

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

VIRGINIA STATE CONFERENCE
NAACP, *et al.*,

Plaintiffs,

v.

COUNTY SCHOOL BOARD OF
SHENANDOAH COUNTY,

Defendant.

Case No. 5:24-cv-00040
PLAINTIFFS' PROPOSED CONCLUSIONS
OF LAW

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Introduction

Based on the full trial record and the Court's [Proposed] Findings of Fact, the Court concludes that the Shenandoah County School Board's May 2024 decision to reinstate the names Stonewall Jackson High School and Ashby-Lee Elementary School violates the Equal Protection Clause of the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701–1758.

The evidence establishes, first, that reinstating the Confederate school names imposes a disproportionate burden on Black students by subjecting them to race-based educational, psychological, and dignitary harms that their White peers do not bear. The evidence further establishes that the School Board's decision was motivated, at least in part, by discriminatory intent, as demonstrated by the historical background of the names, the sequence of events leading to their reinstatement, departures from normal procedures, and contemporaneous statements by decisionmakers.

Because the Constitution and federal civil rights statutes forbid state action that both disproportionately harms a racial group and is traceable to a discriminatory purpose, the Court will enter declaratory relief and permanently enjoin Defendant from maintaining the Confederate school names.

Procedural History

The procedural history of this case is fully described in Plaintiffs' Proposed Findings of Fact, ECF No. 259. Pursuant to the Court's Order at ECF No. 243, Plaintiffs submit these Proposed Conclusions of Law.

PROPOSED CONCLUSIONS OF LAW

I. Reinstating the Confederate School Names Violates the Fourteenth Amendment Equal Protection and Title VI.

1. The Fourteenth Amendment's Equal Protection Clause provides, "No state shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1. The "central purpose" of the Fourteenth Amendment's Equal Protection Clause is to "prevent the States from purposefully discriminating between individuals on the basis of race," *Shaw v. Reno*, 509 U.S. 630, 642 (1993). Plaintiffs have a cause of action for the violation of federal rights, including those granted by the Equal Protection Clause, under 42 U.S.C. § 1983.

1. Similarly, Title VI provides that no person shall, "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d. It applies to federally financed educational programs, including Shenandoah County Public Schools. *See Peters v. Jenney*, 327 F.3d 307, 315 (4th Cir. 2003); FOF ¶ 2 (*citing* Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #225). Plaintiffs, as private individuals, are entitled to sue to enforce Title VI and obtain injunctive relief. *Alexander v. Sandoval*, 532 U.S. 275, 279-80 (2001); FOF ¶ 239 (*citing* Testimony of Cozy Bailey, ECF No. 246, at 182:15-17, 182:22-183:07), FOF ¶¶ 263-264 (*citing* Testimony of D.D., ECF No. 245, at 99:22-23, 100:03-04), FOF ¶¶ 305-306 (*citing* Testimony of Briana Brown, ECF No. 245, at 135:21-22, 133:02-03), FOF ¶¶ 336-337 (*citing* Testimony of A.D. Carter, ECF No. 246, at 24:11-14), FOF ¶¶ 361-362 (*citing* Testimony of J.D, ECF No. 245, at 125:24-126:02). "[D]iscrimination that violates the Equal Protection Clause of the Fourteenth Amendment committed by an institution that accepts federal funds also constitutes a violation of Title VI." *Students for Fair Admissions Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 198 n.2 (2023) (*quoting* *Gratz v. Bollinger*, 539 U.S. 244, 276 n.23 (2003)).

2. The command of the Equal Protection Clause applies to local government bodies such as Defendant School Board. *Brown v. Board of Education of Topeka* (“*Brown I*”), 347 U.S. 483 (1954). In *Brown I*, the Supreme Court held that the Equal Protection Clause prohibits racial discrimination in public education, as discriminating against children based on race “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone” and acknowledged that Black students’ feelings of “inferiority affects the motivation of a child to learn.” *Id.* at 494.

3. Defendant acknowledges, as it must, that under both federal and state law, the School Board has a duty not to discriminate against or harass students based on race. FOF ¶ 3 (*citing* Joint Deposition Designations for Melody Sheppard, ECF No. 242-62;¹ Sheppard Deposition Tr., ECF No. 213.1, at 31:11-20, 33:08-23).

4. While this case does not involve explicit racial classification, facially neutral policies can violate Equal Protection when “(1) that the policy exacts a disproportionate impact on a certain racial group, and (2) that such impact is traceable to an ‘invidious’ discriminatory intent.” *Coal. for TJ v. Fairfax Cnty. Sch. Bd.*, 68 F.4th 864, 879 (4th Cir. 2023) (citing *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 264-65 (1977)); *N.C. State Conf. of the NAACP v. Raymond*, 981 F.3d 295, 302 (4th Cir. 2020).

5. The Court finds that Defendant School Board’s May 2024 decision to reinstate the Confederate School names at Stonewall Jackson High School and Ashby-Lee Elementary School violates the Equal Protection Clause of the Fourteenth Amendment and Title VI of the Civil Rights Act. The evidence presented at trial overwhelmingly demonstrates that reinstating the names

¹ Testimony of Melody Sheppard was submitted by deposition designation and a video of the designated portions was played at trial. A list of the designations was admitted as ECF No. 242-62, and the transcript reflecting the substance of the designations can be found at ECF No. 213.1.

disproportionately impacts Black students at those schools, including on Plaintiffs and members of the VA NAACP, by imposing race-specific educational, psychological, and dignitary burdens, burdens that White students do not bear. The Court further finds that the School Board's decision was undertaken with discriminatory intent.

A. The School Board's Decision to Reinstate the Confederate School Names Disproportionately Impacts Black Students.

6. The Confederate school names disproportionately harm Black students by conveying a message of racial inferiority and exclusion, thereby imposing educational and dignitary harms that “bear[] more heavily on one race than another.” *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204, 220-21, 230 (4th Cir. 2016) (citation omitted). As a result of the Confederate school names, the Plaintiffs were “treated differently than other similarly situated persons.” *NAACP v. City of Myrtle Beach*, 476 F. Supp. 3d 308, 322 (D.S.C. 2020) (*citing Morrison v. Garraghty*, 239 F.3d 648, 654 (4th Cir. 2001)).

7. The Fourth Circuit has long recognized that Confederate symbolism has a unique effect on Black children like Plaintiffs. *See Crosby by Crosby v. Holsinger*, 816 F.2d 162, 163 (4th Cir. 1987) (“[B]lack students undoubtedly view[] the Confederate symbols as a persistent affront, given the association between those symbols and the history of slavery in this country.”); *see also Smith v. St. Tammany Parish Sch. Bd.*, 316 F. Supp. 1174, 1176 (E.D. La. 1970) (“[T]he display of [the Confederate flag] is an affront to every Negro student in the school.”). This is precisely because Confederate names and symbols serve as reminders to Black people of their inferior status and second-class citizenship in society. FOF ¶¶ 31-32 (*citing* Testimony of Brig. Gen. Ty Seidule, ECF No. 244, at 186:14-25, 187:01-08; Seidule Expert Report, ECF No. 242-64, at 11), 146-149 (VA NAACP resolutions condemning the use of Confederate flag); FOF ¶ 418 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 102:09-103:05).

8. The school names Stonewall Jackson High School and Ashby-Lee Elementary School carry that same legacy of discrimination, and with it the same discriminatory impact on Black children at those schools. The school names honor Confederate leaders, who committed treason and seceded from the Union in order to preserve slavery. FOF ¶¶ 6, 8-21 (*citing* Seidule Expert Report, ECF No. 242-64, at 4-5) (remaining citations to the record omitted). The school names were originally chosen by segregationists during the era of Massive Resistance to school desegregation to protest the Supreme Court's *Brown* decision. FOF ¶¶ 78-81 (*citing* SCSB Meeting Minutes, ECF No. 242-50, at 1, 6; First Joint Statement of Stipulated Facts, ECF No. 242-1, at #3-7; Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #161; Testimony of Dr. Brian Daugherty, ECF No. 245, at 44:03-24, 45:22-46:01; Seidule Expert Report, ECF No. 242-64, at 17, 19-20; Testimony of Brig. Gen. Ty Seidule, ECF No. 244, at 193:04-06; SJHS Images, ECF No. 242-47). These efforts occurred in the backdrop of Shenandoah County's own resistance to *Brown*. *See, e.g.* . FOF ¶ 71 (*citing* Newspaper Articles, ECF No. 242-45, at 13; Testimony of Dr. Brian Daugherty, ECF No. 245, at 19:22-22:19); FOF ¶ 68 (*citing* Historical Newspaper, ECF No. 242-44, at 1; Testimony of Dr. Brian Daugherty, ECF No. 245, at 18:05-19:16); FOF ¶ 68 (*citing* Historical Newspaper, ECF No. 242-44, at 1; Testimony of Dr. Brian Daugherty, ECF No. 245, at 18:05-19:16); FOF ¶ 102 (*citing* Testimony of Dr. Brian Daugherty, ECF No. 245, at 60:01-19); *see also* FOF ¶¶ 68, 71, 102 (citations to the record omitted).

9. Stonewall Jackson High School was named during Massive Resistance to dissuade African-American students from requesting transfers into the newly constructed and newly opened high school. FOF ¶ 77 (*citing* Testimony of Dr. Brian Daugherty, ECF No. 245, at 44:03-06). As the school foundation for Stonewall Jackson High School was laid, White community members flew the Confederate flag. FOF ¶ 80 (*citing* First Joint Statement of Stipulated Facts, ECF No. 242-1, at #5; SJHS Images, ECF No. 242-47; Testimony of Dr. Brian Daugherty, ECF No. 245, at 45:22-

46:01). At the time of its naming, Black students were forced to take buses to neighboring counties to receive a high school education rather than integrating the County's high schools, including the newly constructed Stonewall Jackson. FOF ¶ 68 (*citing* Historical Newspaper, ECF No. 242-44, at 1; Testimony of Dr. Brian Daugherty, ECF No. 245, at 18:05-19:16). The school adopted the mascot of a soldier on horseback carrying a Confederate flag. FOF ¶ 82 (*citing* Yearbook Cover, ECF No. 242-46). These were acts intended to send a message to Black students and their parents that they were not welcome in Shenandoah County public schools.

10. At Ashby-Lee Elementary School's founding, in 1975, although Black students were permitted to attend, it was still not an integrated school by the standards of the day. FOF ¶ 6 (*citing* Second Joint Statement of Stipulated Facts, ECF No. 242-2, at #59-62); FOF ¶ 90 (*citing* Testimony of Dr. Brian Daugherty, ECF No. 245, at 36:01-03, 36:06-09). No Black teachers or administrators were employed in the school system, and no Black individuals served on the School Board during this period. FOF ¶ 90 (*citing* Testimony of Dr. Brian Daugherty, ECF No. 245, at 36:06-09). Like Stonewall Jackson, the name Ashby-Lee was chosen in part to reflect Defendant School Board's opposition to federal school integration mandates and the broader Civil Rights Movement. FOF ¶¶ 99, 100 (*citing* Second Joint Statement of Stipulated Facts, ECF No. 242-2, at #62; Testimony of Dr. Brian Daugherty, ECF No. 245, at 58:08-59:25).

11. Defendant and its Board Members and agents themselves recognize the discriminatory effect of Confederate symbolism in the schools, and of the Confederate school names in particular, on Black students. At trial, School Board Chairman Dennis Barlow testified that the School Board retired the Confederate school names in 2020 because they were discriminatory, noninclusive, and had a negative impact on Black students. FOF ¶¶ 7, 132 (*citing* Testimony of Dennis Barlow, ECF No. 247, at 143:07-17). Chairman Barlow, at the May 9, 2024 School Board meeting acknowledged the impact of the Confederate school names on Black students

when he stated “[he] would feel unsettled if [he] were Black and going through this.” FOF ¶ 216 (*citing* SCSB Meeting Video Transcription, ECF No. 242-25, at 193). At trial, Michael Dorman, the former principal of Stonewall Jackson High School, testified that he removed the Confederate flag from the floor of the school’s gymnasium because “hate groups, Nazis and folks, [] would use that flag.” FOF ¶ 395 (*citing* Testimony of Michael Dorman, ECF No. 248, at 61:04-25). In making that decision, Dorman consulted with and obtained approval from the Superintendent. *Id.*

12. The NAACP and the VA NAACP, for their part, reject the use of Confederate symbols like the Confederate flag because it is used by White supremacists and is a symbol, to Black people, of opposition to integration and civil rights. FOF ¶¶ 249-251; (*citing* NAACP Resolution ECF No. 242-124; NAACP Resolution, ECF No. 242-104; Testimony of Cozy Bailey, ECF No. 246, at 218:21-23, 219:09-14, 224:05-07). “Not only is it the understanding of Black people in America that the Confederate symbol, specifically the Confederate flag, are symbols of hatred and oppression, but [the NAACP resolution] documents that there are at least two organizations—one, the Dixiecrats and the other the KKK—who absolutely publicly stated that the reason that they use these symbols is a symbol of segregation, a symbol, again, to keep Black people suppressed and oppressed as opposed to being part of and having our rightful place in the community of the United States.” FOF ¶ 249 (*citing* Testimony of Cozy Bailey, ECF No. 246, 226:05-14).

