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April 3, 2020

SENT VIA EMAIL TO: bob.meicher@westfieldpioneers.org

Bob Meicher, District Administrator
Westfield School District
N7046 Cty Rd M
Westfield, WI 53964

We represent Rick & Angela Cohoon and their daughter Amyiah. As you may know, Amyiah recently suffered a severe upper respiratory illness with symptoms matching those of COVID-19. She was initially treated at Divine Savior Hospital in Portage, and the doctors there indicated to the Cohoons that Amyiah likely had COVID-19 but could not be tested due to the testing criteria at the time, so they sent her home with instructions to strictly self-quarantine. Three days later, Amyiah's symptoms worsened, and she was taken by ambulance to a hospital in Madison, where she was finally tested. Although she tested negative for COVID-19, the doctors there told the Cohoons that, in their opinion, Amyiah likely had COVID-19, but had missed the window for testing positive. The Cohoons believed and still believe the doctors.

While she was in the hospital, Amyiah posted about her experience on Instagram. During this trying time, the Cohoons notified multiple staff at Amyiah's school about her condition so that the school could warn other parents whose children had recently been on a spring break trip to Florida with Amyiah. The Cohoons believed that was the right thing to do given that COVID-19 is so contagious, and they assumed that the Westfield School District would take responsible actions to warn the other parents.

The School District, through you, instead took action *against* the Cohoons and Amyiah. It is our understanding that you personally called Marquette County Sheriff Joseph Konrath and asked him to send a deputy to the Cohoons' home to make Amyiah remove her Instagram posts. On March 27, Patrol Sergeant Cameron Klump came to the Cohoons' home and demanded that Amyiah remove her Instagram posts, further stating that, if she did not comply, he would cite the Cohoons and/or Amyiah for disorderly conduct and would arrest them and bring them or their daughter to jail. Patrol Sergeant Klump communicated to the Cohoons that he was acting on Sheriff Konrath's direct orders and that Sheriff Konrath was acting on a complaint from the head of the District. Mr. Cohoon initially refused to comply, but Amyiah agreed to remove the posts out of fear that her parents might be taken to jail.

Later that same day, you distributed a news update to all families in the District stating that "there was a rumor floating out there that one of our students contracted Covid-19 while on the band trip

to Florida two weeks ago,” that “there is NO truth to this,” that “[t]his was a foolish means to get attention,” and that “the source of the rumor has been addressed.” These statements are still available on the District’s website. These statements both mischaracterize the information regarding Amyiah’s post and confirm that you took the action (contacting the Sheriff’s office) to “address” the “rumor.”

Your actions in this matter blatantly violated our clients’ constitutional rights. Social media posts are unquestionably speech protected by the First Amendment, *e.g. Packingham v. North Carolina*, 137 S. Ct. 1730, 1737 (2017), and government officials may not punish individuals for exercising First Amendment rights, *e.g., Nieves v. Bartlett*, 139 S. Ct. 1715, 1722 (2019); *Surita v. Hyde*, 665 F.3d 860, 878–79 (7th Cir. 2011); *In re Douglas D.*, 2001 WI 47, ¶ 41, 243 Wis. 2d 204, 626 N.W.2d 725. By personally asking Sheriff Konrath to make Amyiah take down her Instagram posts, you “set[] in motion a series of events that [you] knew or reasonably should have known would cause” Sheriff Konrath to violate Amyiah’s and/or the Cohoons’ First Amendment rights. *Surita*, 665 F.3d at 875. And your news update accusing Amyiah of not being truthful and engaging in “a foolish means to get attention” has caused her significant reputational damage. Your actions are particularly troubling in light of the fact that they were taken against one of your high school students who simply wished to communicate with her friends about a serious medical issue she was facing. The COVID-19 pandemic and state-wide quarantine are difficult for everyone, and communicating with friends and loved ones is one of the few ways people have to ease that difficulty.

If you believe that anything contained in this letter is inaccurate, we ask that you tell us what you believe to be inaccurate and that you set forth what you believe to be the accurate facts. We also request, pursuant to Wisconsin’s Open Records Law, Wis. Stats. §§ 19.31–19.39, that you produce any and all documents in your possession which would support your belief as to the facts and/or which relate to the Cohoons in any way. That would include, but not necessarily be limited to, any of the following, between March 20 and April 1: (1) any written or recorded communications between you and Sheriff Konrath, including text messages, emails, voicemails, phone calls, and any other form of communication, about Amyiah, the Cohoons, or Amyiah’s posts, (2) any complaint filed by you with the Marquette County Sheriff’s Office relating to Amyiah or the Cohoons, (3) any internal communications between you and any other Westfield School District staff concerning Amyiah or the Cohoons, and (4) any communications between you and the Marquette County Public Health Department concerning Amyiah or the Cohoons.

Based upon the information set forth above and barring any mitigating information to be supplied by you, on behalf of the Cohoons, we are asking you to do three things:

1. Issue a public, written apology to the Cohoons and Amyiah for your actions in this matter, including accusing Amyiah of not being truthful and engaging in a “foolish means to get attention,” without having any personal knowledge of whether Amyiah actually had COVID-19 or what the doctors who treated her told the Cohoons, and distribute this apology in the same way you distributed the update on March 27.
2. Remove the March 27 news update about this incident from the District’s website.

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3. Confirm in writing that Amyiah and the Cohoons may freely exercise their First Amendment rights on social media, including reposting the posts they were told to remove, and that you and your staff will not ask Sheriff Konrath, or any other law enforcement, to punish them for exercising their First Amendment rights.

Please respond by the end of the day on Tuesday, April 7. If you do not respond, we are prepared to take further action to protect the rights of our clients.

Sincerely,

Wisconsin Institute for Law & Liberty

/s/ Luke N. Berg

Luke N. Berg

Deputy Counsel

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