

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' RESPONSE TO DEFENDANT'S PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Defendant's Proposed Findings of Fact (ECF No. 261) and Conclusions of Law (ECF No. 262) are inconsistent with both the factual record and established law. Much of the findings of fact proposed by Defendant must be excluded under the Court's Order on legislative privilege or because they are irrelevant and unsupported by the record. Defendant's conclusions of law fare no better; Defendant focuses its brief on impermissibly arguing its "legitimate" reasons for restoring the Confederate school names, which the Court has clearly excluded, and cannot marshal evidence to undercut Plaintiffs' case that the school names were restored with discriminatory intent and had a significant discriminatory impact on Black students. The Court should find, as detailed in Plaintiffs' own Proposed Findings of Fact (ECF No. 259) and Conclusions of Law (ECF No. 260), that Defendant's decision to restore the Confederate school names violates the Equal Protection Clause of the Fourteenth Amendment, Title VI of the Civil Rights Act, and the Equal Educational Opportunities Act.

I. Plaintiffs' Response to Defendant's Proposed Findings of Fact

A. The Facts Proposed by Defendant that Relate to Evidence Precluded by the Court's Order on Legislative Privilege Must be Excluded.

Defendant has proposed findings of fact that run contrary to the Court's Order, ECF No. 215, granting Plaintiffs' motion in limine to exclude evidence which Defendant had shielded under legislative privilege during discovery. Defendant prevented any line of inquiry into potential factors considered by the School Board members when voting to reinstate the Confederate school names—including School Board members' public statements at the time of the vote, the Coalition for Better Schools ("CBS") survey, the procedure for the 2020 vote to retire the names, and the perceived feelings of Shenandoah County residents. *See* ECF No. 196 (Plaintiffs' Memorandum in Support of Motion in Limine No. 1). Accordingly, the Court ruled that Defendant "may not offer evidence or argument at trial as to the reasons for reinstating the names." ECF No. 215, at 4.

At trial, Defendant nonetheless sought to introduce information available to School Board members during the 2024 vote as evidence or implication of the reason for the Board's decision to reinstate the names. *See* ECF No. 239 (Plaintiffs' Bench Memorandum). Despite the Court's repeated instructions that this evidence is not permitted because of Defendant's own litigation strategy, Defendant now seeks to enter into the findings of fact statements regarding School Board members' reasons for voting to reinstate the Confederate school names that Plaintiffs were not allowed to inquire about before trial. The proposed findings of fact that violate the Court's Order, including but not limited to those listed below, must be excluded because they can be offered by Defendant for no purpose other than as evidence for its reason for the vote:

- School Board member Tom Streett's April 22, 2024 and May 9, 2024 statements regarding the legitimacy of the CBS survey. ECF No. 261 ¶¶ 197, 201.

- Tom Streett’s April 22, 2024 statement on the “racism topic” and the prevalence of racism at the schools. *Id.* ¶ 198.
- Tom Streett’s April 22, 2024 statements on the process of the 2020 vote. *Id.* ¶¶ 199-200.
- School Board member Michael Rickard’s April 22, 2024 statement on the legitimacy of the CBS survey. *Id.* ¶ 202.
- Michael Rickard’s May 9, 2024 statement on his reason for voting because he “represent[s] everybody.” *Id.* ¶ 203.
- Michael Rickard’s May 9, 2024 statements on the process of the 2020 vote. *Id.* ¶¶ 204-205.
- School Board member Brandi Rutz’s April 22, 2024 and May 9, 2024 statements on the process of the 2020 vote. *Id.* ¶¶ 206-207, 223, 225.
- School Board member Dennis Barlow’s April 22, 2024 and May 9, 2024 statements on the process of the 2020 vote. *Id.* ¶¶ 234, 237, 238, 239.
- Dennis Barlow’s opinion that “the name change issues [was] more of a process issue than a political issue.” *Id.* ¶ 243.
- Dennis Barlow’s April 22, 2024 statement on the legitimacy of the CBS survey. *Id.* ¶ 235.
- Dennis Barlow’s awareness of the CBS survey. *Id.* ¶ 244.
- Dennis Barlow’s April 22, 2024 statement that he would vote the other way if he saw “any whiff of racism.” *Id.* ¶ 236.
- Dennis Barlow’s campaign promises. *Id.* ¶¶ 240-242.
- School Board member Kyle Gutshall’s April 22, 2024 statement on the process of the 2020 vote. *Id.* ¶¶ 248-249.

- Kyle Gutshall’s opinion that the 2020 process was “rushed.” *Id.* ¶ 260.
- Kyle Gutshall’s April 22, 2024 and May 9, 2024 statements on the legitimacy of the CBS survey. *Id.* ¶¶ 250-253, 255-257.
- Kyle Gutshall’s beliefs about the results of the CBS survey. *Id.* ¶ 262.
- Kyle Gutshall’s April 22, 2024 and May 9, 2024 statements on people’s connection to the school names. *Id.* ¶¶ 254, 258.
- School Board member Gloria Carlineo’s April 22, 2024 and May 9, 2024 statements on the process of the 2020 vote. *Id.* ¶¶ 265-267.
- Gloria Carlineo’s opinion on the 2020 name change. *Id.* ¶ 275.
- Gloria Carlineo’s May 9, 2024 statement that she has never witnessed any instances of racism from those wanting to restore the names. *Id.* ¶ 268.
- Gloria Carlineo’s campaign promises. *Id.* ¶ 276.
- The email exchange from former Superintendent Mark Johnston leading up to the 2020 name change. *Id.* ¶ 278.
- A petition presented to Gloria Carlineo on the 2020 name change. *Id.* ¶ 279.
- Gloria Carlineo’s impression that the “overwhelming” majority of public comments were in favor of restoring the names. *Id.* ¶ 282.
- Gloria Carlineo’s awareness of the CBS survey and its results. *Id.* ¶¶ 283-286.
- Gloria Carlineo’s awareness of Stonewall Jackson and Robert E. Lee’s historical ties to the area. *Id.* ¶¶ 288-291.

In addition, certain evidence, like that contained in the Parties’ Joint Statements of Stipulated Facts, must be limited to its allowed purposes, which does not include support for why the School Board voted to restore the names. Accordingly, all admitted facts in the Joint Statements of

Stipulated Facts that are relevant to School Board members' reasons for voting, including whether candidates who supported the restoration of the Confederate names were supported by voters, *Id.* ¶ 35, cannot be considered for those purposes. As the Court noted during trial, "while these facts [were] admitted, the Court may not consider these facts as the true reasons why the school board chose to make the vote in 2024." Trial Tr., Dec. 11, 2025 (Day 1), ECF No. 244, at 29:16-18.

B. The Facts Proposed by Defendant that Are Unsupported by the Record Must be Excluded.

Defendant has proposed findings of fact that are unsupported by the record and therefore should be excluded from the Court's consideration. For example, Defendant quotes numerous School Board members' statements, ECF No. 261 ¶¶ 38-40, 56, but cites the initial Complaint and not the trial record, which is devoid of such facts. Defendant claims that Coiner Rosen proposed the name Stonewall Jackson High School to "commemorate his service and serve as an inspiration to those who attend." *Id.* ¶ 94. But there is no evidence in the record that this was Rosen's underlying motivation. Defendant asserts that a petition was circulated by concerned citizens opposing the 2020 name change but only cites a statement by School Board member Dennis Barlow about his *impressions* of the survey. *Id.* ¶ 12. The survey itself, never mind details such as who circulated it or what their motivations are, are not in evidence. Defendant claims the July 9, 2020 meeting was scheduled "hours earlier" than the usual time, but no one testified as to the usual time for meetings. *Id.* ¶ 21.