13. Indeed, the Confederate flag itself has been used as a symbol of racial oppression in Shenandoah County: at the original founding of Stonewall Jackson, White community members flew Confederate flags to signal their support for continued school segregation. FOF ¶ 80 (*citing* First Joint Statement of Stipulated Facts, ECF No. 242-1, at #5; SJHS Images, ECF No. 242-47; Testimony of Dr. Brian Daugherty, ECF No. 245, at 45:22-46:01). In 2020, students at Stonewall Jackson High School flew the Confederate flag in protest of the decision to retire names. FOF ¶ 395 (*citing* Testimony of Michael Dorman, ECF No. 248, at 76:07-80:01). [REDACTED]

[REDACTED]

[REDACTED] FOF ¶¶ 285, 378 (*citing* Testimony of Kay Doe, ECF No. 244, at 106:16-107:09; [REDACTED]).

14. In light of the extensive use of these specific Confederate names for the purpose of excluding Black students from these specific schools in the past, as well as the School Board's prior statements that the names are in fact discriminatory, it is unsurprising that resurrecting those names in the present would cause Black students such as the Plaintiffs to perceive the names as carrying a message of exclusion. FOF ¶¶ 258, 273, 275, 283, 288, 291, 294, 296, 304, 318-324, 326-332, 354-355, 357, 376-377, 381, 383, 385 (citations to the record omitted). Black students experience race-based traumatic stress as a result of Defendant's decision to restore the Confederate school names. FOF ¶ 391 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 114:12-14); FOF ¶¶ 252 & 258 (VA NAACP), 272 & 296 (D.D.), 326-332 (Briana Brown), 354-355 & 360 (A.D. Carter), 387-389 (J.D.) (citations to the record omitted). Persistent exposure to racially negative messages, images, and symbols at school, like the Confederate school names at issue here, have short- and long-term impacts on Black students' educational, psychological, and physical development, including acute-stress related systems, including headaches, stomachaches, difficulty completing work, difficulty with academic achievement, difficulty concentrating in school, digestive issues, difficulty trusting peers and teachers, discomfort with speaking up when facing racism, poor glucose tolerance, diabetes, obesity, hypertension, anxiety, depression, asthma control, blood sugar control, sleep disruption, self-esteem issues, suicidal ideations, substance use, chronic inflammation, and getting in trouble at school. FOF ¶¶ 391-394, 399-404, 413, 425 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 81:24-121:01 (remaining citations omitted); *see also Brown I*, 347 U.S. at 494 n.11). White students do not experience the same impact from exposure to Confederate

school names. FOF ¶ 419 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 105:04-20, 106:25-107:05, 112:15-113:04) (remaining citations to the record omitted).

15. Like the plaintiffs in *Brown I*, this social scientific and scientific evidence supports the disproportionate impact of the Confederate school names on Black students in the schools. *See Brown I*, 347 U.S. at 494 n.1.

16. Black students, like Plaintiffs and members of the VA NAACP are surrounded by Confederate symbology each school day and experience these effects: they feel like the School Board, teachers, and students may want Shenandoah County Public Schools to be segregated; feel unwelcome and uncomfortable attending school; feel inferior to their White peers; feel like they have less value than their White peers; are unable to trust peers and teachers at school; are constantly reminded of their ancestors' history of enslavement; and experience retaliation, harassment, and intimidation in the community for speaking out against the Confederate school names. FOF ¶¶ 258, 263-304, 305-335, 336-360, 361-390 (citations to the record omitted). Mr. Carter describes this feeling as an "invisible ball and chain" FOF ¶ 359 (*citing* Testimony of A.D. Carter, ECF No. 246, at 53:03-04). D.D. considered not going back to Stonewall Jackson if the school's name was restored to Stonewall Jackson. FOF ¶ 275 (*citing* Testimony of D.D., ECF No. 245, at 104:07-08, 104:17-18; D.D. Text Messages to Friends, ECF No. 242-70, at 3). Ms. Brown explained that she felt like the school was becoming a "safe space for . . . people to be racist." FOF ¶ 332 (*citing* Testimony of Briana Brown, ECF No. 245, at 153:21-25).

17. Black students like Plaintiffs and members of the NAACP in turn experience significant educational harm because of the School Board's restoration of the Confederate school names. They are distracted during class by the overlay of the Confederate school names throughout the day, forced to put extra effort into their schoolwork, less likely to speak up in class, harbor a distrust of teachers and are less likely to seek out their teachers for fear they support the

discrimination against Black students, and are forced to represent Stonewall Jackson while playing sports, which takes away from athletic achievements. FOF ¶¶ 289-295, 298-304, 312, 320, 330, 333-334, 356-359, 380-386 (citations to the record omitted).

18. Black students like Plaintiffs and members of the NAACP are also disproportionately impacted because the restoration of the Confederate names emboldens race-based discrimination and harassment in Shenandoah County. FOF ¶ 252 (*citing* Testimony of Cozy Bailey, ECF No. 246, at 198:18-22); FOF ¶ 258 (*citing* Testimony of Kay Doe, ECF No. 244, at 106:16-24; 106:16-24; 109:11-13; 106:25-107:09); Testimony of Cozy Bailey, ECF No. 246, at 198:16-22); FOF ¶¶ 285-286, 378 (*citing* Testimony of Kay Doe, ECF No. 244, at 106:16-107:09, 107:14-108:04, 109:11-13; Photo of Confederate Flags, ECF No. 242-164; Testimony of Michael Dorman, ECF No. 248, at 61:04-25).

19. Because of the historical connection of the Confederacy to the enslavement and subjugation of Black people, Confederate names and symbols are often perceived by Black people as racially discriminatory. FOF ¶¶ 391, 394, 399-400 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 81:20-82:02, 97:17-98:07, 99:02-04, 103:10-20, 114:07-14). Plaintiffs' educational experience, extracurricular activities, relationships with peers and adults, and health and mental health are all disproportionately impacted by the Confederate school names. FOF ¶¶ 258, 263-304, 305-335, 336-360, 361-390 (citations to the record omitted).

1. Confederate School Names Have a Disproportionate Impact on the Education Experience of Black Students.

20. Defendant's reinstatement of the Confederate school names disproportionately impacts the educational experience of Black students. Black students who experience racism exhibit higher rates of anxiety, depression, and have difficulty concentrating in school, completing their work and overall academic achievement. FOF ¶ 413 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 92:08-12). When exposed to racism and racial discrimination at school,

Black adolescents experience greater difficulty with interpersonal relationships like getting along with peers and trusting their teachers. FOF ¶ 413 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 92:13-15, 93:16-21). Generally, when confronted with racism and discriminatory messages Black students report that the school environment feels hostile and unwelcoming. FOF ¶ 413 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 92:15-16). Black students are disproportionately affected by Confederate school names when compared to their White peers, because the historical ties to those names and symbols communicate to Black students that they are inferior and serve as a reminder of second-class citizenship in society. FOF ¶ 418 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 102:09-103:05).

21. The Black Plaintiffs' negative experiences are consistent with the harmful effects of racism and discriminatory messages described in medical and social science literature. For example, Ms. Brown's "educational experience was diminished because [she] wasn't able to complete those classes and get those good grades without having to worry about racial prejudice or being in a school that felt like it was fostering a safe place for racists." FOF ¶ 333 (*citing* Testimony of Briana Brown, ECF No. 245, at 162:01-05). She even considered leaving the prestigious Governor's School because of the name change. FOF ¶ 320 (*citing* Testimony of Briana Brown, ECF No. 245, at 149:17-150:10). The return to the name Stonewall Jackson made her concerned there wasn't much consideration of Black students, and that the School Board has some of the same racist ideals as Stonewall Jackson and may not care about minority students. FOF ¶¶ 317-19 (*citing* Testimony of Briana Brown, ECF No. 245, at 137:12-138:03, 138:24-139:22).

22. The reinstatement of the Confederate school names means J.D. must put extra effort into her schoolwork because she is preoccupied by the school names. FOF ¶ 377 (*citing* Testimony of J.D., ECF No. 245, at 129:09-14).

23. D.D., although she is a straight A student and a talented multi-sport athlete, is distracted during class by the Confederate school names: when she sees Stonewall Jackson references throughout her school day, she is reminded of how she does not feel “welcome or valued” at school and has to work hard to stay focused on her school work. FOF ¶ 295 (*citing* Testimony of D.D., ECF No. 245, at 117:17-118:01; Testimony of Kay Doe, ECF No. 244, at 126:16-127:02).

24. Mr. Carter was an academically strong student, but during his senior year his grades dropped somewhat and his academic experience was more difficult due to the weight he felt when confronting the Confederate school names and symbols daily. FOF ¶ 342 (*citing* Testimony of A.D. Carter, ECF No. 246, at 53:18-20, 56:06-15); FOF ¶ 359 (*citing* Testimony of A.D. Carter, ECF No. 246, at 52:12-53:20). He felt ostracized and like he was “experiencing [school] differently from many other people” because of his race. FOF ¶ 357 (*citing* Testimony of A.D. Carter, ECF No. 246, at 51:25-52:11). He described feeling like the school name change was “achieving its goal” of “making [him] feel unwelcome.” FOF ¶ 355 (*citing* Testimony of A.D. Carter, ECF No. 246, at 50:12-21).

25. VA NAACP students and families who attend Stonewall Jackson High School and Ashby-Lee Elementary School were also harmed by the Confederate general school names. VA NAACP members feel othered and like they were being treated as less than their White counterparts. FOF ¶ 258 (*citing* Testimony of Cozy Bailey, ECF No. 246, at 208:07, 208:16-209:10).

26. That the students have earned good grades, honors, and been accepted at competitive universities does not undermine that they have been impacted by the Confederate school names. Rather, Plaintiffs have had to work harder than their White peers to overcome the barriers that the School Board imposed. FOF ¶¶ 424-425 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 118:06-121:01).

2. Confederate School Names Have a Disproportionate Impact on Black Students Engaging in Extracurricular Activities.

27. The reinstatement of the Confederate school names disproportionately impacts Black students who want to participate in sports and extra-curricular activities. Scholarly research recognizes the value of extracurricular activities as part of students' educational experience. FOF ¶ 427 (*citing* Testimony of Dr. Amy Bass, ECF No. 247, at 18:12-18). Confederate symbols undermine inclusivity and discourage students' participation in sports, which can cause detrimental effects on physical health, cognitive development, and social emotional well-being. FOF ¶¶ 426-429 (*citing* Testimony of Dr. Amy Bass, ECF No. 247, at 18:12-19:12, 26:10-12). This puts Black students in the unfair position of having to choose between "representing symbols that encompass racist and oppressive ideologies" and forgoing the opportunity to participate at all. FOF ¶ 429 (*citing* Testimony of Dr. Amy Bass, ECF No. 247, at 19:05-12).

28. For example, D.D.'s extracurricular experiences are impacted by the Confederate school name. FOF ¶¶ 283, 291 (*citing* Testimony of D.D., ECF No. 245, at 112:01:07; Testimony of Kay Doe, ECF No. 244, at 124:06-13). She plays soccer and basketball for Stonewall Jackson, but does not like wearing the uniforms because they bear the name "Generals," which she knows references Confederate generals. FOF ¶¶ 300, 302 (*citing* Testimony of D.D., ECF No. 245, at 114:16-21, 116:11-17, 119:14-22). She is conflicted about representing a name that makes her feel uncomfortable and unwelcome. FOF ¶ 303 (*citing* Testimony of D.D., ECF No. 245, at 116:18-25; Testimony Kay Doe, ECF No. 244, at 120:23-121:09). There are even certain clubs that D.D. refuses to join because of other students' outspoken support for the Confederate school name. FOF ¶ 291 (*citing* Testimony of Kay Doe, ECF No. 244, at 124:06-13). Ms. Brown participated in cross-country track, music honor society, and national honor society at her home school, Strasburg High School, often competing against Stonewall Jackson High School teams. FOF ¶ 312 (*citing* Testimony of Briana Brown, ECF No. 245, at 165:17-166:21). When competing against Stonewall

Jackson, seeing the Stonewall Jackson gear and memorabilia negatively impacted Ms. Brown's extracurricular experience because she had to overcome feeling unwelcome and like she did not belong. FOF ¶ 312 (*citing* Testimony of Briana Brown, ECF No. 245, at 166:22, 167:04, 167:13-15).

3. Confederate School Names Have a Disproportionate Impact on Black Students' Relationships with Peers and Adults.

29. The reinstatement of the Confederate school names disproportionately impacts Black students' relationships with their peers and adults in their schools in a variety of ways. In fact, medical research shows that some of the short-term effects of routine exposure to race-based traumatic stress are that Black students have trouble with peer relationships, feeling safe in the school environment, and speaking up when confronted with racism. FOF ¶ 402 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 95:20-96:09, 104:04-05).

30. For instance, Ms. Brown has "more anxiety" when talking to new people, and that the naming issue took a toll on her "self-esteem and self-worth," making her more introverted and concerned that others were not taking her seriously. FOF ¶ 330 (*citing* Testimony of Briana Brown, ECF No. 245, at 154:05-06, 156:13-21). She would "second-guess if [she] was even meant to be in the building." FOF ¶ 334 (*citing* Testimony of Briana Brown, ECF No. 245, at 155:15-19). Because Ms. Brown, as a Black student, felt a personal connection to the history of slavery and how Black people were oppressed, she felt inferior to her White peers because she had to worry about the name change and the implications while her White peers did not. FOF ¶ 335 (*citing* Testimony of Briana Brown, ECF No. 245, at 155:24-09).

