

Case No. 2022-1400

IN THE SUPREME COURT OF THE STATE OF OHIO

State of Ohio *ex rel.* Antoinette Evans,

Relator

v.

Board of Education of the Olentangy Local School District, *et al.*,

Respondents.

Original Action in Mandamus

ANSWER OF RESPONDENTS TO RELATOR'S VERIFIED AMENDED AND
SUPPLEMENTARY COMPLAINT FOR WRIT OF MANDAMUS

Bartholomew T. Freeze (0086980)
Myrl H. Shoemaker, III (0099149)
FREUND, FREEZE & ARNOLD
Capitol Square Office Building
65 East State Street, Suite 800
Columbus, OH 43215-4247
(614) 827-7300; (614) 827-7303 (fax)
bfreeze@ffalaw.com
mshoemaker@ffalaw.com

Sandra R. McIntosh (0077278)
Scott Scriven LLP
250 East Broad Street, Suite 900
Columbus, OH 43215
(614) 222-8686; (614) 222-8688 (fax)
Sandra@scottscrivenlaw.com

*Counsel for Respondents, Board of Education
of the Olentangy Local School District, Ryan
Jenkins and Mark T. Raiff*

*Co-Counsel for Respondent, Board of
Education of the Olentangy Local School
District*

IN THE SUPREME COURT OF THE STATE OF OHIO

State of Ohio, ex rel., ANTOINETTE EVANS,	:	Case No. 2022-1400
	:	
Relator,	:	
	:	<u>ANSWER OF RESPONDENTS</u>
v.	:	<u>OLENTANGY LOCAL SCHOOL</u>
	:	<u>DISTRICT BOARD OF</u>
BOARD OF EDUCATION OF THE	:	<u>EDUCATION, RYAN JENKINS,</u>
OLENTANGY LOCAL SCHOOL	:	<u>AND MARK T. RAIFF TO</u>
DISTRICT, et al.,	:	<u>RELATOR’S VERIFIED</u>
	:	<u>AMENDED AND</u>
Respondents.	:	<u>SUPPLEMENTARY COMPLAINT</u>
		<u>FOR WRIT OF MANDAMUS</u>

For their answer to the Verified Amended and Supplementary Complaint for Writ of Mandamus (“Complaint”) of Relator Antoinette Evans, Respondents Olentangy Local School District Board of Education (the “Board”), Ryan Jenkins, and Mark T. Raiff (collectively, “Respondents”) state as follows:

FIRST DEFENSE

1. For their answer to the allegations in paragraph 1 of Relator’s Complaint, Respondents state that there are no factual allegations necessitating an admission or denial and that R.C. 149.43 speaks for itself. Any remaining allegations contained in paragraph 1 are denied for lack of knowledge or information sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.
2. Respondents admit the allegations in paragraph 2 of Relator’s Complaint.
3. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of Relator’s Complaint.
4. Answering paragraph 4 of Relator’s Complaint, Respondents admit the Board is a political subdivision of the state of Ohio with responsibilities to operate public schools pursuant to

R.C. 3313.17. Further answering, Respondents start R.C. 3313.17 speaks for itself. All remaining allegations contained in said paragraph are denied for lack of knowledge or information sufficient upon which to form a belief as to the truth of said allegations.

5. Answering paragraph 5 of Relator's Complaint, Respondents admit Ryan Jenkins is currently employed by the Board as Treasurer, but deny Mr. Jenkins was Treasurer at the time the requests at issue were made. As such, Respondents admit Mr. Jenkins is currently a person responsible for the Board's public records, but deny that he had such responsibility at the time the requests at issue were made.
6. Respondents admit the allegations in paragraph 6 of Relator's Complaint.
7. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 7, 8, 9, 10, and 11 of Relator's Complaint.
8. With respect to the allegations in paragraphs 12 and 13 of Relator's Complaint, Respondents admit that the Olentangy Local School District engaged in a cultural exchange with the Wuhan Education Bureau on or about August 20, 2019. Further answering, Respondents state the District's social media posts speak for themselves. All remaining allegations contained in paragraphs 12 and 13 are denied for lack of knowledge or information sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.
9. Answering paragraphs 14 and 15 of Relator's Complaint, Respondents Admit Curt Hartman made a public records request via email to former treasurer Emily Hatfield and Superintendent Mark Raiff on August 23, 2022 purportedly on behalf of a client, a copy of which is attached to the Complaint. Further answering, Respondents state the request speaks for itself. All remaining allegations contained in said paragraphs are denied for

lack of knowledge of information sufficient upon which to form a belief as to the truth of the matters asserted.