Defendant also extrapolates beyond the information in the record. Defendant claims that members of the public who were unable to access the July 9, 2020 virtual meeting could not provide comments, the evidence Defendant relies on is actually the inverse: that the public who could attended provided comments. *Id.* ¶ 25; First Joint Statement of Stipulated Facts, ECF No. 242-5 ¶ 173 ("Members of the public who were able to access the virtual meeting provided comments

virtually at the July 9, 2020 School Board meeting.”). Defendant does not provide evidence that members of the public were unable to access the meeting or unable to provide comments in other ways.

Defendant claims that the NAACP established the Shenandoah branch “for the purpose of opposing the name restoration,” ECF No. 261 ¶ 170, but VA NAACP President Cozy Bailey testified that there were already general members of the NAACP in Shenandoah County, and the renaming was a catalyst to their forming a chapter, which is now thriving. Testimony of Cozy Bailey, ECF No. 246, at 172:16-20. The Court should exclude these and all other proposed findings of facts that are unsupported by the evidentiary record.

C. The Facts Proposed by Defendant that Are Immaterial Should Be Excluded.

Defendant has also proposed findings of fact that are immaterial to the claims at issue. For example, Defendant cites a series of emails between former Superintendent Mark Johnston and former School Board member Andrew Keller regarding the timing of the name change vote in 2020, ECF No. 261 ¶¶ 13-19, despite the Court’s admonition that the emails are “neither relevant nor admissible on th[e] issue of intent, and . . . will not be considered by the Court as the reason for the school board vote in 2024.” Trial Tr., Dec. 17, 2025 (Day 5), ECF No. 248, at 116:05-25, 117:01-07. Defendant does not assert another basis for relevancy.

Defendant also proposes findings of fact regarding the funding of the name change in 2020, suggesting that “[w]hen the School Board proceeded to vote on September 10, 2020 regarding the name change process, the funds were not available in the current school budget or in the following year’s budget,” and that “[d]onations were not nearly enough to cover the costs the 2020 School Board incurred for the name change.” ECF No. 261 ¶ 31. Defendant further asserts that “[a]pproximately 50 students came to Principal Dorman requesting a Stonewall Jackson diploma in addition to the Mountain View diploma they were required to receive at graduation.” *Id.* ¶ 195. And

Defendant separately proposes findings of fact characterizing the current overall performance and academic standing of Stonewall Jackson High School, including that the school “received a distinguished rating from the state, which requires that all subgroups containing a sufficient number of students are performing well in order to achieve the rating;” and that “[i]n the 2024-25 school year, Stonewall Jackson High School was the recipient of the Highest Achievement Exemplar Award from the Virginia Board of Education.” *Id.* ¶¶ 304-305. These assertions are not probative of the legal questions at issue in this case, and the Court should not adopt them.

II. Plaintiffs’ Response to Defendant’s Proposed Conclusions of Law

A. The Confederate Names Have a Disproportionate Impact on Black Students, Including Plaintiffs and Black members of the VA NAACP.

Defendant’s assertion that Plaintiffs failed to establish disproportionate impact misconstrues both the governing legal standard and the evidentiary record, and rests on a fundamental misunderstanding of Plaintiffs’ case. The Constitution and Title VI do not require Black students to prove academic collapse, clinical diagnoses, or extracurricular deficits to demonstrate unequal treatment. Rather, state action violates the Equal Protection Clause when it imposes race-specific educational, dignitary, and psychological burdens that “bear[] more heavily on one race than another,” even where those harms do not manifest as measurable failure. *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204, 220-21, 230 (4th Cir. 2016) (citation omitted). *See Brown v. Board of Educ. of Topeka (“Brown I”)*, 347 U.S. 483, 494-95 (1954) (discrimination “solely because of [] race generates a feeling of inferiority” that “may affect the[] hearts and minds” of elementary and high school students “in a way unlikely ever to be undone”). Indeed, Equal Protection cases note that the “harmful effect [of discrimination], like pain and suffering in a tort action, is not susceptible of precise measurement.” *Blocker v. Bd. of Educ. of Manhasset, N. Y.*, 226 F. Supp. 208, 229 (E.D.N.Y. 1964) (“The court cannot accept . . . that psychological damage, if any exists, must necessarily be reflected in a lower level of achievement”). The trial record here overwhelmingly demonstrates that

reinstating the Confederate school names subjects Black students to a qualitatively different and more burdensome educational environment than their White peers. Defendant's attempt to reframe this case as one about whether Black students nonetheless "succeeded" despite these conditions ignores settled law and improperly discounts the very kinds of injuries the Equal Protection Clause and Title VI were designed to prevent.

1. The Confederate School Names Inflict Dignitary, Emotional, Psychological, and Educational Harm on Plaintiffs Because of Their Race.

Defendant argues that Black student Plaintiffs are not disproportionately impacted by the Confederate school names because they are "highly accomplished," "extraordinarily successful," and "well-adjusted," pointing to grades, athletic participation, and post-secondary enrollment as purportedly dispositive. ECF No. 262, at 8, 12. This argument rests on a legally erroneous premise and a selective reading of the trial record. Defendant itself recognizes that in order to succeed in academics and extracurriculars, Plaintiffs were required to "overcome the[] stressors" imposed by the school names. *Id.* at 12.

Defendant's focus on academic metrics ignores the broader educational injuries Plaintiffs proved. Education is not limited to grades or diplomas. Feeling safe in the school environment and not being subjected to continual psychological harm informs the quality of students' learning experience. ECF No. 259 ¶¶ 391-394, 396, 402 (citing Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 81:20-82:02, 95:20-96:09, 96:20-97:11, 97:17-98:07, 98:09-15, 99:02-04, 102:09-103, 103:10-20, 104:04-05, 104:15-105:22, 108:04-07, 112:16-113:04, 114:07-117:07); ECF No. 259 ¶¶ 330-335 (citing Testimony of Briana Brown (citations to the record omitted)); ECF No. 259 ¶¶ 355-360 (citing Testimony of A.D. Carter (citations to the record omitted)); ECF No. 259 ¶¶ 381-389 (citing Testimony of J.D. (citations to the record omitted)). Black student Plaintiffs testified that constant exposure to school names honoring Confederate leaders made them feel unwelcome,

inferior, and devalued, and caused them to experience school differently from their White peers. ECF No. 259 ¶¶ 258, 263–304, 305–335, 336–360, 361–390. This is precisely because Confederate symbolism carries a distinct racial meaning and “undoubtedly” constitutes a “persistent affront” to Black students. *See Crosby by Crosby v. Holsinger*, 816 F.2d 162, 163 (4th Cir. 1987); *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.”). *See also* ECF No. 259 ¶¶ 249-251 (NAACP advocates against the use of the Confederate flag and symbology because of their use as a hate symbol against Black people).