31. J.D. was saddened when the name on the walls of her school changed to Ashby-Lee and she saw teachers and other students wearing Ashby-Lee shirts. FOF ¶ 317 (*citing* Testimony of J.D., at 245, at 127:17-128:06). This caused her to be more closed off with friends because she worried they might think that she should not be there or that the school should still be segregated. FOF ¶ 381 (*citing* Testimony of J.D., at 245, at 129:15-25).

32. D.D. struggles with being able to advocate for herself in school because of the tension related to the Confederate school names. FOF ¶ 289 (*citing* Testimony of Kay Doe, ECF No. 244, at 125:03-14). During her testimony, she described an uncomfortable incident at school where a student came into her history class without permission and polled the class about their feelings about the name Stonewall Jackson. FOF ¶ 290 (*citing* Testimony of D.D., ECF No. 245, at 113:16-115:08; Testimony of Kay Doe, ECF No. 244, at 125:21-126:11). D.D. was upset and uncomfortable learning that so many of her peers supported the name Stonewall Jackson while also feeling fearful about speaking up about her discomfort with the name. *Id.* D.D. often self-segregates to feel safe because of the difficulties she experiences with her peers. FOF ¶ 294 (*citing* Testimony of Kay Doe, ECF No. 244, at 124:06-07, 125:02).

33. Mr. Carter also experienced difficulties with peer relationships by having to avoid discussions about his personal views about the Confederate general school names to avoid confrontations with other students. FOF ¶ 356 (*citing* Testimony of A.D. Carter, ECF No. 246, at 50:24-51:07).

4. Confederate School Names Have a Disproportionate Impact on Black Students' Health & Mental Health.

34. Defendant's reinstatement of the Confederate school names disproportionately impacts Black students' health and mental health. Confederate names and iconography are forms of cultural racism, and Black students' chronic exposure to cultural racism leads to race-based traumatic stress, which causes physiological and psychological changes in the brain and throughout the body. FOF ¶¶ 393-95, 404 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 83:01-21, 97:17-98:07, 99:02-04, 103:10-20).

35. Persistent exposure to racially negative messages, images, and symbols has short- and long-term impacts on Black students' psychological, and physical development. FOF ¶ 391-92 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 81:20-82:02, 114:7-117:7). The short-

term impacts can include acute stress-related symptoms, including headaches, stomachaches, and difficulty completing work. FOF ¶ 402 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 95:20-96:09). The long-term effects amount to a weathering of the systems of the body that gradually leads to chronic conditions like anxiety, depression, blood sugar control, sleep disruption, and low self-esteem. FOF ¶ 403 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 96:10-96:19). Also, because of exposure to racially discriminatory messages, Black students are susceptible to internalized racism, which is an unconscious belief in their own inferiority and causes low self-esteem and poor racial identity. FOF ¶ 414 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 113:16-114:06).

36. The social and medical research is exemplified by the students' testimony: Ms. Brown felt small, uncomfortable, unwelcome, and unsafe seeing the name Stonewall Jackson around the school. FOF ¶ 329 (*citing* Testimony of Briana Brown, ECF No. 245, at 152:23-153:09). Her self-esteem and self-worth were negatively impacted and she experienced increased anxiety from constantly worrying about how she would be perceived or treated as a Black student at school where Stonewall Jackson's legacy was celebrated. FOF ¶ 330 (*citing* Testimony of Briana Brown, ECF No. 245, at 154:01-154:12, 156:10-157:11).

37. J.D. did not think about the name of her school very much when it was called Honey Run Elementary School, but once the School Board changed the name of the school back to Ashby-Lee Elementary School, she felt sad, and felt that the School Board "didn't listen" to her family's concerns about the harmful impact of the name Ashby-Lee Elementary School on Black students. FOF ¶ 375 (*citing* Testimony of J.D., ECF No. 245, at 126:11-23). Attending a school named Ashby-Lee made J.D. feel uncomfortable and tense. FOF ¶ 389 (*citing* Testimony of J.D., ECF No. 245, at 130:09-14).

38. For D.D., the names serve as a constant reminder that her ancestors were once enslaved and everything that her family has gone through, like her family's experiences with racism and her grandfather not being able to attend Stonewall Jackson High School because he was Black. FOF ¶ 296 (*citing* Testimony of D.D., ECF No. 245, at 118:14-119:06).

39. The names make her feel inferior to her White peers because she knew that Stonewall Jackson believed Black people were inferior. FOF ¶ 297 (*citing* Testimony of D.D., ECF No. 245, at 119:07-13).

40. Mr. Carter's mental health was impacted by constantly feeling weighed down by the Confederate school names and symbology and that he was "held back" mentally by feeling unwelcome. FOF ¶ 360 (*citing* Testimony of A.D. Carter, ECF No. 246, at 53:21-54:07).

41. Plaintiffs D.D. and J.D., and Black members of the NAACP attending Stonewall Jackson High School and Ashby-Lee Elementary School, are injured by Defendant's conduct. *See Star Scientific Inc. v. Beales*, 278 F.3d 339, 358 (4th Cir. 2002) (a party must establish that (1) it has suffered an injury in fact that is both concrete and particularized and "actual or imminent, not conjectural or hypothetical"; (2) there is a causal connection between the injury and the conduct complained of is "fairly traceable" to the challenged action; and (3) it is "likely . . . that the injury will be redressed by a favorable decision.") (*quoting Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)). Because of the reinstatement of the Confederate school names, they have experienced unequal educational opportunities and suffered dignitary, emotional, and psychological harms. *See TransUnion LLC v. Ramirez*, 594 U.S. 413, 426 (2021) (recognizing that harm caused by discrimination is a cognizable injury in fact); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 493 (1989) (plurality opinion) (recognizing under the Equal Protection clause the "danger of stigmatic harm" and that government action can "promote notions of racial inferiority"); *Heckler v. Mathews*,

465 U.S. 728, 739-40 (1984) (“[D]iscrimination itself . . . can cause serious noneconomic injuries to those persons who are personally denied equal treatment solely because of their membership in a disfavored group.”); *Brown I*, 347 U.S. at 495 (discussing the “sense of inferiority” that Black students suffered to find that “[s]eparate educational facilities are inherently unequal,” as opposed to only the material differences in the school facilities, and noting that a “sense of inferiority affects the motivation of a child to learn.”).

42. Because Plaintiffs and members of the NAACP currently attend, and will attend in the future, the schools at issue, they have standing to seek relief. *City of Los Angeles v. Lyons*, 461 U.S. 95, 105 (1983); FOF ¶ 267 (*citing* Testimony of D.D., ECF No. 245, at 100:01-08 (attends Stonewall Jackson High School)); FOF ¶ 368 (*citing* Testimony of J.D., ECF No. 245, at 125:18-23 (plans to attend Stonewall Jackson High School)); FOF ¶¶ 256, 257 (*citing* Testimony of Cozy Bailey, ECF No. 246, at 201:11-24 (Black members attend Stonewall Jackson High School and Ashby-Lee Elementary School)). Plaintiffs seek declaratory and injunctive relief requiring the School Board to remove the Confederate names and mascots and prevent any future naming involving Confederate leaders or references to the Confederacy. Such relief will redress their injury. *Lujan*, 504 U.S. at 561.

43. The VA NAACP is a membership organization with all the traditional indicia of such, FOF ¶¶ 239, 248 (*citing* Testimony of Cozy Bailey, ECF No. 246, at 182:15-183:07, 186:09-18), and ensuring equal educational opportunities free from race-based discrimination is squarely within its mission. FOF ¶ 242 (*citing* NAACP About webpage, ECF No. 242-105). Because members of the VA NAACP, including D.D. and J.D., FOF ¶¶ 257, 264, 362 (*citing* Testimony of Cozy Bailey, ECF No. 246, at 201:19-24; Testimony of D.D., ECF No. 245, at 100:03-04; Testimony of J.D., ECF No. 245, at 126:01-02), have standing, and because they seek only injunctive and declaratory relief, the VA NAACP can bring these claims on behalf of its members. *See Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 342-43 (1977).

44. Defendant’s reinstatement of the Confederate school names also impacted the VA NAACP by impairing its mission to fight for the rights of Black people in Virginia by forcing Black students to attend school in a building that serves as a monument to slavery, severely impacting the mental health and wellbeing of Black students, their families, and the community at large, and emboldening community members to discriminate against and harass Black people in Shenandoah County, including Plaintiffs Kay Doe, D.D. and J.D. FOF ¶¶ 252, 258 (*citing* Testimony of Cozy Bailey, ECF No. 246, at 196:18-197:07, 198:16-199:04, 208:07, 208:16-209:10); FOF ¶¶ 285, 378 (*citing* Testimony of Kay Doe, ECF No. 244, at 106:16-107:09, 109:11-13; Photo of Confederate Flags, ECF No. 242-164; Testimony of Michael Dorman, ECF No. 248, at 61:04-25). *See Lane v. Holder*, 703 F.3d 668, 674 (4th Cir. 2012). The School Board’s actions also drain the VA NAACP’s resources. FOF ¶¶ 253-255 (*citing* Testimony of Cozy Bailey, ECF No. 246, at 199:05-201:03). *Republican Nat’l Committee v. N.C. State Bd. of Elections*, 120 F.4th 390, 395-96 (4th Cir. 2024). The VA NAACP is entitled to sue to stop Defendant’s unlawful conduct because it too has sustained injuries. *See S.C. State Conference of the NAACP v. S.C. Dep’t of Juvenile Justice*, 165 F.4th 858, 865 (4th Cir. 2026) (*quoting Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 n.19 (1982)).

45. The evidence presented—including the direct experiences of students D.D., J.D., Ms. Brown, and Mr. Carter, the experiences of Black student members of the VA NAACP, and the expert evidence of Dr. Spinks-Franklin and Dr. Bass, prove that, because of the unique impact of Confederate School names on Black students, they “exact[] a disproportionate impact on a certain racial group.” *Coal. for TJ*, 68 F.4th at 879; *see, e.g., Crosby by Crosby*, 816 F.2d at 163 (“B]lack students undoubtedly view[] the Confederate symbols as a persistent affront”). Black students in Shenandoah County Public Schools are more likely than their White peers to experience dignitary harm, educational harm, and developmental harm. *See Brown I*, 347 U.S. at 494-95 (discussing the “sense of inferiority” that Black students suffered to find that “[s]eparate educational facilities are

inherently unequal,” as opposed to only the material differences in the school facilities). Defendant’s readoption and prominent display of school names and emblems honoring infamous proponents of Black inferiority and dehumanization cannot help but fall more harshly on Black students.

B. The School Board’s Decision to Reinstate the Confederate School Names Was Motivated by a Discriminatory Purpose.

46. In addition to demonstrating the disproportionate impact of reinstating the Confederate school names, Plaintiffs established at trial that the School Board’s decision was motivated by a racially discriminatory purpose. *Coal. for TJ*, 68 F.4th at 883.

47. “Proof of racially discriminatory intent or purpose is required to show a violation of the Equal Protection Clause.” *Arlington Heights*, 429 U.S. at 265. To demonstrate that the School Board acted with racially discriminatory purpose, Plaintiffs need only show that such purpose was *one of the factors* motivating the challenged policy. Plaintiffs “need not show that discriminatory purpose was the ‘sole[]’ or even a ‘primary’ motive . . . just that it was ‘a motivating factor.’” *McCrary*, 831 F.3d at 220 (emphasis in original) (citing *Arlington Heights*, 429 U.S. at 265-66). Plaintiffs must show that Defendant took action “at least in part ‘because of,’ not merely ‘in spite of,’ its adverse effects upon an identifiable group.” *Pers. Adm’r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979). “[T]he ‘decisionmaker’ must set out with that very purpose in mind.” *Coal. for TJ*, 68 F.4th at 883.

48. “A facially neutral law . . . can be motivated by invidious racial discrimination . . . [i]f discriminatorily motivated, such laws are just as abhorrent, and just as unconstitutional, as laws that expressly discriminate on the basis of race.” *McCrary*, 831 F.3d at 220 (citing *Arlington Heights*, 429 U.S. at 264-66). Plaintiffs do not need to demonstrate that Defendant acted with racial hatred: the law does not require a showing of “racial hatred or animosity.” *McCrary*, 831 F.3d at 233. Instead, determining whether discriminatory intent was a motivating factor requires “a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” *Coal. for TJ*, 68 F.4th at 883

(quoting *Arlington Heights*, 429 U.S. at 266). Recognizing that government actors will not often broadcast their discriminatory intent, the Supreme Court in *Arlington Heights* established the framework to evaluate circumstantial evidence of intent, considering the following factors: (1) whether the policy is “unexplainable on grounds other than race,” (2) the policy’s “historical background,” (3) the “specific sequence of events leading up to” the policy’s enactment, (4) any “[d]epartures from the normal procedural sequence,” and (5) the “legislative or administrative history.” *Arlington Heights*, 429 U.S. at 266-68. Courts recognize that “[o]utright admissions of impermissible racial motivation are infrequent and plaintiffs often must rely upon other evidence.” *McCrorry*, 831 F.3d at 221.

49. Here, the Court concludes that the direct and circumstantial evidence, when considered under the *Arlington Heights* framework, supports a finding that the School Board acted with discriminatory intent when it reinstated the Confederate school names at Stonewall Jackson High School and Ashby-Lee Elementary School.