10. Respondents admit the allegations in paragraphs 16 and 17 of Relator's Complaint.
11. Answering paragraph 18 of Relator's Complaint, Respondents state there are no factual allegations necessitating an admission or denial and that R.C. 149.011(A) speaks for itself.
12. Answering paragraphs 19, 20, 21, and 22 of Relator's Complaint, Respondents admit that certain records requested by Mr. Hartman are "public records" as defined by R.C. 149.43(A)(1). Further answering, the Board states such records were produced to Mr. Hartman. All remaining allegations contained in said paragraphs are denied for lack of knowledge of information sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.
13. Respondents admit the allegations in paragraphs 23 and 24 of Relator's Complaint.
14. With respect to paragraphs 25 and 26 of Relator's Complaint, Respondents state that the email correspondence referenced therein speaks for itself. Any remaining allegations contained in paragraphs 25 and 26 are denied for lack of knowledge of information sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.
15. Answering paragraph 27 of Relator's Complaint, Respondents admit that Ms. Hatfield's emailed response is attached to the Complaint as Exhibit B. All remaining allegations in paragraph 27 are denied.
16. With respect to paragraph 28 of Relators Complaint, Respondents admit Mr. Hartman emailed Ms. Hatfield on September 12, 2022. Further answering, Respondents state the email correspondence speaks for itself. Any remaining allegations contained in paragraph

28 are denied.

17. Respondents admit the allegations in paragraph 29 of Relator's Complaint.

18. With respect to paragraphs 30 and 31 of Relators Complaint, Respondents state that the email correspondence referenced therein speaks for itself. Any remaining allegations contained in paragraphs 30 and 31 are denied for lack of knowledge of information sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.

19. Respondents deny the allegations in paragraph 32 of Relator's Complaint.

20. As to the allegations in paragraph 33 of Relator's Complaint, Respondents admit that Relator filed her initial Verified Complaint for Writ of Mandamus on November 10, 2022. Respondents are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 33 of Relator's Complaint.

21. With respect to the allegations in paragraphs 34, 35, and 36 of Relator's Complaint, Respondents admit that on November 10, 2022, Respondents had not yet provided records in response to Mr. Hartman's request. Respondents are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraphs 34, 35, and 36 of Relator's Complaint.

22. With respect to paragraphs 37, 38, 39, 40, and 41 of Relator's Complaint, Respondents admit that they produced records responsive to Relator's request on November 21, 2022, and that such document production included documents containing redactions, consistent with Respondents' obligations under the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. § 1232(g), and its implementing regulations, 34 C.F.R. Part 99, as well as R.C. 3319.321. Any remaining allegations contained in paragraphs 37, 38, 39,

40, and 41 are denied for lack of knowledge of information sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.

23. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 42 and 43 of Relator's Complaint.

24. With respect to paragraphs 44, 45, and 46 of Relators Complaint, Respondents state that the email correspondence and document production referenced therein speak for themselves. Any remaining allegations contained in paragraphs 44, 45, and 46 are denied for lack of knowledge of information sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.

25. Respondents deny the allegations in paragraphs 47, 48, and 49 of Relator's Complaint.

26. With respect to the allegations in paragraph 50 and 51 of Relator's Complaint, Respondents state that there are no factual allegations necessitating an admission or denial and that R.C. 149.43(B)(1) speaks for itself. Any remaining allegations contained in paragraphs 50 and 51 are denied for lack of knowledge or information sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.

27. Respondents deny the allegations in paragraphs 52, 53, and 54 of Relator's Complaint.

28. With respect to the allegations in paragraphs 55, 56, 57, 58, and 59 of Relator's Complaint, Respondents state that there are no factual allegations necessitating an admission or denial and that R.C. 149.43(B)(3) speaks for itself. Any remaining allegations contained in paragraphs 55, 56, 57, 58, and 59 are denied for lack of knowledge or information sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.

29. Respondents are without knowledge or information sufficient to form a belief as to the

truth of the allegations in paragraph 60, 61, and 62 of Relator's Complaint.