The record establishes that Plaintiffs’ harms extended beyond the classroom. Black student Plaintiffs testified that reinstating the Confederate names strained their relationships with peers and adults, caused them to avoid certain clubs or disengage from classroom participation to feel safe, and discouraged them from speaking openly about their experiences. *Id.* ¶¶ 294 (citing Testimony of Kay Doe, ECF No. 244, at 124:06-07, 125:02); 356 (citing Testimony of A.D. Carter, ECF No. 246, at 50:22-51:07); 381 (citing Testimony of J.D., at 245, at 129:15-25); 330 (citing Testimony of Briana Brown, ECF No. 245, at 154:01-12, 156:10-157:11); 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). The impact on extracurriculars deprives Plaintiffs of the well-supported value of extracurricular activity to students’ educational experience. *Id.* ¶ 427 (citing Testimony of Dr. Amy Bass, ECF No. 247, at 18:12-18). These are educational harms.

Defendant repeatedly asserts that Plaintiffs merely “feel bad” or “feel unwelcome,” and that such feelings are insufficient to establish disproportionate impact. ECF No. 262, at 7, 11. Defendant’s disproportionate-impact argument rests instead on the unsupported premise that Plaintiffs were required to demonstrate declining grades, academic failure, or diminished

post-secondary outcomes in order to prove harm. Neither the Constitution nor Title VI imposes such a requirement, and Defendant cites no authority for that proposition.

To the contrary, the Supreme Court has expressly rejected the notion that Equal Protection violations in education are limited to measurable academic deficits. In *Brown I*, the Court held that racial discrimination in schools is constitutionally intolerable because it “generates a feeling of inferiority as to [students’] 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.” 347 U.S. at 494. Critically, *Brown I* did not require proof that Black students failed academically as a result of segregation. The injury lay in the unequal conditions imposed by the State, not in whether students persevered despite them. See also *Heckler v. Mathews*, 465 U.S. 728, 739–40 (1984) (explaining that “discrimination itself” causes cognizable injury); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 493 (1989) (plurality opinion) (recognizing stigmatic harm where government action “promote[s] notions of racial inferiority”).

Aside from citing no support that such harms are insufficient, Defendant also ignores the trial evidence that this affront *does* manifest in concrete harm. Black Plaintiffs testified that the Confederate school names distracted them during class, required them to exert additional effort to maintain academic performance, and made them less likely to participate or seek support from teachers for fear that school officials endorsed discriminatory values. ECF No. 259 ¶¶ 289–295, 298–304, 320, 330, 356–359, 380–386 (citations to the record omitted). Expert testimony reinforced what the Plaintiffs themselves described. Dr. Amy Bass explained how Confederate school names and mascots lead Black students to experience increased discomfort when participating in sports and extracurriculars due to the requirement to personify symbols of the Confederacy. *Id.* ¶¶ 426–431 (citing Testimony of Dr. Amy Bass, ECF No. 247, at 18:12–27:04). Dr. Adiaha Spinks-Franklin explained that persistent exposure to racially negative messages and symbols

has short- and long-term impacts on Black students' psychological, and physical development. *Id.* ¶¶ 391-92 (citing Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 81:20-82:15, 96:20-97:11, 114:07-117:07). Exposure to racially discriminatory messages can lead to Black students' unconscious belief in their own inferiority and causes low self-esteem and poor racial identity. *Id.* ¶ 414 (citing Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 106:02-15, 113:18-114:06).

The Supreme Court has made clear that state action violates the Equal Protection Clause when it generates a "sense of inferiority" that affects students' educational experience, dignity, and psychological well-being, even where formal educational facilities and outcomes remain strong. *See Brown I*, 347 U.S. at 494-95; *Virginia State Conf. NAACP v. Cnty. Sch. Bd. of Shenandoah Cnty.*, No. 5:24-CV-040, 2025 WL 271705, *12 (W.D. Va. 2025) ("the conclusion that dignitary harm injurious to a child's education can be the basis of an Equal Protection claim was the linchpin of the *Brown* holding."). Defendant's argument that Plaintiffs' success in spite of the school names means they were not disproportionately impacted turns Equal Protection doctrine on its head. Instead, as Plaintiffs' expert testified, academic success in the face of discriminatory conditions often reflects that Black students must expend additional effort, cognitive energy, and emotional labor to achieve outcomes comparable to their White peers. *Id.* ¶¶ 424-425 (citing Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 118:06-121:01). Defendant improperly reframes evidence of Plaintiffs' resilience as proof of the absence of harm.

2. Defendant Offers No Support for Their Proposition That White Students Experience the Same Discriminatory Effects.

Defendant next attempts to defeat Plaintiffs' showing of disproportionate impact by asserting that White students are exposed to the same school names and therefore experience the same effects. ECF No. 262, at 10. From this unsupported observation, Defendant concludes that any impact Plaintiffs experience cannot be race-specific because some White peers "perceive the

names in a wholly *similar* manner.” *Id.* at 12 (emphasis in original). That argument misunderstands both the legal standard and the evidentiary record.

The Equal Protection Clause and Title VI do not require Plaintiffs to show that White students are unexposed to the challenged state action. The relevant inquiry is whether the challenged policy “bears more heavily on one race than another.” *McCroy*, 831 F.3d at 220-21, 230 (citation omitted). Courts have long recognized that a policy may be formally neutral yet impose race-specific harms because of historical context, social meaning, and lived experience. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252 (1977). Defendant offers no authority for the proposition that shared exposure necessarily produces shared impact.

More, Defendant offers no evidence to support its shared impact argument. Instead, the record shows that the Confederate school names made Black students feel uniquely unwelcome, inferior, and devalued, and caused them to experience school differently from their White peers. ECF No. 259 ¶¶ 258, 263–304, 305–335, 336–360, 361–390 (citations to the record omitted). Black students described feeling distracted in class, reluctant to participate, hesitant to seek help from teachers, and fearful of speaking openly with peers who vocally supported the Confederate names. *Id.* ¶¶ 289–295, 298–304, 330–335, 356–360, 380–386. This is precisely because of the historical and present-day impact of symbols of the Confederacy on Black people. Citing to peer-reviewed empirical studies, Dr. Spinks-Franklin explained that Confederate names and symbols function as forms of cultural racism that trigger race-based traumatic stress in Black students because of their historical and contemporary association with anti-Black oppression. *Id.* ¶¶ 391–394, 396-398 402–404, 413–418 (citations to the record omitted). That mechanism does not operate in the same way for White students, who do not internalize the symbols as messages about their own inferiority or exclusion. *See Id.* ¶ 419 (citing Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 104:15-105:22, 112:16-113:04; Ryan D. Talbert, *How Do You React to Seeing the Confederate Flag? Examining*

Public Reactions by Race-Ethnicity and Region, Socio. Spectrum, 42(1): 40-60, at 47, 53-55, doi:10.1080/02732173.2022.2059037; see also Susan H. Sarapin et al., *Living Among Confederate Icons: Perpetuating White Supremacist Beliefs and Blindness to Black Suffering*, 17 Stud. Soc. Just. 384, 389-390, 395-396 (2023)).