1. The Historical Background of the Confederate School Names Demonstrates that Defendant Acted with Discriminatory Intent When It Reinstated the Names.

50. In determining whether discriminatory intent was a motivating factor behind the name change, the Court must consider the “historical background” of the decision. *Arlington Heights*, 429 U.S. at 267. “[H]istorical background” under *Arlington Heights* includes “any history of discrimination by the decisionmaking body or the jurisdiction it represents.” *Sylvia Dev. Corp. v. Calvert Cnty. Md.*, 48 F.3d 810, 819 (4th Cir. 1995) (discussing *Arlington Heights*, 429 U.S. at 267). The “history of race discrimination and recent patterns of official discrimination” is particularly relevant. *McCrorry*, 831 F.3d at 223. Here, the historical background of the school names supports that the School Board acted with discriminatory intent when it restored the Confederate School names.

51. The names Stonewall Jackson and Ashby-Lee were chosen as part of a pattern of honoring Confederate leaders to signal support for White supremacy. Stonewall Jackson, Robert E. Lee, and Turner Ashby are best known for fighting in support of the Confederacy. FOF ¶ 23 (*citing* Testimony of Brig. Gen. Ty Seidule, ECF No. 244, at 194:16-24; Seidule Expert Report, ECF No. 242-64, 12; Testimony of Dennis Barlow, ECF No. 247, at 137:11-21, 138:06-16). Because these specific names—Stonewall Jackson, Robert E. Lee, and Turner Ashby—are key figures in the Lost Cause/White supremacist mythos, their names are symbols of a belief in the inferiority of Black people. FOF ¶¶ 249-50, 394 (*citing* NAACP Resolution ECF No. 242-124; NAACP Resolution, ECF No. 242-104; Testimony of Cozy Bailey, ECF No. 246, at 218:21-23, 224:05-07; Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 97:17-98:07, 99:02-04, 103:10-20). Lee and Jackson in particular were the Christ- and disciple-like figures of the Lost Cause movement, and proponents of the Lost Cause commemorated them in innumerable ways, including by naming cities, counties, streets, and schools after them. FOF ¶¶ 28-29 (*citing* Testimony of Brig. Gen. Ty Seidule, ECF No. 244, at 176:21-25, 177:01-16, 185:05-25, 186:01-12; Seidule Expert Report, ECF No. 242-64, at 7-9).

52. The honoring of Confederate leaders by placing their names on schools was also part of a broader national effort by supporters of the “Lost Cause” to reframe the historic context of slavery and the Civil War and to signal a belief in White supremacy. FOF ¶ 62 (*citing* Daugherity Expert Report, ECF No. 242-66, at 13-14; Testimony of Brig. Gen. Ty Seidule, ECF No. 244, at 184:13-20; Testimony of Dr. Brian Daugherity, ECF No. 244, at 254:21-255:11; Testimony of Dr. Brian Daugherity, ECF No. 245, at 38:17-39:04). Lost Cause proponents commemorated Confederate leaders in part to establish a visible symbol, often outside courthouses and schools, that the “the white tribe was back in the saddle,” dominating political and educational life. FOF ¶ 32 (*citing* Testimony of Brig. Gen. Ty Seidule, ECF No. 244, at 186:14-25, 187:01-08; Seidule Expert Report, ECF No. 242-64, at 11). Confederate commemorations also served to educate the next

generation of their “heritage,” uniting White citizens around the values of the Confederacy and perpetuating the Lost Cause myth. FOF ¶ 33 (*citing* Seidule Expert Report, ECF No. 242-64, at 11).

53. Even Defendant’s last-minute attempt to suggest that the names were not originally selected not for their message of racial oppression, but merely to reflect White County resident Coiner Rosen’s interest in Confederate military history, *see* Testimony of Gloria Carlineo, ECF No. 248, at 143:16-144:06; 161:18-162:13, 162:18-22, 194:05-08), collapses under scrutiny. The record shows that Rosen was an avowed segregationist who explicitly likened Virginia’s Massive Resistance to school integration to the Confederacy’s resistance during the Civil War. FOF ¶ 80 (*citing* Rosen Letter to Editor, ECF No. 242-213). He likely flew Confederate flags as the school’s foundation was laid to protest desegregation. FOF ¶ 80 (*citing* First Joint Statement of Stipulated Facts, ECF No. 242-1, at #5; SJHS Images, ECF No. 242-47).

54. The evidence also demonstrates that the School Board, in 2024, was well-aware of the discriminatory legacy animating the Confederate school names when it voted to restore them. The School Board, just four years earlier, had voted to retire the Confederate names precisely because of that discriminatory history, FOF ¶¶ 124-127 (citations to the record omitted), and public commentary and correspondence to the School Board, including from Plaintiffs and the VA NAACP also put the School Board on notice of the discriminatory nature of the school names. FOF ¶¶ 201, 202, 204, 252, 259-261, 272-274, 276-278, 280-282, 321-324, 347, 370, 376 (citation to the record omitted).

55. The Court concludes that evidence at trial binds the historical record of the School Board’s discriminatory actions with their current intent. The historical background animating the history of the Confederate school names in Shenandoah County “tend[s] to show that race has played a role” in the School Board’s naming of the schools at issue. *City of Myrtle Beach*, 476 F. Supp. 3d at 322. The broader context of the use of Confederate names and icons to symbolize racial

oppression supports the same. The evidence thus indicates that the School Board acted with discriminatory intent when it restored the names in May 2024.

2. The Sequence of Events, Beginning with the Defendant's Retirement of the Confederate Names in 2020, Demonstrates That the School Board Acted with Discriminatory Intent.

56. Under *Arlington Heights*, courts next look at the “specific sequence of events leading up to the challenged decision,” including contemporary statements of the decisionmakers at the time of passage. 429 U.S. at 266-68. Sudden policy shifts can be suggestive of discriminatory intent. *See McCrory*, 831 F.3d at 227-29; Motion to Dismiss Opinion (“MTD Op.”), ECF No. 61, at 31.

57. Here, the sequence of events leading up to the reinstatement of the Confederate school names is “devastating.” *McCrory*, 831 F.3d at 227. The School Board embraced and championed the school names it had found to be discriminatory a mere four years earlier, without any justification or explanation negating the discriminatory impact of the names.

58. Defendant School Board voted to retire the Confederate school names in 2020, expressly acknowledging the historical record, the enduring discriminatory legacy associated with those names, and their traumatizing impact on Black students. FOF ¶¶ 114-115, 124-132 (*citing* Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #157; First Joint Statement of Stipulated Facts, ECF No. 242-1, at #14; SCSB Meeting Agenda, ECF No. 242-20, at 10; School Board Resolution, ECF No. 242-42; Third Joint Statement of Stipulated Facts, ECF No. 242-3, at #82-83) (remaining citations to the record omitted); MTD Op., ECF No. 61, at 30.

59. The record demonstrates that the School Board's 2020 decision to retire the Confederate school names did not occur in isolation, but rather as part of a well-documented sequence of events catalyzed by the nationwide racial justice movement that followed the killing of George Floyd in the summer of 2020. FOF ¶¶ 102-104 (*citing* Testimony of Kay Doe, ECF No. 244, at 59:07-09, 59:15-22). As the Board itself recognized at the time, that period marked a broader

reckoning with racism and discrimination—nationally, within Virginia, and within Shenandoah County—that brought renewed scrutiny to longstanding symbols of Confederate commemoration in public institutions as symbols that communicated racial animus to Black community members. FOF ¶¶ 103-134 (citations to the record omitted).

60. Defendant School Board formally recognized the Confederate names had been adopted to promote segregation and Black inferiority. FOF ¶¶ 124, 129, 131 (*citing* First Joint Statement of Stipulated Facts, No. ECF No. 242-1, at #21; Testimony of Kay Doe, No. ECF No. 244, at 71:15-22, 89:08-12; Testimony of Dennis Barlow, No. ECF No. 247, at 143:07-17; SCSB Meeting Video Transcription, ECF No. 242-28). Defendant School Board publicly remarked that it was impossible to detach the Stonewall Jackson and Ashby-Lee names from their racist and discriminatory connotations, and that retaining the names would mean encouraging a school ethos marked by “inequality and racism.” FOF ¶¶ 124, 129 (*citing* First Joint Statement of Stipulated Facts, ECF No. 242-1 at #21; Third Joint Statement of Stipulated Facts, ECF No. 242-3, at #83; Testimony of Kay Doe, ECF No. 244, at 73:18-74:07; SCSB Meeting Video Transcription, ECF No. 242-28). And in July 2020, acknowledging the discriminatory nature of the school names, Defendant School Board approved the removal of the Confederate names from Stonewall Jackson High School and Ashby-Lee Elementary School. FOF ¶ 119 (*citing* SCSB Meeting Minutes, ECF No. 242-19, at 5-6; SCSB Meeting Agenda, ECF No. 242-20, at 15; Testimony of Kay Doe, ECF No. 244, at 59:07, 67:08-09, 71:01-04; Testimony of Brandi Rutz,² ECF No. 246, at 265:06-09; Testimony of Dennis Barlow, ECF No. 247, at 142:24-143:06).

² Testimony of Brandi Rutz was submitted by deposition designation and a video of the designated portions was played at trial. The designations in transcript form were admitted as ECF No. 242-188 and the video was admitted as PTX-0339B.

61. Indeed, retiring the Confederate names furthered the School Board's goal of "condemning racism and affirming the division's commitment to an inclusive school environment for all." FOF ¶ 123 (*citing* Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #157; Testimony of Kay Doe, ECF No. 244, at 74:21-25; Testimony of Dennis Barlow, ECF No. 247, at 144:05-08; Joint Deposition Designations for Melody Sheppard, ECF No. 242-62, at 55:11-16). The action item voted upon by the School Board at the July 9, 2020 meeting explicitly stated that the Confederate school names were retired to "condemn[] racism." FOF ¶ 113 (*citing* School Board Resolution, ECF No. 242-42; First Joint Statement of Stipulated Facts, ECF No. 242-1, at #14; SCSB Meeting Agenda, ECF No. 242-20, at 10; School Board Resolution, ECF No. 242-42).

62. The evidence shows that the School Board's decision to retire the Confederate school names prompted an organized backlash by individuals who opposed the racial justice movement and viewed the removal of Confederate symbols as a threat to their preferred historical narrative, many asserting unfounded complaints about the Board's process. FOF ¶¶ 134, 154-183 (*citing* Testimony of Kay Doe, ECF No. 244, at 93:04-20; Testimony of Lewis Michael Scheibe,³ ECF No. 245, at 186:16-24; Testimony of Dennis Barlow, ECF No. 247, at 153:22-154:15; Emails between Brandi Rutz and Freedom Press, ECF No. 242-137; W. Denman Zirkle Emails to Kyle Gutshall, Brandi Rutz, and Dennis Barlow, ECF No. 242-115) (remaining citations to the record omitted).

63. Three individuals who opposed retiring the Confederate names were elected to the School Board the next year. FOF ¶ 157 (*citing* Testimony of Dennis Barlow, ECF No. 247, at 97:21-22; Dennis Barlow Statement to School Board, ECF No. 242-107; Brandi Rutz Facebook Post, ECF

³ Testimony of Lewis Michael Scheibe was submitted by deposition designation and a video of the designated portions was played at trial. The designations were admitted in transcript form as ECF No. 242-187 and the video was admitted as PTX-0338B.

No. 242-132; Testimony of Kyle Gutshall, ECF No. 247, at 219:18-20). In 2022, immediately after assuming their positions, those members sought to undo the 2020 decision, but their effort failed. FOF ¶¶ 177, 179 (*citing* SCSB Meeting Minutes, ECF No. 242-24, at 9-12). Members of the new Board were successful in their effort to replace the Board’s attorney, who espoused “liberal positions” regarding the name change, with new counsel who “sa[id] the right things.” FOF ¶¶ 167-169 (*citing* Emails between Brandi Rutz and Freedom Press, ECF No. 242-137, at 1; Testimony of Dennis Barlow, ECF No. 247, at 165:11-23, 170:12-20). This action was likely taken because the Board expected its reinstatement of the Confederate school names would violate the law. FOF ¶¶ 170, 229 (*citing* Emails between Brandi Rutz and Freedom Press, ECF No. 242-137, at 1-2; Testimony of Kay Doe, ECF No. 244, at 110:20-111:25).

64. By 2024, the 2020 School Board had been replaced with a new slate of members—all of whom had opposed the 2020 School Board’s retirement of the Confederate school names. *Supra* ¶ 63; FOF ¶¶ 185, 187-189 (*citing* Testimony of Dennis Barlow, ECF No. 247, 97:23-98:02; Gloria Carlineo Facebook Post, ECF No. 242-178; Michael Rickard Email to Gloria Carlineo, ECF No. 242-171; Testimony of Michael Scheibe, ECF No. 245, at 236:21-237:21). Almost immediately, the newly constituted Board set out to readdress the issue of the school names. FOF ¶¶ 189, 203 (*citing* Third Joint Statement of Stipulated Facts, ECF No. 242-3, at #86; SCSB Meeting Agenda, ECF No. 242-21, at 22-24).