30. With respect to the allegations in paragraphs 63 and 64 of Relator's Complaint, Respondents state that there are no factual allegations necessitating an admission or denial and that R.C. 149.43(B)(3) speaks for itself. Any remaining allegations contained in paragraphs 63 and 64 are denied for lack of knowledge or information sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.
31. Answering paragraphs 65, 66, and 67 of Relator's Complaint, Respondents state the requests and responses speak for themselves. Any remaining allegations are denied for lack of knowledge or information sufficient upon which to form a belief as to the truth of the matters asserted.
32. Answering paragraph 68 of Relator's Complaint, Respondents admit that certain records requested by Mr. Hartman meet the definition of a public record, as set forth in R.C. 149.43(A)(1), and such records were produced to Mr. Hartman. Any remaining allegations contained in paragraph 68 are denied for lack of information or knowledge sufficient upon which to form a belief as to the truth of the matters asserted or because they are not true.
33. Respondents deny the allegations in paragraphs 69, 70, 71, 72, 73, 74, and 75 of Relator's Complaint.
34. Respondents deny the allegations in paragraph 76 of Relator's Complaint.
35. Answering paragraphs 77, 78, and 79 of Relator's Complaint, Respondents state there is no "continued refusal" to provide records. Respondents further state the requested records have been provided. Any remaining allegations contained in said paragraphs are denied.
36. Respondents deny the allegations in paragraphs 80, 81, and 82 of Relator's Complaint.
37. Respondents deny each and every allegation contained in Relator's Complaint not

specifically admitted herein to be true.

SECOND DEFENSE

38. Relator's Complaint fails to state a claim upon which relief can be granted.

THIRD DEFENSE

39. Respondents state that at all times they acted reasonably, in good faith, and without malice.

FOURTH DEFENSE

40. Relator lacks standing to bring the claims asserted in Relator's Complaint.

FIFTH DEFENSE

41. Relator's right to damages is limited by R.C. Chapter 149.

SIXTH DEFENSE

42. Respondents produced records responsive to Relator's request within a reasonable period of time.

SEVENTH DEFENSE

43. Relator is not entitled to records that were not created or received by Respondents and/or do not otherwise exist.

EIGHTH DEFENSE

44. Respondents incorporate by reference all affirmative defenses not already stated herein that are available or potentially available under Civ. R. 8(C) and 12(B).

NINTH DEFENSE

45. Respondents reserve the right to assert additional affirmative defenses which may become known as discovery progresses or due to a change in the law.

TENTH DEFENSE

46. Relator's claims are barred by waiver, estoppel, unclean hands, and other equitable defenses.

ELEVENTH DEFENSE

47. Relator's claims have been settled, released and are otherwise barred by the doctrine of accord and satisfaction.

WHEREFORE, Respondents Olentangy Local School District Board of Education, Ryan Jenkins, and Mark Raiff request that Relator's Verified Amended and Supplementary Complaint for Writ of Mandamus be dismissed with prejudice and that Respondents be awarded their costs and reasonable attorney fees, and all other relief, legal or equitable, to which they are entitled.

Respectfully submitted,

/s/ Bartholomew T. Freeze

Bartholomew T. Freeze (0086980)
Myrl H. Shoemaker, III (0099149)
FREUND, FREEZE & ARNOLD
Capitol Square Office Building
65 East State Street, Suite 800
Columbus, OH 43215-4247
(614) 827-7300; (614) 827-7303 (fax)
bfreeze@ffalaw.com
mshoemaker@ffalaw.com

*Counsel for Respondents, Board of
Education of the Olentangy Local School
District, Ryan Jenkins and Mark T. Raiff*

= and =

Sandra R. McIntosh (0077278)
Scott Scriven LLP
250 East Broad Street, Suite 900
Columbus, OH 43215
(614) 222-8686; (614) 222-8688 (fax)
Sandra@scottscrivenlaw.com

*Co-Counsel for Respondent, Board of
Education of the Olentangy Local School
District*

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing was served this 3rd day of March 2023, via the Court's electronic filing system and/or electronic mail, upon:

Curt Hartman
The Law Firm of Curt Hartman
7394 Ridgpoint Drive, Suite 8
Cincinnati, OH 45230
hartmanlawfirm@fuse.net

=and=

Thomas W. Condit
P.O. Box 12700
Cincinnati, OH 45212
twcondit@fuse.net
Counsel for Relator

/s/ Bartholomew T. Freeze

Bartholomew T. Freeze (0086980)