Defendant offers no expert testimony as to the impact of the names on White students. Defendant also offers no rebuttal expert testimony challenging Dr. Spinks-Franklin's conclusion that "white students do not experience the same impact from exposure to Confederate school names. *Id.*" ¶ 419 (citing Testimony of Dr. Adiaha Spinks-Franklin, ECF No. 246, at 104:15-105:22, 112:16-113:04) (remaining citations to the record omitted). And, finally, Defendant also no evidence—testimony or otherwise—that White students perceive the school names as messages of racial inferiority directed at themselves, that White students experienced feelings of racial inferiority as a result of the names, or that the names impacted White students' educational experiences. The absence of such evidence is telling. Where the record contains extensive testimony and expert analysis documenting race-specific harms to Black students, Defendant cannot satisfy its burden by merely asserting that exposure is universal.

3. Defendant Does Not Offer Expert Evidence Supporting Its Contention That Black Students Were Not Disproportionately Impacted.

Defendant did not offer competing expert testimony to rebut the opinions of Dr. Spinks-Franklin or Dr. Amy Bass that Black students are uniquely and disproportionately impacted by the school names. In fact, Defendant does not object to Dr. Bass's testimony at all. In objection to Dr. Spinks-Franklin's testimony, Defendant only asserts, based entirely on attorney argument, that because Dr. Spinks-Franklin did not opine that "any of the Black student plaintiffs in this case were actually suffering from the sort of adverse effects . . . described in her report and testimony," ECF No. 262, at 12, her testimony should be discredited. That criticism mischaracterizes the

expert's opinions, misunderstands the nature of Plaintiffs' claims, and falls far short of undermining un rebutted expert evidence.

Defendant's primary critique of Dr. Spinks-Franklin rests on the assertion that she did not individually examine the Black student Plaintiffs in this case to determine if they were "actually suffering" from certain adverse effects. *Id.* That argument erects a requirement the law does not impose, *see* Fed. R. Evid. 702, and Defendant cites no authority suggesting that Dr. Spinks-Franklin's methodology is invalid. Plaintiffs' claims do not require proof of individualized medical diagnoses or clinical impairment, but of how exposure to racist symbols like the Confederate school names at issue "bears more heavily" on Black students. *McCrory*, 831 F.3d at 220-21, 230 (citation omitted). As Dr. Spinks-Franklin explained, her testimony addressed how chronic exposure to racially discriminatory symbols functions as cultural racism and produces race-based traumatic stress that interferes with learning, concentration, relationships, and psychological well-being. ECF No. 259 ¶¶ 391-394, 402-404, 413-418 (citations to the record omitted). Dr. Spinks-Franklin's testimony focuses on explaining well-established research about the impact of racism on Black children. That testimony—based on her experience as a developmental-behavioral pediatrician, her academic research, her analysis of peer-reviewed articles, and other qualifications which were unchallenged by Defendant—was offered to help the Court understand the evidence and testimony presented by the Black student Plaintiffs. Fed. R. Evid. 702; *cf. Peltier v. Charter Day Sch., Inc.*, 2017 WL 4582459, at *2 (E.D.N.C. Jan. 6, 2017) (declining to find a party's mental condition at issue and order a Rule 35(a) report when the expert report "contains no clinical diagnoses. It is, instead, a report of her opinions concerning the educational, psychological and physical effects generally experienced as a result of gender-differentiated uniform policies, the bases of her opinions being empirical research".) Even in *Brown I*, the Supreme Court relied on social science evidence demonstrating how segregation generated feelings of inferiority that affected students' without

requiring proof that each child suffered a diagnosable condition. *See* 347 U.S. at 493-495. Dr. Spinks-Franklin's testimony fits squarely within that tradition.

Even absent individualized examinations of each student Plaintiff, Dr. Spinks-Franklin's opinions are only bolstered by the extensive testimony from the Plaintiffs themselves. Rev. Cozy Bailey of the Virginia NAACP explained how the NAACP fights against the use of Confederate symbols because of their association with slavery, segregation, and oppression. It recognizes that such symbols create hostile educational environments for Black students. ECF No. 259 ¶¶ 249-251. The Black student Plaintiffs, for their part, testified consistently with Dr. Spinks-Franklin's explanation of race-based stress, describing distraction, hypervigilance, anxiety, diminished self-worth, and the emotional toll of daily exposure to Confederate symbolism. *Id.* ¶¶ 289-297, 328-332, 354-360, 375-377, 380-384 (citations to the record omitted). Defendant does not dispute that testimony.

The Court should thus credit Dr. Spinks-Franklin's and Dr. Bass' expert testimony to support Plaintiffs' claims that the Confederate school names disproportionately impact Black students.

B. Plaintiffs Have Proven That Race Was a Factor Motivating Defendant's Restoration of the Confederate School Names.

The record evidence, when considered in its totality, demonstrates that race was at least a factor (if not the factor) in Defendant's decision to reinstate the Confederate general names. ECF No. 260 ¶¶ 46-111. In *Arlington Heights*, the Supreme Court established a framework where, absent direct evidence, courts can assess circumstantial evidence to determine whether a government body's actions were fueled by discriminatory intent. *Coal. for TJ v. Fairfax Cnty. Sch. Bd.*, 68 F.4th 864, 883 (4th Cir. 2023) (quoting *Arlington Heights*, 429 U.S. at 266); ECF No. 260 ¶ 48. Those factors include: (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; ECF No. 260 ¶ 48.

The fact that Plaintiffs have produced sufficient evidence to show that the School Board’s actions had a disproportionate impact on the Black student Plaintiffs, under the *Arlington Heights* analysis, “suffices to establish one of the circumstances evidencing discriminatory intent.” *McCrary*, 831 F.3d at 231. The other *Arlington Heights* factors similarly demonstrate discriminatory intent. That Confederate generals Stonewall Jackson and Robert E. Lee, and Confederate soldier Turner Ashby are best known for their service to the Confederacy and its defense of chattel slavery is undisputed. ECF No. 260 ¶ 51. Defendant agrees that Stonewall Jackson High School was built and named during a period of Massive Resistance to school integration, ECF No. 259 ¶¶ 6, 49-58; ECF No. 262 at 16, and that it was “segregated by race and all-White when it first opened.” ECF No. 262, at 17; ECF No. 261 ¶ 109. At trial, Plaintiffs presented evidence that the schools were named during a period when honoring Confederate leaders through school naming was part of a national effort by “Lost Cause” supporters to reframe the historic context of slavery and the Civil War and to signal a belief in White supremacy. ECF No. 260 ¶ 52. Plaintiffs also presented expert evidence concluding that the Stonewall Jackson High School and Ashby-Lee Elementary School were named to support segregation and demonstrate opposition to the growing civil rights movement. *Id.* ¶ 51-52. Defendant offers no contrary expert evidence, or contrary record facts generally. Indeed, the School Board itself was well aware of the discriminatory legacy of the Confederate school names, which motivated it to retire the names in 2020. *Id.* ¶ 54.

Defendant asserts that the historical record shows that D. Coiner Rosen proposed the name Stonewall Jackson because of his military service in the area, ECF No. 262, at 17; however, this is contradicted by evidence in the record that shows Rosen was a segregationist who equated Virginia’s

Massive Resistance movement to the Confederacy's resistance during the Civil War. ECF No. 260 ¶ 53. And, even if that was D. Coiner Rosen's reason for proposing the name, Defendant presented no evidence—expert or otherwise—that the School Board adopted Rosen's rationale. Defendant also refers to Stonewall Jackson High School being located in what was formerly known as the Jackson District, and Ashby-Lee Elementary School as serving the former Ashby and Lee districts but again cites no evidence suggesting (never mind proving) that these former district names influenced the naming of the schools. ECF No. 262, at 17. Indeed, the evidence that *is* in the record indicates that even these districts were renamed shortly after the Civil War ended to honor several of the same Confederate generals, maintaining the link to these racist names. Trial Tr., Dec. 12, 2025 (Day 2), ECF No. 245, at 81:10-82:02. While it may be possible that “the historical background” “is open to varied interpretation,” ECF No. 262, at 16, Defendant has not presented any evidence to support an alternative to Plaintiffs' experts and evidence.