65. This resulted in a “strange-about face,” whereby the School Board voted in May 2024 to reinstate the Confederate school names that it had itself repudiated as discriminatory a mere four years prior. *Mi Familia Vota v. Hobbs*, 608 F. Supp. 3d 827, 867 (D. Ariz. 2022). No new information had emerged between the vote to retire the Confederate school names in 2020 and the vote to reinstate the Confederate school names in 2024 that would negate the fact the School Board acknowledged in 2020 that the Confederate names have a discriminatory effect on Black students

and families. FOF ¶ 214 (*citing* Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #201; SCSB Meeting Video Transcription, ECF No. 242-25 (no evidence was presented at the meeting to negate Defendant’s finding in 2020 that the Confederate school names were discriminatory)).

66. In fact, the evidence demonstrates that the School Board continued to receive evidence of the discriminatory effect of the Confederate names. During the open session of the May 9, 2024 School Board meeting, the Board heard over three hours of public comment from 78 individuals, most of whom opposed reinstatement of the Confederate names, including students from Mountain View High School and Massanutten Regional Governor’s School. FOF ¶¶ 206-207 (*citing* First Joint Statement of Stipulated Facts, ECF No. 242-1, at #32-33; SCSB Meeting Minutes, ECF No. 242-18, at 2-14; SCSB Meeting Video Transcription, ECF No. 242-25, at 13-144; SCSB Meeting Video, PTX293 (admitted 12/11/2025), at 01:11:48-04:26:40). Board members heard statements from Black students and community members objecting to the Confederate school names and explaining that they found the names discriminatory and harmful. FOF ¶ 209 (*citing* SCSB Meeting Minutes, ECF No. 242-18, at 2-14; SCSB Meeting Video Transcription, ECF No. 242-25, at 13-144; SCSB Meeting Video, PTX293 (admitted 12/11/2025); Testimony of Dennis Barlow, ECF No. 247, at 197:18-198:10; Testimony of Kay Doe, ECF No. 244, at 100:07-101:20; Testimony of A.D. Carter, ECF No. 246, at 62:08-10; Testimony of Gloria Carlineo, ECF No. 248, at 182:19-23).

67. The election of new members of the School Board cannot explain away Defendant’s action because “[d]iscriminatory purpose for constitutional analysis is to be gleaned not from individual officials but from the relevant governmental institutions.” *Vaughns v. Bd. of Educ. of Prince George’s Cnty.*, 574 F. Supp. 1280, 1370 (D. Md. 1983), *aff’d in part, rev’d in part on other grounds*, *Vaughns by Vaughns v. Bd. of Educ. of Prince George’s Cnty.*, 758 F.2d 983 (4th Cir. 1985) (*quoting United States v. Bd. of Sch. Comm’rs of Indianapolis*, 573 F.2d 400, 412-13 (7th Cir. 1978)). The School Board’s prior

recognition that the Confederate names are racist is fairly attributable to the School Board as a whole, regardless of change in membership.

68. Moreover “elections have consequences, but winning an election does not empower anyone in any party to engage in purposeful racial discrimination.” *McCrorry*, 831 F.3d at 226. It matters not at all to their liability if Defendant School Board members were elected to carry out discriminatory action; the law prevents them from doing so. Constitutional rights “withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities.” *W.Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 638 (1943).

69. This “suspicious narrative” cannot be cast in an “innocuous light.” *McCrorry*, 831 F.3d at 228. The Court finds that the sequence of events leading up to the reinstatement of the names demonstrates the Defendant’s discriminatory intent. In particular, Defendant School Board’s concerted campaign to restore the Confederate school names despite no evidence negating their discriminatory impact and the apparent knowledge that doing so was likely illegal shows that Defendant’s actions were a backlash to the 2020 School Board’s decision to advance racial equity in the schools—much like the original namings were a backlash to desegregation and the Civil Rights Movement.

3. The Legislative History, Including Contemporaneous Statements of the School Board in 2020, 2022, and 2024, Demonstrate That the School Board Acted with Discriminatory Intent.

70. Discriminatory intent can be inferred from the “legislative or administrative history.” *Arlington Heights*, 429 U.S. at 266-68; MTD Op., ECF No. 61, at 32, and the Supreme Court has recognized that “statements made by decisionmakers . . . during deliberation” may constitute relevant evidence of discriminatory intent. *City of Cuyahoga Falls v. Buckeye Cmty. Hope Found.*, 538 U.S. 188, 196-97 (2003). Contemporaneous statements and reports “may be highly relevant” to Defendant’s intent. *McCrorry*, 831 F.3d at 229.

71. Here, the administrative record from the 2020 and 2024 School Board meetings discussing the retirement and restoration of the school name supports a finding that the School Board acted with discriminatory intent.

72. First, contemporaneous statements by 2020 School Board members confirmed that the School Board voted to retire the Confederate school names precisely because of their harmful and racially discriminatory effect on Black students.

73. Board Member Andrew Keller explained his vote to retire the Confederate school names by recognizing the strong historical ties the name Stonewall Jackson evokes and admitted that: “You can’t keep a name and remove racist implications from it. You can’t claim to be inclusive, which we do, and have students who feel like they’re excluded.” FOF ¶ 125 (*citing* SCSB Meeting Video Transcription, ECF No. 242-28).

74. At that same meeting, Board Member Keller, in consideration of the Black students’ concerns about Confederate school names, further emphasized: “Which is more important? Someone’s heritage regarding a school name or someone’s inclusion into that school, their right to feel welcome?” FOF ¶ 130; First Joint Statement of Stipulated Facts, ECF No. 242-1, at #22; Testimony of Kay Doe, ECF No. 244, at 71:23-72:03; SCSB Meeting Minutes, ECF No. 242-19; SCSB Meeting Video Transcription, ECF No. 242-28; SCSB Meeting Video, PTX290 (admitted 12/11/2025).

75. Board Member Cynthia Walsh likewise explained that alumni—Black, biracial, and White—came forward with accounts of racism and racial tension that made the issue pressing. She stated: “Some endured outright racism. Some endured other racial tensions.” FOF ¶ 129 (*citing* ECF No. 242-19; SCSB Meeting Video Transcription, ECF No. 242-28).

76. Board Member Walsh further acknowledged the historical context in which Stonewall Jackson High School was named, noting that naming a school after a Confederate general

during the era of Massive Resistance “would send a clear message to Black families that they were not welcomed.” She concluded: “Here we are, present day, and we’re still struggling to make sure that every student in our school feels safe, welcome, and included.” FOF ¶ 130 (*citing* SCSB Meeting Video Transcription, ECF No. 242-28).

77. The record further demonstrates that the School Board was told, repeatedly in both written and oral comments, about the discriminatory impact of the Confederate school names. FOF ¶¶ 118, 127, 131, 184, 206-209, 261 (citations to record omitted). This happened in 2020, FOF ¶¶ 118, 127, 131 (citations to record omitted), during the failed vote to reinstate the Confederate school names in 2022, FOF ¶ 184 (citations to record omitted), and leading up to and during the May 2024 vote, FOF ¶¶ 206-209, 261 (citations to record omitted).

78. Perhaps most significant, however, are the contemporaneous statements by members of the 2024 Defendant School Board, which demonstrate that the School Board unequivocally considered race when voting to reinstate the Confederate school names; demonstrate that Defendant had knowledge of the discriminatory impact of the school names; and, in the case of some members, demonstrate their apathy or antagonism towards the perspectives of Black students and their families.

79. That the School Board considered race as a factor in its vote is evident in the statements made during the May 10, 2024 meeting. For example, Board Chairman Dennis Barlow acknowledged the uniquely adverse impact on Black students: “[Y]es, I did say that I would feel unsettled if I were Black and going through this. Are you kidding? Of course I would be.” FOF ¶ 225 (*citing* SCSB Meeting Video Transcription, ECF No. 242-25).

80. Immediately following the May 10, 2024 School Board vote to reinstate the school names Stonewall Jackson High School and Ashby-Lee Elementary School, Board Chairman Dennis Barlow discussed Massive Resistance and openly admitted that the original naming decision in 1959

was motivated by discriminatory intent: “I understand some of those things really happened. They’re not fiction, that there were people using the school system at that point for kind of a last-ditch effort to save what they saw as their world.” FOF ¶ 224 (*citing* SCSB Meeting Video Transcription, ECF No. 242-25, at 190-191).

81. Prior to the vote, Chairman Barlow similarly acknowledged: “If I were looking through the eyes of a black student or parent I’d be unsettled, I’d be unsettled about going back.” FOF ¶ 224 (*citing* Second Joint Statement of Stipulated Facts, ECF No. 242-2, at #72; SCSB Meeting Minutes, ECF No. 242-33).

82. At the May 10, 2024 School Board meeting, after listening to hours of testimony from Black community members sharing their personal experiences with racism and oppression and its connection to the Confederate school names, Board member Gloria Carlineo’s remarks after voting to restore the names reflected her consideration of race. She acknowledged current racial divisions among Blacks and Whites tied to the historical oppression of Black people in this country, but then dismissed the validity of those experiences because “we’ve had a Black President, a Black Attorney General, and some of our richest billionaires are in fact Black. FOF ¶ 220 (*citing* SCSB Meeting Video Transcription, ECF No. 242-25, at 173-174). She continued to disregard Black community members’ public comments when she stated: “If you really want to stop this racism and prejudice, stop playing racism and prejudice into everything.” FOF ¶ 221 (*citing* SCSB Meeting Video Transcription, ECF No. 242-25, at 196).

83. Similarly, at the May 10, 2024 School Board meeting, following his vote to restore the names, Thomas Streett stated that he does not talk about racism “because [he doesn’t] believe in it,” utterly disregarding the public comments from Black students and community members. FOF ¶ 217 (*citing* SCSB Meeting Video Transcription, ECF No. 242-25, at 199).

84. These statements reflect the School Board’s discriminatory intent, particularly given the focus at the meeting on how the names impacted Black students and community members. *See City of Myrtle Beach*, 476 F. Supp. 3d at 324 (finding a genuine issue of material fact with respect to the City’s discriminatory intent where there was similar evidence of racially inflammatory language, such as, “[n]obody cares about the race card”).

85. The contemporaneous statements from the one School Board member who voted against reinstating the Confederate school names is also instructive. School Board Vice-Chair Kyle Gutshall acknowledged that race was a factor that the School Board considered. For him, consideration of this factor led to his vote against the names: he emphasized the importance of students feeling welcome, and acknowledged the importance of the perspective of a Black student who spoke against reinstatement, stating that the Board “had to consider that” in making such a decision. FOF ¶¶ 227-228 (*citing* Testimony of Kyle Gutshall, ECF No. 247, at 246:01-04, 247:07-22; Kyle Gutshall May 2024 News Interview, ECF No. 242-165, at 02:42-03:05).

86. The full and contemporaneous record of the challenged School Board action is “highly relevant.” *Arlington Heights*, 429 U.S. at 268. *See also McCrory*, 831 F.3d at 229. Defendant School Board’s contemporaneous statements and the administrative record further support this Court’s finding that Defendant acted with discriminatory intent when it voted to reinstate the Confederate school names.

4. Defendant’s Departure from Normal Procedures Is Further Evidence of Discriminatory Intent.

87. *Arlington Heights* makes clear that “[d]epartures from the normal procedural sequence . . . might afford evidence that improper purposes are playing a role.” 429 U.S. at 267. “[A] legislature need not break its own rules to engage in unusual procedures.” *McCrory*, 831 F.3d at 228.

88. Here, examples of Defendant's departures from standard procedures before, during, and after the 2024 vote abound, and this factor, too, weighs in favor of finding that Defendant acted with discriminatory intent.

89. Defendant's entanglement with the Coalition for Better Schools as a key driver of the reinstatement of the Confederate school names is rife with anomalies. The May 9, 2024 agenda item that resulted in the vote to restore the school names was based on an April 9, 2024 request from the Coalition. FOF ¶¶ 189, 203 (*citing* Coalition for Better Schools Letter, ECF No. 242-74, at 1-2; SCSB Meeting Agenda, ECF No. 242-21, at 22-24; Testimony of Dennis Barlow, ECF No. 247, at 151:08-15; Testimony of Kyle Gutshall, ECF No. 247, at 233:13-16, 249:05-12; Testimony of Gloria Carlineo, ECF No. 248, at 175:21-25); Testimony of Kay Doe, at 83:23-84:11; Joint Deposition Designations for Melody Sheppard, ECF No. 242-62, at 19).

90. But Defendant's involvement with the Coalition did not begin with the April 2024 request. Rather, School Board members who voted to restore the names, as well as other Shenandoah County Public School system officials, had been meeting, planning, and coordinating with Coalition members for years leading up to the vote. FOF ¶¶ 160, 162, 166-170 (*citing* Emails between Brandi Rutz and Freedom Press, ECF No. 242-137; W. Denman Zirkle Emails to Kyle Gutshall, Brandi Rutz, and Dennis Barlow, ECF No. 242-115; Emails between Dennis Barlow and Joce Boblink, ECF No. 242-163; Emails between Rick Moomaw and Dennis Barlow, ECF No. 242-113; Testimony of Dennis Barlow, ECF No. 247, at 152:15-19, 153:06-155:16, 160:16-161:07, 162:16-165:23, 174:01-14, 174:24-175:04). The Superintendent of Shenandoah County Public Schools attended a meeting hosted by the Coalition shortly after her nomination, at the invitation of School Board member Marty Helsley. FOF ¶ 166 (*citing* Joint Deposition Designations for Melody Sheppard, ECF No. 242-62, at 98:22-25, 99:1-25, 100:1-25, 101:1-25, 102:1-22).

