



**INSTITUTE FOR
FREE SPEECH**

October 25, 2024

Hon. Kelly L. Stephens, Clerk
United States Court of Appeals for the Sixth Circuit
540 Potter Stewart U.S. Courthouse
100 E. Fifth Street
Cincinnati, Ohio 45202

Via CM/ECF

Re: Rule 28(j) supplemental citation of authority in *Moms for Liberty – Wilson County, TN v. Wilson County, TN Board of Education*, No. 24-5056

Dear Ms. Stephens:

This case raises questions about the voluntary-cessation doctrine after the Wilson County Board of Education changed its policies in response to this lawsuit. Appellants' Br. at 38–50. Two recent developments shed more light on that issue.

Yesterday, the Board discussed altering one of its written policies. Advocating against the change, Appellee Jamie Farough, the Board chair and presiding officer, explained: “But this is the school board, so even if we put it in the policy, one of the other school board members could always make another motion to change the policy, so that can always happen.” 10/24/24 Bd. Mtg. at 1:39:48–57, available at <https://bit.ly/3YAaDOu>. Another Board member responded, “Yes, to any policy.” *Id.* at 1:39:57–59. Then Farough said again, “I don’t feel the need to put it in a policy because I know that if I come in the next month, I can propose another change to the policy.” *Id.* at 1:42:10–17. The Court can take judicial notice of these public statements, *see ACLU v. NSA*, 493 F.3d 644, 648 n.1 (6th Cir. 2007), which further show how “easily reversible” the Board’s policy changes are, *see Speech First*, 939 F.3d 756, 768 (6th Cir. 2019).

The Board also recently changed its meeting schedule, deciding to hold two meetings each month instead of one. *See* 08/05/24 Bd. Mtg. at 2:07:56–2:09:12, available at <https://bit.ly/4eVCNJK> (suspending the rules to modify Policy 1.400); Policy 1.400, available at <https://perma.cc/6RNV-7P5V>. So if the Board modifies its policies to reimplement its unconstitutional rules, the change takes effect only two weeks later, leaving little time to seek judicial relief. Appellants already explained why the Board is not constrained by its formal policies anyway, *see* Appellants' Br. at 43–44, but this development only makes matters worse.

Sincerely,

/s/ Brett R. Nolan

Brett R. Nolan

Counsel for Appellants

The body of this letter contains 291 words.

cc: All counsel (via ECF)