The sequence of events here also supports Plaintiffs' claims. Defendant's argument is too narrowly focused on the actions of the 2024 School Board and largely overlooks the events preceding the 2020 School Board's vote. *See id.* at 18-19. This is a key omission and critical error. In the wake of the national culture shift created by George Floyd's death, the 2020 School Board recognized that the Confederate school names were adopted to promote segregation and a culture of Black inferiority, and voted to retire those names to “condemn[] racism” and affirm the school division's commitment to an inclusive school environment. ECF No. 260 ¶¶ 59-61. Defendant offers no evidence, justification, or explanation negating the discriminatory impact of the school names. The decision to reverse course a mere four years later “bespeaks a certain purpose.” *McCrorry*, 831 F.3d at 229 (concluding that the General Assembly's eagerness to, at the historic moment of Shelby County's issuance, pass the most restrictive voting law North Carolina has seen since the era of Jim Crow demonstrates racial animus). The evidence suggests that Defendant's

actions were intended to reverse the 2020 School Board's decision to advance racial equity in Shenandoah County Public Schools.

Defendant's articulation of the sequence of events leading up to the 2024 vote is also unsupported by the evidence. Defendant's version of events rests on 2024 School Board members' statements about the validity of the 2020 vote process, their recollections of conversations with unidentified constituents about who wanted the school names restored, and the Coalition for Better Schools' survey, which Defendant admitted was flawed. ECF No. 262, at 14-15, 18. As discussed in more detail in section II.C, this evidence is inadmissible due to the Court's ruling on legislative privilege and is otherwise unreliable.

The legislative and administrative record leading up to the School Board's 2024 vote to reinstate the names is also a strong indicator of the School Board's discriminatory intent. Contemporaneous statements and reports made by decisionmakers "may be highly relevant" to Defendant's intent. *McCrorry*, 831 F.3d at 229; *City of Cuyahoga Falls v. Buckeye Cmty. Hope Found.*, 538 U.S. 188, 196-97 (2003) ("[S]tatements made by decisionmakers . . . during deliberation" may constitute relevant evidence of discriminatory intent.); ECF No. 260 ¶ 70. Here, the legislative record contains contemporaneous statements of 2020 School Board members who acknowledged the historical ties of the Confederate school names to Massive Resistance and slavery, and proclaimed they retired the Confederate school names because of the discriminatory effect on Black students. *Id.* ¶¶ 72-76. The legislative and administrative record also includes written and oral comments from students and community members expressing the negative impact and racist connotations of the Confederate names during the 2020, 2022, and 2024 votes. *Id.* ¶¶ 72-77. 2024 School Board members Chairman Dennis Barlow, Gloria Carlineo, Thomas Streett, and Kyle Gutshall all made statements either recognizing the impact of the school names on Black students or dismissing Black students' and community members' experiences with racism. *Id.* ¶¶ 78-86; see ECF

No. 262, at 19 (“[S]ome 2024 School Board members acknowledged the emotional impact that restoring the names could cause [*sic*] Black students”). These comments are on top of the substantial evidence in 2020 that the School Board retired the Confederate school names because of their discriminatory effect. ECF No. 260 ¶¶ 72-77. Defendant unpersuasively, and without citation to case law or evidence, argues that the School Board should not be bound by its past decisions. Contrary to Defendant’s arguments, as a government institution, the School Board’s actions during this four-year period are attributable to—and binding on—the 2024 School Board, regardless of the members at the time. *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 sub nom., 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)); ECF No. 260 ¶ 67; *see* ECF No. 262, at 19-20. The legislative record evidence overwhelmingly shows that the School Board considered race during the 2024 vote, and it presented no contradictory admissible evidence.

The School Board’s clear departure from standard procedures further supports that its decision to reinstate the Confederate school names was motivated by a discriminatory purpose. ECF No. 260 ¶¶ 87-95. The most notable deviation from the School Board’s normal process centers on its curious entanglement with the Coalition for Better Schools. *Id.* ¶¶ 87-95. Several 2024 School Board members and even the Superintendent, Melody Sheppard, openly admitted to coordinating, planning, and attending meetings hosted by the Coalition for Better Schools prior to the 2024 vote. *Id.* ¶ 90. At the request of the Coalition for Better Schools, the School Board added an action item to restore the Confederate names, while ignoring the community group, “Claim the Names,” petition and request for maintaining the non-Confederate names to be added to the same agenda. *Id.* ¶¶ 89, 93. School Board members also touted an unreliable and unscientific survey of opinions on the Confederate school names conducted by the Coalition. *Id.* ¶ 91. And if those

anomalies were not enough, the School Board delegated responsibility for funding and oversight of any labor required to reinstate Confederate names to the Coalition for Better Schools. This was done without any community input and disregarded the School Board's school naming procedures used during the renaming process after the 2020 vote to retire the names. *Id.* ¶ 94. All of this strongly suggests that the School Board and the CBS—with its pro-Confederate agenda—colluded on the process to reach a pre-determined outcome.

That the Board followed its process for public notice and comment before voting to restore the Confederate names in 2024 does not cure these procedural irregularities. *See McCrory*, 831 F.3d at 228 (“But, of course, a legislature need not break its own rules to engage in unusual procedures.”). And any comparison to alleged procedural flaws in 2020 is immaterial; the 2020 vote is not what is challenged here. To the extent it is relevant, Defendant once again points to no admissible evidence in the record to support its position that the 2020 School Board failed to follow School Board norms and procedures. *See* ECF No. 262, at 18-19.

The School Board's decision to resurrect the names of prominent members of the Confederate army as the names of two schools in Shenandoah County is “unexplainable on grounds other than race.” *Arlington Heights*, 429 U.S. at 266-67; ECF No. 260 ¶ 96. Similar to the Confederate flag, the names Stonewall Jackson, Robert E. Lee and Turner Ashby are inextricably linked to racial separation and oppression. *See United States v. Blanding*, 250 F.3d 858, 861 (4th Cir. 2001) (Luttig, J.) (“The 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.”); *Hanover Cty. Unit of the NAACP v. Hanover Cty.*, 461 F. Supp. 3d 280, 297 (E.D. Va. 2020) (“[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.”) (citing *Crosby ex rel. Crosby v.*

Holsinger, 816 F.2 162, 163); ECF No. 260 ¶¶ 96-111. The NAACP advocates against the use of the Confederate flag and symbology because of their use as a hate symbol. ECF No. 259 ¶¶ 249-251. This is a fact that was well-known to the Shenandoah County community, including the School Board members, and supported by historical research. *Id.* ¶¶ 15-23, 59-62, 74; ECF No. 260 ¶¶ 98-102. The former Stonewall Jackson principal, Mike Dorman, even testified that he 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.” *Id.* ¶ 98.