91. The School Board's public discussion of a survey conducted by the Coalition is also anomalous. FOF ¶ 199 (*citing* Testimony of Gloria Carlineo, ECF No. 248, at 178:08-14; Fifth Joint Statement of Stipulated Facts, at #154; Joint Deposition Designations for Melody Sheppard, ECF No. 242-62, at 82:18-83:01). The survey itself was replete with obvious methodological weaknesses and clearly designed to create the impression of near-unanimous public support for the name restoration. FOF ¶¶ 195-198 (citations to the record omitted). It was known that the Coalition was not a neutral party. FOF ¶ 200 (*citing* Testimony of Dennis Barlow, ECF No. 247, at 185:07-15). The School Board did not conduct any due diligence on the Coalition for Better School to assess their skills or training to develop clear and fair questions or conduct a reliable and measurable survey, or on the Coalition's leadership and survey organizer, Michael Scheibe, to evaluate his honesty or integrity. FOF ¶¶ 192-194 (*citing* Testimony of Dennis Barlow, ECF No. 247, at 181:20-182:17; Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #191-193). In fact, the survey suffered from numerous deficiencies, including facial biases that its author admitted could have suppressed responses. FOF ¶¶ 195-197 (citations to the record omitted). There is even direct evidence that individuals opposed to reinstating the Confederate names expressed fear of retaliation or harassment for filling out the survey. FOF ¶ 198 (*citing* Testimony of Lewis Michael Scheibe, ECF No. 245, at 208:21-209:06, 210:07-10, 212:5-10, 212:22-25, 213:6-22). The School Board's consideration of the Coalition survey also departed from the Board's prior approach of engaging professionally designed and independently administered surveys by the Hanover Group after a full Board vote. FOF ¶¶ 161-174 (*citing* Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #182-183; Dennis Barlow Email to Constituent, ECF No. 242-109; Testimony of Dennis Barlow, ECF NO. 247, at 149:16-19, 150:22-151:07, 180:08-09). This shows that Defendant was not interested in assessing the public's genuine perspective on the issue, but intended to force the vote through regardless of public sentiment.

92. Defendant's involvement with the Coalition did not end with the 2024 vote, either. The Coalition funded the name change. FOF ¶ 190 (*citing* Testimony of Lewis Michael Scheibe, ECF No. 245, at 234:03-07; Testimony of Dennis Barlow, ECF No. 247, at 151:16-19). And Defendant granted the Coalition—a private organization devoted to partisan political causes in Shenandoah County—authority to select, oversee, and compensate contractors responsible for implementing the name change. FOF ¶ 231 (*citing* Joint Deposition Designations for Melody Sheppard, ECF No. 242-62, at 104:15-105:25, 106:1-107:21; 116:13-126:19; Testimony of Michael Dorman, ECF No. 248, at 38:15-39:03, 70:19-71:11, 71:11-72:07, 73:6-74:03). Defendant School Board granted the Coalition's leader, Michael Scheibe, authority to implement the name change, including to appear on school property. FOF ¶ 231 (*citing* Testimony of Michael Dorman, ECF No. 248, at 71:11-25, 72:01-07, 73:06-25, 74:01-03).

93. This entanglement is different from how the School Board engaged with other community groups on the issue of the school names. The School Board received an alternative request, with 450 signatures, to maintain the names Mountain View High School and Honey Run Elementary School from a group called "Claim the Names" just five days later. FOF ¶ 201 (*citing* Claim the Names Email to School Board, ECF No. 242-141, at 3-5; Testimony of Kyle Gutshall, ECF No. 247, at 249:13-250:18). Defendant added the Coalition's request, but not Claim the Names' request, to the agenda, despite the fact that both requests were valid ways to ask for an agenda item to be added to a School Board agenda. FOF ¶¶ 204-205 (*citing* Testimony of Kyle Gutshall, ECF No. 247, at 250:19-25, 262:10-16; SCSB Meeting Agenda, ECF No. 242-21). This differed from the 2020 vote to retire the school names, where the School Board considered dueling resolutions: one to change the names and one to postpone taking action. FOF ¶ 5 (*citing* July 9, 2020 School Board Meeting Minutes, ECF No. 242-151, at 5-6).

94. The School Board’s implementation of the Confederate school names reinstatement also deviated from its standard practice. Following the initial vote to retire the Confederate school names, the School Board engaged in a year-long process, governed by School Board policy, to solicit community input and vote on new names. FOF ¶¶ 143-151 (*citing* School Board Process for Renaming Schools/Mascots, ECF No. 242-43, First Joint Statement of Stipulated Facts, ECF No. 242-1, at #25-26; Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #150, 175; Joint Deposition Designations for Melody Sheppard, ECF No. 242-62, at 30-31, 58:12-14; Testimony of Kay Doe, ECF No. 244, at 75:22-76:21). In contrast, the School Board followed none of these procedures in 2024. Instead, by May 31, 2024—less than three weeks after the vote—signs bearing the Confederate names were back in place throughout the schools. FOF ¶¶ 230 (*citing* Texts Between A.D. and Kim Carter, ECF No. 242-103, at 2; Testimony of Kay Doe, ECF No. 244, at 110:11-29). The work was paid for and done by the Coalition for Better Schools. FOF ¶¶ 190, 231 (*citing* Testimony of Lewis Michael Scheibe, ECF No. 245, at 234:03-07; Testimony of Dennis Barlow, ECF No. 247, at 151:16-19; Joint Deposition Designations for Melody Sheppard, ECF No. 242-62, at 104:15-105:25, 106:1-107:21; 116:13-126:19; Testimony of Michael Dorman, ECF No. 248, at 38:15-39:03, 70:19-71:11, 71:11-72:07, 73:6-74:03). The names Stonewall Jackson High School and Ashby-Lee Elementary School were again in use before the 2024-2025 school year began. FOF ¶ 224; First Joint Statement of Stipulated Facts, ECF No. 242-1, at #43-44).

95. Together, these procedural anomalies demonstrate “that improper purposes are playing a role” in the reinstatement of the Confederate names—providing further evidence that Defendant acted with discriminatory intent. *McCrorry*, 831 F.3d at 204, 227.

5. The School Board’s Decision to Reinstate the Confederate School Names Is Unexplainable on Grounds Other Than Race.

96. A policy that is “unexplainable on grounds other than race” also supports that such a policy was enacted with discriminatory intent. *Arlington Heights*, 429 U.S. at 266-67. Here, the

school names themselves are so inextricably bound up with racial discrimination in Shenandoah County that restoring them can only be understood as a decision about race.

97. As the Fourth Circuit has explained, “[t]he confederate flag is a symbol of racial separation and oppression. And, unfortunately, as uncomfortable as it is to admit, there are still those today who affirm allegiance to the confederate flag precisely because, for them, that flag is identified with racial separation.” *United States v. Blanding*, 250 F.3d 858, 861 (4th Cir. 2001) (Luttig, J.)

98. Like the Confederate flag, and as discussed further above in Section I.A., the names Stonewall Jackson, Robert E. Lee, and Turner Ashby are also symbols of “racial separation and oppression.” *Id.*; FOF ¶¶ 15-23, 28, 125-132, 249-251, 391-399 (*citing* NAACP Resolution ECF No. 242-124; NAACP Resolution, ECF No. 242-104; Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 81:20-82:15, 96:20-97:11, 97:17-98:07, 99:02-04, 99:21-100:07, 103:10-20, 108:04-07, 114:7-117:7; Testimony of Michael Dorman, ECF No. 245, at 61:04-25 (as principal, Mr. Dorman decided to remove the Confederate flag from the floor of the high school’s gymnasium because “hate groups, Nazis and folks, [] would use that flag”)) (remaining citations to the record omitted). The original naming of the schools is bound up with Shenandoah’s sordid resistance to school desegregation. FOF ¶ 74 (*citing* SCSB Meeting Minutes, ECF No. 242-50, at 1, 6; Testimony of Dr. Brian Daugherty, ECF No. 245, at 11:05-11); FOF ¶¶ 63-73 (citations to the record omitted).

99. Indeed, the School Board’s decision to retire the names in 2020 was done in recognition of the fact that the names were a reflection of racial injustice, and to address the discriminatory effect of the names on Black students and community members. FOF ¶¶ 124-132 (*citing* Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #157; Testimony of Kay Doe, ECF No. 244, at 89:08-12; Testimony of Dennis Barlow, ECF No. 247, at 143:07-17) (remaining citations to the record omitted).

100. The evidence also demonstrates that the School Board keenly understood how the Confederate school names were symbols of racial oppression. It so acknowledged at the time it voted to reinstate the school names. Members of Defendant School Board heard concerns from Black community members that the Confederate school names were hurtful, made them feel unwelcome in the community, and promoted a discriminatory environment. FOF ¶ 216 (*citing* Testimony of Dennis Barlow, ECF No. 247, at 139:03-140:05, 197:25-198:10; Testimony of Brandi Rutz, ECF No. 246, at 294:16-19; Testimony of Gloria Carlineo, ECF No. 248, at 136:15-137:04). School Board Chairman Dennis Barlow understood that the schools at issue in this case were originally named during the period of Massive Resistance to school desegregation. FOF ¶ 224 (*citing* Testimony of Dennis Barlow, ECF No. 247, at 199:12-19). Chairman Barlow also understood that the Confederate school names were removed in 2020 as part of the School Board's efforts to condemn racism because the School Board found the names were discriminatory and had a negative impact on Black students. FOF ¶ 7 (*citing* Testimony of Dennis Barlow, ECF No. 247, at 143:07-144:08).

101. Yet, members of Defendant School Board voted to reinstate Confederate school names with full awareness of the symbolism they carried, and despite hearing from a number of Black students and Black families that the names were harmful. FOF ¶ 216 (citations to the record omitted).

102. Even more telling, multiple School Board members testified that despite the consistent and voluminous comments from Black students and their families about the discriminatory nature of the school names, School Board members discounted their feelings, falsely equated the discriminatory harms with the feeling of White community members who were upset that the school name changed, and refused to credit the experiences of Black students as "real" discrimination. FOF ¶ 210 (citations to the record omitted); *see* FOF ¶ 398 (*citing* Testimony of Dr.

Adiaha Spinks-Franklin, ECF No. 246, at 99:21-100:02 (White people in regions where Confederate icons are present have reported a lack of empathy for Black people’s experiences with Confederate iconography). The School Board ignored a letter from the VA NAACP, signaling that the School Board found its concerns about race discrimination resulting from the names to be insignificant. FOF ¶¶ 261-262 (*citing* Testimony of Cozy Bailey, ECF No. 246, at 211:05-10, 213:01-07, 216:25-217:07; Karen Jones Email to School Board, ECF No. 242-116, at 1).

103. The Court therefore concludes that Defendant voted to reinstate the Confederate school names in May of 2024, at least in part because of the discriminatory history of the Confederate school names and the current-day impact of those names on Black students. While the fact that a given law or policy “may foreseeably have some adverse impact on a particular racial or ethnic group” is not enough on its own to show discriminatory intent, *see Coal. for TJ*, 68 F.4th at 883, the weight of the evidence here suggests that Defendant set out with a discriminatory purpose in mind. Put another way, given the evidence on how inextricably the Confederate school names are tied with race, and the full administrative record and testimony that Defendant acted with full knowledge of this, the Court finds that Defendant reinstated the school names precisely to have the discriminatory effect it had sought to avoid in 2020.

104. That the reinstatement of the Confederate school names was about race is further supported by the racial animus displayed by some members of Defendant School Board. “[W]hile the use of racial slurs, epithets, or other derogatory language does not alone prove discriminatory intent, it is evidence that official action may be motivated by such an unlawful purpose.” *La Unión Del Pueblo Entero v. Ross*, 353 F. Supp. 3d 381, 395. So too here.

105. Some members used racially charged phrases or “code words” when talking about Black people and people of color. *See, e.g.*, FOF ¶ 186 (*citing* Testimony of Gloria Carlineo, ECF No. 248, at 169:20-23, 170:16-172:23; Gloria Carlineo Article, ECF No. 242-59 (conveying then-School

Board candidate Gloria Carlineo’s view that: (1) “diversity and acceptance” were used as a “Trojan horse” to “introduce pot use and drug abuse, sexual immorality, and the rejection of traditional values”); Article by Gloria Carlineo, ECF No. 242-177, at 1-2 (conveying Gloria Carlineo’s view that the Black Lives Matter Movement was “intrinsically racist,” “[radically] extremist” and about “degradation” and that the Black Lives Matter Movement caused “the destruction of black communities during the riots, something even the KKK never did.”); FOF ¶ 162 (*citing* Emails between Rick Moomaw and Joce Boblink, ECF No. 242-163, at 1; Testimony of Dennis Barlow, ECF No. 247, at 154:16-155:16 (describing an email from School Board member Dennis Barlow regarding the creation of a logo for the Coalition for Better Schools, in which Barlow claims that an illustration “looks like a Mexican sharecropper looking for something (someone?) to cut. If you want to use stars, please don’t include the Mexican waif”) (cleaned up)); FOF ¶ 165 (*citing* Email from Jerry Jorgensen and Brandi Rutz, ECF No. 242-133, at 1; Testimony of Brandi Rutz, ECF No. 246, at 285:22-286:25 (email response from School Board member Brandi Rutz urging a constituent to “encourage the reduction of spending, especially to those minorities”)); FOF ¶ 161 (*citing* Dennis Barlow Campaign Facebook Post, ECF No. 242-58 (Dennis Barlow’s 2021 School Board campaign’s top ten priorities for the School Board included “Reject the forces of chaos which are using Critical Race Theory and Transgender issues to divide and destroy us.”)). The use of such racially coded language and racist innuendo “may provide evidence of discriminatory intent by sending a clear message and carrying the distinct tone of racial motivations and implications.” *Guimares v. SuperValu, Inc.*, 674 F.3d 962, 974 (8th Cir. 2012).

