
FACIAL CHALLENGE TO THE PUBLIC INTEREST REQUIREMENT

108. The plaintiffs reallege and incorporate by reference paragraphs 1 through 57.

109. The First and Fourteenth Amendments prohibit the government from conditioning speech on the government's unbridled discretion to determine which speech may be expressed and which may be not. *See Polaris Amphitheater Concerts, Inc. v. City of Westerville*, 267 F.3d 503, 509 (6th Cir. 2001).

110. The requirement that the Executive Committee approve a speaker's topic to appear on the agenda or that a Board member determines a non-agenda item is in the public interest places a prior restraint on speech. No objective criteria govern the Board's approval of a speaker's proposed topic under these rules. And so the rules leave any given individual's ability to speak to the unbridled discretion of a public official. *See Shuttlesworth v. Birmingham*, 394 U.S. 147, 150–51 (1969)

111. By enforcing this provision, Defendants, under color of law, deprive Plaintiffs of the right of free speech and due process in violation of the First and Fourteenth Amendments to the United States Constitution. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and are entitled to damages; declaratory relief; preliminary and permanent injunction against continued enforcement of this unconstitutional public interest requirement; and attorneys' fees and expenses under 42 U.S.C. § 1988.

PRAYER FOR RELIEF

Wherefore, Plaintiffs Moms for Liberty – Wilson County, TN, Robin Lemons, and Amanda Dunagan-Price request judgment be entered in their favor and against Defendants as follows:

A. Orders preliminarily and permanently enjoining the defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, from enforcing the Board's policies (1) requiring that individuals speaking at Board meetings disclose their address, (2) prohibiting speakers from making abusive comments, and (3) requiring that individuals prove that their comments are in the public interest before speaking;

B. A declaration that the Board's policies (1) requiring that individuals speaking at Board meetings disclose their address, (2) prohibiting speakers from making abusive comments, and (3) requiring that individuals prove that their comments are in the public interest before speaking violate the First and Fourteenth Amendments;

C. To each plaintiff, nominal damages in the amount of \$17.91;

D. Costs and attorneys' fees under 42 U.S.C. § 1988; and

E. Any other relief this Court may grant in its discretion.

Dated: March 9, 2023.

Respectfully submitted,

/s/ Brett R. Nolan

Brett R. Nolan\*

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