Considering the totality of the evidence presented at trial, Plaintiffs have sufficiently demonstrated that race was a factor in the 2024 School Board’s decision to restore the Confederate school names, which supports a finding that the Board was motivated by discriminatory intent.

C. Defendant Cannot Meet Its Burden to Demonstrate Race Neutral Reasons for the Name Change.

Because Plaintiffs have met their *prima facie* burden to show that race was a factor in the decision to reinstate the Confederate school names under *Arlington Heights*, the burden shifts to Defendant to prove that the challenged policy “would have been enacted without this factor.” *Hunter v. Underwood*, 471 U.S. 222, 228 (1985). “When determining if this burden has been met, courts must be mindful that ‘racial discrimination is not just another competing consideration.’” *McCrory*, 831 F.3d at 221 (quoting *Arlington Heights*, 429 U.S. at 265–66). “Instead, courts must scrutinize the legislature’s actual non-racial motivations to determine whether they alone can justify the legislature’s choices.” *Id.*; *N.C. A. Philip Randolph Inst. v. N. Carolina State Bd. of Elections*, 155 F.4th 298, 309 (4th Cir. 2025) (emphasis in original). This is a high bar: a “finding that legislative justifications are ‘plausible’ and ‘not unreasonable’ is a far cry from a finding that a particular law would have been enacted without considerations of race.” *McCrory*, 831 F.3d at 4.

But here, following trial, there is *no* evidence of the School Board’s actual, non-racial motivations. Rather, “[t]he defense has chosen to put no evidence in as to the reason for the school

board vote in 2024.” Trial Tr., Dec. 17, 2025 (Day 5), ECF No. 248, at 117:08-09. Because of Defendant’s choice to invoke legislative privilege as to such topics, and in order to prevent the privilege from being used as a sword and shield, the Court ruled that “the school board may not offer evidence or argument at trial as to the reasons for reinstating the name.” Trial Tr., Dec. 11, 2025 (Day 1), ECF No. 244, at 22:14-16; ECF No. 215, at 2-4. Specifically, the Court explained that whether the 2024 School Board members had “a problem with the process [of removing the Confederate names] in 2020 or any other reason” they may have publicly espoused as justification for reinstating the Confederate names “is not going to be considered by the Court on the issue of the school board members[’] intent in 2024,” Trial Tr., Dec. 15, 2025 (Day 3), ECF No. 246, at 9:25-10:03, and “is not admissible for the purpose of showing . . . that the school board would have voted the same way despite [discriminatory] intent.” *Id.* at 15:05-07. Moreover, the Court cannot “guess” as to the motivations of the School Board members. Trial Tr., Dec. 11, 2025 (Day 1), ECF No. 244, at 32:17-25. *See also McCrory*, 831 F.3d at 233 (“Once the burden shifts, . . . judicial deference” to the legislature’s stated justifications “is no longer justified” (citation modified)).

Defendant’s litigation choices mean that there is an “evidentiary void” as to the question of what factors—aside from race—the School Board members might have considered in 2024. Trial Tr., Dec. 16, 2025 (Day 4), ECF No. 247, at 261:01.

Despite this clear direction, arguments about the factors motivating School Board members’ votes in 2024 are the focus of Defendant’s proposed findings and conclusions. For example, Defendant dedicates the first four pages of its findings of fact to a discussion of the 2020 vote process. ECF No. 261 ¶ 1-4. Then, Defendant argues that “[t]he 2024 School Board, in line with their electorate, took issue with the rushed and undemocratic way the 2020 School Board retired the school names.” ECF No. 262, at 14-15. This is the precise point that the Court explicitly excluded from the scope of admissible evidence. None of this information can be used to meet Defendant’s

burden here because “[the Court] cannot, as the finder of fact, consider . . . [a] 2024 school board member’s view of what happened in 2020 as a reason for the vote in 2024.” Trial Tr., Dec. 17, 2025 (Day 5), ECF No. 248, at 118:09-11. Any such evidence would only be relevant “to get in the back door the reasons for the 2024 vote”—which, as noted, are inadmissible. *Id.* at 127:08-13. And even if the Court were permitted to consider whether concerns about the 2020 “process” impacted the votes of 2024 School Board members, that justification falls apart under the lightest scrutiny. Indeed, the School Board members and Defendant School Board itself have admitted that they got precisely the do-over they sought in 2022, when they voted up or down on restoring the Confederate names. ECF No. 259 ¶ 178. There are no colorable claims that the 2022 process suffered from procedural irregularities; rather, those in favor of restoring the racist names lost fair and square, as the result of an open and procedurally sound democratic process. *Id.* at ¶ 177. From that fact alone, the Court would have no basis to credit complaints about 2020 as anything more than pretext, which cannot overcome the weight of evidence showing the discriminatory intent motivating the decision to reinstate the Confederate names.

This defect also applies to the other unsupported factors that Defendant impermissibly argues “motivated” School Board members to vote to restore the Confederate names in 2024. For example, Defendant points to the “will of the[] electorate.” ECF No. 262, at 15. Not only is such information clearly precluded as an “argument . . . as to the reasons for reinstating the name,” Trial Tr., Dec. 11, 2025 (Day 1), ECF No. 244, at 22:14-16, but it also succumbs to a literal evidentiary void. Defendant adduced no admissible evidence at trial sufficient to show that the electorate was in fact “unceasingly vocal” or “discontent[ed]” about the name change. Def.’s Proposed COL, ECF No. 262, at 15. Rather, Defendant only points to information School Board members “discerned while on their campaigns” from “frequent interactions with and communications from their constituents,” *id.*, which is hearsay in its purest form. Indeed, accepting that reinstating the racist

names in 2024 was the “will of the[] electorate” would require the Court to ignore Defendant’s *own admission* that at least one whole district—out of just six—did not want the Confederate names. *Id.* The election of a “conservative block” of School Board candidates in 2024 in a county that, based on public reporting, “voted overwhelmingly for Republican candidates,” is hardly a sufficient basis for the Court to guess that such voters were “overwhelmingly” focused on the Confederate name issue.¹

The “survey” that Defendant points to, ECF No. 262, at 15, did indeed have “flaws”: it had a dismal response rate, ECF No. 261 ¶ 62; it was created by an entity that openly fought to reinstate Confederate names, and was thus biased, ECF No. 259 ¶ 156; it actively discouraged participation by non-conforming perspectives, including because the survey cards were plastered with images of Confederate generals, and multiple people expressed fear of responding, *Id.* at ¶¶ 197-98)); run by an individual with no relevant survey experience (Michael Scheibe (ECF No. 259 ¶ 196)); and it was in no way vetted by any member of the School Board, *Id.* at ¶¶ 192-194. Defendant also gives the Court no reasonable basis to infer that the survey motivated or in any way influenced the School Board’s decision making in 2024. In all events, Defendant entirely blocked any inquiry into the question of whether School Board members relied on the survey to reinstate the Confederate school names in 2024. Def.’s Answers to Pls.’ 1st Set of Reqs. for Admis. No. 1-6, at Ex. 2 of Pls.’ Mem. in Supp. of Mot. Lim. No. 1, ECF No. 196-2 And, to the extent that Court considers the School Board’s reliance on the survey as a non-discriminatory justification for its vote, the Court should find, based on the flaws and bias rife throughout, that such reliance was merely a smokescreen that Defendant used to hide its true, racially discriminatory motivations.