106. School Board members were also vocal that diversity and inclusion were not values to which they subscribe. School Board member Gloria Carlineo referred to diversity and inclusion as “trojan horses” to introduce the “rejection of traditional values that corrupt and change our society.” FOF ¶ 186 (*citing* Testimony of Gloria Carlineo, ECF No. 248, at 169:16-179:03). Dennis

Barlow dismissed concerns about racism and criticized public discourse addressing anti-Black discrimination following the death of George Floyd, asserting that “Blacks [were] blaming Whites for being White” and expressing his view that calls to support Black people were “unhelpful” and “damaging.” FOF ¶¶ 180-181 (*citing* Testimony of Dennis Barlow, ECF No. 247, at 185:17-186:01, 193:13-17; SCSB Meeting Minutes, ECF No. 242-24, at 12; SCSB Meeting Video Transcription, ECF No. 242-26, at 175). This, too, is racially coded language that demonstrates discriminatory animus. “After all, the opposite of inclusion is exclusion; the opposite of equity is inequity; and, at least in some forms, the opposite of diversity is segregation.” *Nat’l Ass’n of Diversity Officer s in Higher Educ. v. Trump*, 781 F. Supp. 3d 380, 386 (D. Md. 2005) (vacated on other grounds).

107. The evidence before the Court, evaluated under *Arlington Heights* and its progeny, demonstrates unequivocally that race was a motivating factor in Defendant School Board’s decision to reinstate the Confederate school names. “Any individual piece of evidence can seem innocuous when viewed alone, but gains an entirely different meaning when considered in context.” *McCrorry*, 831 F.3d at 233. Here, the totality of the evidence is damning.

108. Because Plaintiffs have met their burden, the burden shifts squarely to Defendant to prove that the challenged policy “would have been enacted without this factor.” *Hunter v. Underwood*, 471 U.S. 222, 228 (1985). “Once the burden shifts, a court must carefully scrutinize a state’s non-racial motivations to determine whether they alone can explain enactment of the challenged law.” *McCrorry*, 831 F.3d at 233 (*citing Arlington Heights*, 429 U.S. at 265-66). In making this determination, “a court assesses whether a law would have been enacted without a racially discriminatory motive by considering the substantiality of the state’s proffered non-racial interest and how well the law furthers that interest.” *McCrorry*, 831 F.3d at 233-34 (*citing Hunter*, 471 U.S. at 228-33). Defendant is required to show that the Confederate school names “would have been” reinstated “without

considerations of race,” not merely that there are legislative justifications are that are “plausible” and “not unreasonable.” *McCroy*, 831 F.3d at 234 (rejecting a district court’s use of a “rational-basis-like lens” when assessing state’s evidence after the burden had shifted).

109. Defendant cannot meet its burden. By invoking legislative privilege to shield Plaintiffs’ discovery into Defendant’s motivations in reinstating the names, Defendant was prevented at trial from offering “evidence or argument at trial as to the reasons for reinstating the [school] names.” ECF No. 215 at 4. Defendant’s evidence or testimony will not be considered as “relevant nor admissible on that issue of intent.” Trial Tr., Dec. 15, 2025 (Day 3), ECF No. 246 at 117:05. This self-created “evidentiary void,” Trial Tr., Dec. 16, 2025 (Day 3), ECF No. 247, at 261:01, is fatal to Defendant’s case. Because Defendant cannot show that the name change would have been enacted without this discriminatory purpose, and because Plaintiffs have satisfied their burden, the Court finds that race was a motivating factor in the Defendant’s reinstatement of the Confederate School names.

110. Because Defendant’s reinstatement of the Confederate school names disproportionately impacts Black students, including Plaintiffs and members of the VA NAACP, and because that impact is traceable to an invidious discriminatory intent, the Court concludes that Defendant’s action is “constitutionally suspect” and “subject to strict scrutiny review, in which event the state entity defending the challenged policy bears the burden of showing that its policy is “narrowly tailored to serve a compelling interest.” *Coal. for TJ*, 68 F.4th at 879. For the same reasons that Defendant cannot show its nondiscriminatory intent, it cannot demonstrate that the decision to

restore the Confederate names is narrowly tailored to serve a compelling interest. The record is devoid, as a result of Defendant's litigation choices, of any evidence to support their burden.⁴

111. Defendant's restoration of the Confederate school names at Stonewall Jackson High School and Ashby-Lee Elementary School violates the Equal Protection Clause. Because Plaintiffs have sufficiently demonstrated Defendant has violated Plaintiffs' rights under the Equal Protection Clause, they have also sufficiently demonstrated a violation of their rights under Title VI. *See Students for Fair Admissions, Inc.*, 600 U.S. at 198 n.2 (“We have explained that discrimination that violates the Equal Protection Clause of the Fourteenth Amendment committed by an institution that accepts federal funds also constitutes a violation of Title VI.”) (*quoting Gratz*, 539 U.S. at 276 n.23); FOF ¶ 2 (Shenandoah County Public Schools receive federal financial assistance for education and some extracurricular activities).

II. Reinstating the Confederate School Names Violates the Equal Educational Opportunities Act (EEOA).

112. The EEOA prohibits educational agencies from denying an equal educational opportunity to any individual on account of race. 20 U.S.C. §§ 1701 et seq. Denial of equal educational opportunity in violation of Section 1703(b) of the EEOA occurs when “an educational agency which has formerly practiced . . . deliberate segregation [fails] to take affirmative steps . . . to remove the vestiges of a dual school system,” *Jackson v. Waller Indep. Sch. Dist.*, 2009 U.S. Dist. LEXIS 88062, *37, and “current conditions within the District continue to require desegregation remedies.” *Stanley v. Darlington Cnty. Sch. Dist.*, 879 F. Supp.

⁴ As the Court noted during trial, there is a question, given Defendant's litigation choices, of “whether the rational basis test can even be satisfied in this case.” Trial Transcript, Dec. 17, 2025 (Day 5), ECF No. 248, at 117:23-118:01.

1341, 1412-13 (D.S.C. 1995), rev'd in part on other grounds, 84 F.3d 707 (4th Cir. 1996) (*citing Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526, 537 (1979)).

113. Students may still be denied equal educational opportunity under the EEOA even if they attend integrated programs that fail to remove the vestiges of the program's former dual system. *United States v. Sch. Dist. of Ferndale, Mich.*, 577 F.2d at 1345 n.7 (and accompanying text) (*quoting* 20 U.S.C. § 1703(b)). For an EEOA claim, "the existence of [a] former de jure dual school system [can] suppl[y] the necessary element of intentional discrimination and gives rise to the affirmative duty to eliminate all vestiges of the dual system," and "[p]ost-*Brown* actions that have the effect of increasing or perpetuating segregation constitute a violation of the affirmative duty." *Stanley*, 879 F. Supp. at 1412-13. "The remoteness in time of the school authorities' intentionally discriminatory actions is irrelevant." *Jacksonville Branch, NAACP v. Duval Cnty. Sch. Bd.*, 883 F.2d 945, 951 (11th Cir. 1989).

114. Under Section 1703(b), a plaintiff must prove the school district was "racially segregated by law at the time of *Brown P*" and that "current conditions within the school district continue to require desegregation remedies." *Stanley*, 879 F. Supp. at 1412. A presumption then arises that present conditions are causally related to the former dual school system unless Defendant can "show that the current segregation is in no way the result of ... past segregate actions" *Stanley*, 879 F. Supp. at 1412 (*citing Dayton Bd. of Educ.*, 443 U.S. at 537 and *Keyes v. Sch. Dist. No. 1*, 413 U.S. 189, 211 n.17 (1973)).

115. Shenandoah County Public Schools and Defendant School Board satisfy the definition of "educational agenc[ies]" subject to this affirmative duty. 20 U.S.C. § 1720(a); FOF ¶ 1 (*citing* Third Joint Statement of Stipulated Facts, ECF No. 242-3, at #81). And, because Defendant's reinstatement of the Confederate school names is linked to its prior de jure

segregation and perpetuates unequal educational opportunities that original segregation was intended to, and in fact did, effect, Defendant violates the EEOA.

A. There Is No Dispute That Shenandoah Public Schools Practiced De Jure Racial Segregation.

116. Because Shenandoah County Public Schools were segregated by race at the time of *Brown vs. Board of Education*, and remained segregated through 1962, it is a school system that “formerly practiced ... deliberate segregation.” 20 U.S.C. § 1703; *see* FOF ¶ 40 (*citing* First Joint Statement of Stipulated Facts, ECF No. 242-1, at #10; Testimony of Dr. Brian Daugherty, ECF No. 244, at 256:08-23; Testimony of Dr. Brian Daugherty, ECF No. 245, at 25:25-26:03). Although Stonewall Jackson High School and Ashby-Lee Elementary School did not exist at the time of *Brown I*, Courts have long recognized that school segregation is a systemwide condition, not a school-by-school phenomenon. Where a district is shown to have operated a dual school system and failed to remove its vestiges, courts analyze compliance and liability at the district level, and all schools within the system may be relevant—even those never formally segregated. *Green v. Cnty. Sch. Bd. of New Kent Cnty., Va.*, 391 U.S. 430 (1968); *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971); *Keyes*, 413 U.S. 189; 20 U.S.C. § 1703.

B. The Confederate School Names Are Vestiges of the Prior Period of De Jure Segregation That the School Board Embraced, Rather Than Removed.

117. The EEOA requires educational agencies that practiced deliberate segregation to remove all vestiges of that dual school system. 20 U.S.C. § 1703(b). The EEOA does not define “vestiges of a dual school system.” *Jackson v. Waller Indep. Sch. Dist., No. H-07-3086*, 2009 WL 3078489, at *12 (S.D. Tex. Sept. 24, 2009); *see also* 20 U.S.C. § 1720 (defining terms but not defining “vestiges”). But “a vestige of segregation is a policy or practice which is traceable to the prior *de jure* system of segregation and which continues to have discriminatory effects,” *United States v. City of Yonkers*, 833 F. Supp. 214, 218-19 (S.D.N.Y. 1993), and as one scholar put it, vestiges “perpetuate

the hallmarks of the regime of school segregation.” G. Scott Williams, *Unitary School Systems and Underlying Vestiges of State-Imposed Segregation*, 87 Colum. L. Rev. 794, 800 (1987). “The vestiges of segregation that are the concern of the law in a school case may be subtle and intangible but nonetheless they must be so real that they have a causal link to the *de jure* violation being remedied.” *Freeman v. Pitts*, 503 U.S. 467, 496 (1992).

118. Here, the Confederate school names are vestiges of Shenandoah County’s segregated school system. Shenandoah County’s dual, segregated school system persisted for years following *Brown*. Although the Supreme Court decision in *Brown II* ordered schools to desegregate with “all deliberate speed,” public schools in Shenandoah County were segregated by race in the immediate years following. FOF ¶ 38 (*citing* First Joint Statement of Stipulated Facts, ECF No. 242-1, at #10; Testimony of Dr. Brian Daugherty, ECF No. 244, at 256:08-23; Testimony of Dr. Brian Daugherty, ECF No. 245, at 25:25-26:03). *Brown* mandated integration in public schools, but Virginia, and the Defendant School Board, responded with “Massive Resistance” to integration efforts, FOF ¶ 64; Testimony of Dr. Brian Daugherty, ECF No. 245, at 25:15-20, and took no steps to comply with federal mandates on desegregation. FOF ¶ 65 (*citing* Testimony of Dr. Brian Daugherty, ECF No. 245, at 9:04-13). Black students were not permitted to enroll in Stonewall Jackson when it opened in 1959. FOF ¶ 84 (*citing* First Joint Statement of Stipulated Facts, ECF No. 242-1, at #6-7; Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #162; Testimony of Kay Doe, ECF No. 244, at 86:20-23; Testimony of Dr. Brian Daugherty, ECF No. 245, at 18:14-21). At Ashby-Lee Elementary, Defendant School Board maintained conditions that reproduced racial inequities within its schools. FOF ¶ 90 (*citing* Testimony of Dr. Brian Daugherty, ECF No. 245, at 36:09-12). No Black teachers or administrators were employed in the school system, and no Black individuals served on the School Board during when Ashby-Lee was named. FOF ¶ 90 (*citing* Testimony of Dr. Brian Daugherty, ECF No. 245, at 36:06-09).