¹ See Northern Virginia Daily, *Election results for Shenandoah County* (Nov. 6, 2024), available at http://nvdaily.com/nvdaily/election-results-for-shenandoah-county/article_806e1bd5-fc27-5a56-ae8f-efb7b9f006c1.html; see also Virginia Public Access Project, 2024 Shenandoah County Election Results (last visited Mar. 23, 2026), available at <https://www.vpap.org/localities/shenandoah-county-va/election-results-list/?election=11831>.

In the face of this “evidentiary void,” there is no basis for the Court to determine *what* the “actual non-racial motivations” of Defendant may have been, nor any basis to determine *whether* any of these unsupported factors would alone support the vote to restore racist Confederate names to public schools. Defendant cannot meet its burden.

D. Defendant Failed to Show that the 2024 Vote to Restore the Confederate School Names Was Narrowly Tailored to Serve a Compelling Government Interest, and Thus, Fails Strict Scrutiny.

Plaintiffs have demonstrated that Defendant’s vote to reinstate the Confederate names disproportionately impacted Black students and that Defendant’s decision was motivated by discriminatory intent, triggering the exacting standard of strict scrutiny review. *See Coal. for TJ*, 68 F.4th at 879. “[T]he purpose of strict scrutiny is to ‘smoke out’ illegitimate uses of race by assuring that the legislative body is pursuing a goal important enough to warrant use of a highly suspect tool. The test also ensures that the means chosen ‘fit’ this compelling goal so closely that there is little or no possibility that the motive for the classification was illegitimate racial prejudice or stereotype.” *Richmond*, 488 U.S. at 493. To satisfy strict scrutiny, Defendant bears the heavy burden of showing that the 2024 vote reinstating the Confederate school names was narrowly tailored to serve a compelling interest. *See Coal. for TJ*, 68 F.4th at 879. Defendant cannot satisfy that requirement.

As noted above, because Defendant asserted legislative privilege as to the School Board members’ reasons for reinstating the school names, they are precluded from explaining their rationale now, *see* ECF No. 215, at 4; ECF No. 260 ¶¶ 109-10, and any evidence as to that rationale must be excluded. *See* ECF No. 215, at 4 (“[T]he School Board may not offer evidence or argument at trial as to the reasons for reinstating the names.”). Even if it were otherwise, Defendant’s arguments about its supposedly “compelling interests” rest on a thin reed. The School Board asserts a compelling interest in “revers[ing] the 2020 School Board’s undemocratic act of public betrayal” and restoring “public trust in the legitimacy of the School Board, whose members are elected to

represent and serve their constituents.” ECF No. 262, at 21-22. Beyond being precluded by the legislative privilege, carrying out “the will of the people” is not a compelling state interest, as it is well established that elected officials cannot legislate away constitutional rights. *See, e.g., McCrory*, 831 F.3d at 226 (“[W]inning an election does not empower anyone in any party to engage in purposeful racial discrimination.”); *W.Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 638 (1943); ECF No. 260 ¶¶ 67-68; ECF No. 262, at 21-22. And the record contains no evidence of legitimate issues with the 2020 vote or of declining public trust in the School Board.

Even if Defendant’s stated compelling interests were legitimate, the decision to restore the names was not narrowly tailored to achieve those stated goals. Nothing about restoring public trust in the School Board or rectifying the 2020 vote requires Defendant to make decisions based on race. For example, Defendant could have retired the names Mountain View and Honey Run and, as it did in 2020, conducted a community process to select new names that were not discriminatory. Although Defendant was aware of the racial impact of restoring the Confederate school names, Defendant offers no evidence that this was the narrowest way to achieve its stated goals.

Defendant has failed to satisfy the high bar of strict scrutiny review, as there is no reliable, admissible evidence to show that School Board members’ vote to reinstate the Confederate school names was narrowly tailored to achieve a compelling government interest. *See* ECF No. 262, at 20-21; ECF No. 260 ¶¶ 109-110.

E. The School Board’s 2024 Vote to Reinstate the Confederate School Names Is So Intertwined with Race that Defendant Is Unable to Show that It Is Rationally Related to a Legitimate Government Interest.

Even should the Court find that Plaintiffs have not sufficiently proven purposeful racial discrimination, then the 2024 School Board’s decision to reinstate the Confederate school names must satisfy the rational basis test. *See Coal. for TJ*, 68 F.4th at 887. Under rational basis review, Defendant’s actions must be “rationally related to legitimate government interests.” *Id.* at 879

(citations omitted). In the rational basis context, the state policy is generally presumed to have some validity. *Id.* at 887.

Although the rational basis standard of review is the lowest required for Equal Protection Clause challenges, a legitimate state interest must be genuine and not merely a cover for hidden discrimination. When analyzing rational basis, the relationship of the government action to its stated goal may not be “so attenuated as to render the distinction arbitrary or irrational.” *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 446 (1985) (citations omitted) (deeming a city special permit requirement that only applied to group homes for people with disabilities unconstitutional, and finding the justifications for the requirement to be irrational and rife with prejudice). “By requiring that the classification bear a rational relationship to an independent and legitimate legislative end, we ensure that classifications are not drawn for the purpose of disadvantaging the group burdened by the law.” *Romer v. Evans*, 517 U.S. 620, 633-34 (1996) (holding that a state constitutional amendment barring discrimination protections for LGBT individuals was unconstitutional because the “disadvantage imposed is born of animosity toward the class of persons affected”). The fundamental meaning of equal protection of the law is that a state’s “bare . . . desire to harm a politically unpopular group cannot constitute a *legitimate* government interest.” *United States Dep’t of Agric. v. Moreno*, 413 U.S. 528, 534 (1973) (emphasis added) (finding a federal law denying food stamp eligibility to households with unrelated individuals unconstitutional because the legislature intended to target “hippie communes”).

Once more, Defendant faces substantial limitations in identifying admissible record evidence showing that the School Board has a legitimate government interest rationally related to restoring the Confederate school names, because it invoked legislative privilege over that very subject. *See* Trial Tr., Dec. 17, 2025 (Day 5), ECF No. 248, at 117:23-118:01 (“And the question is, under the rational basis test, because the defenses chosen to put forward no basis for its decision in 2024,

whether the rational basis test can even be satisfied in this case.”). Furthermore, there is no evidence as to the two main reasons the Defendant cites for the vote—flaws in the 2020 vote process and adherence to the will of its constituents. Even if there were, they are not legitimate state interests rationally related to restoring the Confederate names. Rather, Defendant acted to “harm a politically unpopular group.” *Moreno*, 413 U.S. at 534. The School Board disregarded its own prior findings and community members who expressed that the Confederate school names were racially discriminatory, while giving credence to the views and feelings of community members who supported restoring the names. ECF No. 260 ¶ 102. Defendant acknowledged that some 2021 conservative School Board candidates’ campaign platforms linked restoring the names to pushing back against “‘cancel culture,’ ‘woke ideology,’ and ‘political correctness.’” ECF No. 262, at 4. The record evidence also shows that several 2024 School Board members used racially charged “code words” when discussing Black people and people of color. *See* ECF No. 260 ¶¶ 104-106; *see also La Unión Del Pueblo Entero v. Ross*, 353 F. Supp. 3d 381, 395 (D. Md. 2018) (“[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.”); *see also Guimares v. SuperValu, Inc.*, 674 F.3d 962, 974 (8th Cir. 2012) (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” (quoting *Smith v. Fairview Ridges Hosp.*, 625 F.3d 1076, 1085 (8th Cir. 2010))). Defendant’s vote to restore the Confederate school names was a display of racial animus disguised as an action furthering legitimate government interests. Accordingly, Defendant is unable to satisfy rational basis review.