119. Shenandoah County School Board initially selected the school names at issue here as part of the County's intentional campaign of massive resistance to school desegregation. In the 1950s, Shenandoah County built a White-only high school and named it Stonewall Jackson High School. This choice departed from their standard naming practices, FOF ¶ 78 (*citing* Testimony of Dr. Brian Daugherty, ECF No. 245, at 44:07-24; SCSB Meeting Minutes, ECF No. 242-50, at 6; Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #161), and the name was purposefully chosen to signal Defendant's opposition to Black students being permitted to attend the school. In short, the name was intended to resist desegregation. FOF ¶ 77 (*citing* Testimony of Dr. Brian Daugherty, ECF No. 245, at 44:03-06). As the school foundation was laid, White community members flew the Confederate flag. FOF ¶ 80 (*citing* First Joint Statement of Stipulated Facts, ECF No. 242-1, at #5; SJHS Images, ECF No. 242-47; Testimony of Dr. Brian Daugherty, ECF No. 245, at 45:22-46:01).

120. Defendant School Board named another school "Stonewall Jackson Primary School," and later changed it to "Ashby-Lee Elementary," in honor of two other Confederate military heroes, Robert E. Lee and Turner Ashby. FOF ¶¶ 98-99 (*citing* Testimony of Dr. Brian Daugherty, ECF No. 245, at 57:07-19, 58:08-15; Second Joint Statement of Stipulated Facts, ECF No. 242-2, at #62). Lee and Jackson believed slavery was ordained by God and that Black people were not well suited to freedom. FOF ¶¶ 17, 19 (*citing* Seidule Expert Report, ECF No. 242-64, at 6-7; Testimony of Brig. Gen. Ty Seidule, ECF No. 244, at 167:21-25, 168:01-05, 233:01-16). By selecting "Stonewall Jackson" and "Ashby-Lee," names that represented an embrace of those

Confederate leaders' pro-slavery and White supremacist views, Defendant School Board intended to communicate to Black students that they were not welcome.⁵

121. This connection of the Confederate school names to the period of segregation and Massive Resistance was acknowledged by the School Board in 2020. FOF ¶¶ 125-128, 224 (*citing* First Joint Statement of Stipulated Facts, ECF No. 242-1 at #20-23, 40; Testimony of Kay Doe, ECF No. 244, at 71:15-72:13; 73:06-15; Third Joint Statement of Stipulated Facts, ECF No. 242-3, at #83-85; Testimony of Kay Doe, ECF No. 244, at 73:18-74:07; SCSB Meeting Video Transcription, ECF No. 242-25, at 190-191). Indeed, that connection was part of the reason the names were retired in the first place. FOF ¶ 124 (*citing* Fifth Joint Statement of Stipulated Facts, ECF No. 242-5, at #157; Testimony of Kay Doe, ECF No. 244, at 74:21-25; Testimony Dennis Barlow, ECF No. 247, at 144:05-08; Joint Deposition Designations for Melody Sheppard, ECF No. 242-62, at 55:11-16). The School Board was well-aware of this history when it voted to restore the names in May 2024. *See supra* ¶¶ 76, 80.

122. The School Board imported this history into the 2024 naming decision. By its own terms, it was not renaming the schools but restoring them. FOF ¶ 203 (*citing* SCSB Meeting Agenda, ECF No. 242-21, at 24 (“I move that the names of Stonewall Jackson High School and Ashby-Lee Elementary School be **restored**...”) (emphasis added)).

123. Thus, the Court concludes that Defendant has not taken affirmative steps to remove the vestiges of its dual school system. Rather, by voting to reinstate the names Stonewall Jackson

⁵ Because of such history and the effect on Black students, some courts have even recommended that school authorities eliminate Confederate school symbols. *Banks v. Muncie Community Schools*, 433 F.2d 292, 297-98 (7th Cir. 1970) (“This Court would recommend to the school authorities that they exercise their discretion to bring about the elimination of school symbols which are offensive to a racial minority.”).

High School and Ashby-Lee Elementary School, the School Board took affirmative steps to *embrace* those vestiges of its formally segregated school system.

C. Reinstating the Confederate School Names Perpetuates Segregation and Re-Entrenches the Unequal Educational Opportunities the EEOA Was Enacted to Eliminate.

124. Defendant’s reinstating of the Confederate school names denies Black students in Shenandoah County “equal educational opportunities...on account of [their] race.” 20 U.S.C § 1703. The reinstatement both perpetuates segregation and has produced “current conditions” that “require desegregation remedies.” *Stanley*, 879 F. Supp. at 1412. “[T]he mandate of *Brown*” is not met until “faculty, staff, transportation, extracurricular activities, and facilities” are “free from racial discrimination.” *Freeman*, 503 U.S. at 486 (*citing Green*, 391 U.S. at 430).

125. As discussed at length in Section I.A., Black students experience physical and psychological harm from constant exposure to symbols denoting their inferiority and are thus prevented from fully accessing the equal educational experience to which they are entitled. FOF ¶¶ 396, 330-335, 355-360, 381-389, 391-394 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 81:20-82:02, 97:17-98:07, 99:02-04, 102:09-103, 103:10-20, 104:15-105:22, 112:16-113:04, 114:07-117:07). When Black students are exposed to such racism on a regular basis, the brain becomes hypervigilant to all threats of racism or racially discriminatory messages. FOF ¶ 400 (*citing* Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 103:10-20). This hypervigilance produces stress hormones which results in a cognitive load for the Black students who are constantly thinking about the Confederate icons, their meaning, and their status within the school setting and in their community. *Id.*

126. The testimony from Black students at the schools demonstrates how the Confederate school names impact their educational experience. Students credibly describe that the Confederate school names make them feel unwelcome and devalued; distract them from fully

participating in their classes; and interfere with their relationships with peers and teachers. FOF ¶ 320 (*citing* Testimony of Briana Brown, ECF No. 245, at 149:17-150:10 (Ms. Brown considered leaving the Governor’s School because of the name change)); FOF ¶¶ 288, 289, 293-295, 326, 328, 331, 333, 334, 355-359, 384-386 (citations to the record omitted).

127. Confederate school names and mascots also discourage Black students from participating in extracurricular and athletic activities because of the requirement to endorse Confederate values in order to participate in such activities. FOF ¶¶ 291, 298-303 (*citing* Testimony of Kay Doe, ECF No. 244, at 124:06-13; Testimony of D.D., ECF No. 245, at 107:05-108:02, 109:21-111:10, 114:16-22, 116:11-117:02, 119:14-22; Testimony of Dr. Amy Bass, ECF No. 247, at 37:01-11; Testimony Kay Doe, ECF No. 244, at 120:23-121:09, 130:12-22). Black students experience increased discomfort when participating in sports; are isolated from their coaches, peers, and communities; and are required to personify the symbols of the Confederacy.” FOF ¶¶ 426-431 (*citing* Testimony of Dr. Amy Bass, ECF No. 247, at 18:12-36:21).

128. This too, is consistent with testimony from Black students at the schools, who testified to how the school names exclude them from full participation. *See supra* ¶¶ 27-28. D.D. even considered whether to participate in sports because of the association with the Confederate school names. FOF ¶ 275 (*citing* Testimony of D.D., ECF No. 245, at 104:07-08, 104:17-18; D.D. Text Messages to Friends, ECF No. 242-70, at 3).

129. Defendant, for its part, has offered no evidence to demonstrate that these discriminatory conditions are “in no way the result of [its] past segregative actions.” *Stanley*, 879 F. Supp. at 1412.

130. Thus, the Court concludes that the Confederate school names perpetuate unequal educational opportunities in direct contradiction to the EEOA’s purpose. Defendant has therefore violated its duty under the EEOA to take affirmative steps to remove the vestiges of its dual school

system.

III. Plaintiffs Are Entitled to Declaratory and Injunctive Relief.

131. For the reasons set forth above, the Court concludes that Defendant's 2024 decision to reinstate the names Stonewall Jackson High School and Ashby-Lee Elementary School violates the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964, and the Equal Educational Opportunities Act. The Court already has determined that the reinstatement of these uniquely symbolic school names violates the First Amendment rights of the student Plaintiffs. Motion for Summary Judgment Op., ECF No. 171, at 70.

132. As the Fourth Circuit found in *McCrorry*, “[t]he Supreme Court has established that official actions motivated by discriminatory intent “ha[ve] no legitimacy at all under our Constitution or under the [Voting Rights Act].” 831 F.3d at 239 (citing *City of Richmond v. United States*, 422 U.S. 358, 378 (1975)). Thus, the proper remedy for a legal provision enacted with discriminatory intent is invalidation. *City of Richmond*, 422 U.S. at 378-79 (“[Official actions] animated by [a discriminatory] purpose have no credentials whatsoever; for [a]cts generally lawful may become unlawful when done to accomplish an unlawful end.” (last alteration in original) (internal quotation marks omitted). The “racial discrimination [must] be eliminated root and branch,” *Green.*, 391 U.S. at 437-39, and, in school in particular, the Supreme Court has instructed district courts to fashion remedies to eliminate racial discrimination in all components of elementary and secondary school systems. *Freeman*, 503 U.S. at 486; *Green*, 391 U.S. at 435.

133. Therefore, “[o]nce a plaintiff has established the violation of a constitutional or statutory right in the civil rights area, . . . court[s] ha[ve] broad and flexible equitable powers to fashion a remedy that will fully correct past wrongs.” *McCrorry*, 831 F.3d at 239 (citing *Smith v. Town of Clarkton*, 682 F.2d 1055, 1068 (4th Cir. 1982)). “In order to issue an injunction, a court must ascertain whether the plaintiff has shown: (1) that it has suffered an irreparable injury; (2) that

remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and the defendant, [**16] a remedy in equity is warranted; and (4) that the public interest is not disserved by injunctive relief.” *Wudi Indus. (Shanghai) Co. v. Wong*, 143 F.4th 250, 260 (4th Cir. 2025) (citing *eBay Inc. v. MercExchange, LLC*, 547 U.S. 388, 391 (2006)).

134. The constitutional and statutory violations established at trial are ongoing in nature. Each day the Confederate school names remain in official use constitutes a continuing irreparable deprivation of Plaintiffs’ rights and perpetuates vestiges of Shenandoah County’s prior de jure segregated school system. *Leaders of a Beautiful Struggle v. Balt. Police Dep’t*, 2 F.4th 330, 346 (“It has long been established that the loss of constitutional freedoms, ‘for even minimal periods of time, unquestionably constitutes irreparable injury.’”) (quoting *Elrod v. Burns*, 427 U.S. 347 (1976)). Monetary relief would be inadequate to remedy these harms. *Fraser v. BATFE*, 689 F. Supp. 3d 203, 213 (E.D. Va. 2023) (“The only available remedy to stop the denial of the right is an order enjoining the enforcement of the legal regime that is affecting the deprivation.” And, “it is well-established that the public interest favors protecting constitutional rights. *Leaders of a Beautiful Struggle*, 2 F.4th at 346. Permanent injunctive relief invalidating the Defendant’s reinstatement of the names is necessary to ensure compliance with the Constitution and federal law.

135. Crafting an injunction is “an exercise of discretion and judgment, often dependent as much on the equities of a given case as the substance of the legal issues it presents” and a court “may mold its decree to meet the exigencies of a particular case.” *Trump v. Int’l. Refugee Assistance Project*, 582 U.S. 571, 580 (2017). Accordingly, judgment will be entered in favor of Plaintiffs on their remaining claims. The Court will declare that Defendant’s reinstatement of the Confederate school names is unlawful under the Fourteenth Amendment, Title VI, and the Equal Educational Opportunities Act. The Court will further issue permanent injunctive relief requiring Defendant to

remove and cease use of the names “Stonewall Jackson High School” and “Ashby-Lee Elementary School,” and to adopt and implement non-discriminatory school names consistent with constitutional and federal statutory requirements.

136. The relief—invalidating Defendant’s restoration of the Confederate school names and preventing them from adopting like names in the future—is necessary to eliminate the discrimination “root and branch.” *Green*, 391 U.S. at 437-39. “[W]here, as here, a constitutional violation has been found, the remedy does not ‘exceed’ the violation if the remedy is tailored to cure the ‘condition that offends the Constitution.’” *Milliken v. Bradley*, 433 U.S. 267, 282 (1977) (emphasis in original) (*quoting Milliken v. Bradley (“Milliken I”),* 418 U.S. 717, 738 (1974)).

137. This relief is also essential to eliminate the vestiges of segregation embedded in Shenandoah County’s public school system and to ensure that all students are afforded equal protection of the laws and equal educational opportunity. *See* 20 U.S.C. § 1712. The EEOA directs courts to make a specific finding of the type of remedy that is appropriate for a violation of its act. 20 U.S.C. § 1713. Because this remedy does not involve the assignment or transportation of students, the appropriate remedy is the implementation of a “plan which is educationally sound and administratively feasible”—namely, an injunction requiring Defendant to remove and cease use of the names “Stonewall Jackson High School” and “Ashby-Lee Elementary School,” and to adopt and implement non-discriminatory school names consistent with constitutional and federal statutory requirements. *See* 20 U.S.C. § 1713(g).

Conclusion

For the reasons stated above, and based on the full record of this case, the Court concludes that Defendant Shenandoah County School Board’s restoration of the names Stonewall Jackson High School and Ashby Lee Elementary School violates the Equal Protection Clause of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964 because it disproportionately

impacts Black students and was done with an invidious, discriminatory intent. It further violates the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701–1758, because Defendant’s reinstatement of the Confederate school names denies Black students equal educational opportunities by failing to remove the school names, which are vestiges of Shenandoah County’s racially segregated school system.

Dated: March 2, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 2, 2026, I electronically filed the foregoing using the
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