F. Plaintiffs Have Established a Violation Under Title VI.

As the parties agree, if Plaintiffs establish a violation of the Equal Protection Clause, they also establish a violation of Title VI of the Civil Rights Act of 1964, if the challenged entity receives

federal funding. *See Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 198 n.2 (2023) (“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 v. Bollinger*, 539 U.S. 244, 276 n.23 (2003)).

Defendant does not dispute that Title VI applies. Because, for reasons more fully stated above, Plaintiffs have established that the restoration of the Confederate school names violated the Equal Protection Clause, they have also established a violation of Title VI.

G. Defendant School Board Embraced Vestiges of *De Jure* Segregation by Restoring the Confederate School Names

The Confederate school names are vestiges of Shenandoah County Public School’s prior period of de jure segregation, which Defendant must remove, not re-embrace. *See* ECF No. 61 (“The issue is instead whether the defendant has failed to eliminate vestiges of *de jure* segregation”) (emphasis in original). The EEOA requires educational agencies that practiced deliberate segregation to remove all vestiges of that dual school system. 20 U.S.C. § 1703(b). Defendant at best misunderstands—and at worst misrepresents—the entire concept of vestiges of a dual school system. The School Board treats “vestiges” as if they must be physical remnants of segregation, continuously present since the era of de jure segregation, and adopted for the sole or express purpose of maintaining racial separation. That is not the law. Vestiges are effects of a former dual system that are traceable to that system, and that continue to perpetuate its hallmarks—racial exclusion, stigma, and unequal educational opportunity—unless affirmatively removed. *See Green v. Cnty. Sch. Bd.*, 391 U.S. 430, 437–38 (1968) (duty to eliminate vestiges “root and branch”); *Freeman v. Pitts*, 503 U.S. 467, 494–95 (1992) (vestiges include conditions “traceable” to prior de jure system); *see also Brown I*, 347 U.S. at 494 (feelings of inferiority affecting “hearts and minds in a way unlikely ever to be undone”) When a school district that previously operated a dual system affirmatively

reembraces a symbol that arose from and communicated resistance to desegregation, it has not satisfied its duty to dismantle that system root and branch; it has revived it.

Plaintiffs have done precisely what the statute requires. Plaintiffs have shown that Shenandoah County operated a de jure dual school system (which is undisputed); that the Confederate school names arose from and symbolized resistance to desegregation (which is unrebutted); that those names impose unequal educational and dignitary harms on Black students; and that the School Board, far from removing those vestiges, affirmatively reinstated them. Defendant's attempt to sever the causal link, to ignore the history of the names, and to redefine "vestiges" so as to erase the very concept, is not supported in law, logic, or the trial record.

1. Defendant's "Removal-and-Reinstatement" Theory Is Not Supported in Law and Ignores Defendant's Own Characterization of the 2024 Decision as an Act of Restoration.

Defendant's central contention—that the Confederate school names cannot be vestiges because they were briefly removed in 2020 and then restored in 2024—is legally untenable. The EEOA imposes an affirmative duty to remove vestiges of a dual system. 20 U.S.C. § 1703(b). Nothing in the statute or the case law suggests that a school board may temporarily remove a vestige, later reinstate it, and thereby cleanse the taint of segregation. Rather, courts have repeatedly emphasized that the question is whether current conditions remain traceable to the prior de jure system. *See, e.g., Stanley v. Darlington Cnty. Sch. Dist.*, 879 F. Supp. 1341, 1412 (D.S.C. 1995), *rev'd in part on other grounds*, 84 F.3d 707 (4th Cir. 1996) (“[P]ost-Brown actions that have the effect of increasing or perpetuating segregation constitute a violation of the affirmative duty.”) (citing *Wright v. Council of Emporia*, 407 U.S. 451, 462 (1972)).

The removal-and-reinstatement approach would lead to the absurd result that a school district could evade its statutory obligations by briefly eliminating a discriminatory practice and then reinstating it with impunity. As a matter of common sense and constitutional principle, an

affirmative act of reinstatement is more, not less, problematic than a passive failure to remove an existing vestige.

Furthermore, Defendant's argument collapses under the weight of the 2024 vote itself. By its own terms, the School Board did not adopt new names; it *restored* the old ones, deliberately reviving symbols of segregation and Massive Resistance that the Board had previously recognized as discriminatory and exclusionary. ECF No. 259 ¶ 215. That act re-embedded the very messages of racial hierarchy and exclusion that the EEOA was enacted to eliminate. *See Freeman*, 503 U.S. at 491-92; *Green v. Cnty. Sch. Bd.*, 391 U.S. at 8. The restoration of the names is a “[p]ost-*Brown* action[]” that has the effect of perpetuating the harms of the segregation that was once the policy of Shenandoah County Public Schools, and so it is “a violation of the affirmative duty” imposed by the EEOA. *Stanley*, 879 F. Supp. at 1412-13.

2. Vestiges Do Not Require Proof of an Express Segregationist Motive, but the Record Nevertheless Contains Compelling Evidence of Segregationist Meaning and Traceability.

Defendant asserts that Plaintiffs' vestiges claim fails because there is “no direct, primary-source evidence” that the schools were named after Confederate figures *in order* to maintain segregation. For good reason, this is not a requirement of the law. Neither the EEOA nor Supreme Court precedent demands proof that a challenged policy was adopted with an express, contemporaneously recorded intent to segregate. Instead, vestiges are assessed based on traceability and effect. Indeed, for an EEOA claim, “the existence of [a] former *de jure* dual school system [can] suppl[y] the necessary element of intentional discrimination.” *Stanley*, 879 F. Supp. at 1412-13 (emphasis in original). Further evidence of intent is unnecessary. Even Defendant's citations support Plaintiffs' position: “It need not be shown that such vestiges have a discriminatory purpose, only that they have a discriminatory effect.” *United States v. City of Yonkers*, 197 F.3d 41, 50 (2d Cir. 1999); ECF No. 262, at 24. Where, as here, a school district named schools for Confederate leaders

during and in the wake of Massive Resistance—at a time when Confederate commemoration was widely used to signal opposition to desegregation and Black inclusion—the absence of an explicit segregationist declaration in board minutes is neither surprising nor dispositive.

Though not required, the record—despite Defendant’s protestation—does contain evidence of a segregationist purpose in the original namings. Stonewall Jackson High School was named and opened as a White only school while Black high school students were bused out of the County. First Joint Statement of Stipulated Facts, ECF No. 242-1, ¶ 7. The name was selected, at least in part, to dissuade Black students from requesting transfers into the all-White school, and broadly to avoid integration. ECF No. 259 ¶¶ 76-84. Ashby-Lee Elementary School, though opened later, carried forward the same Confederate symbolism and messaging into a system that had never affirmatively dismantled the cultural and institutional legacy of segregation. *Id.* at ¶¶ 90-100. The name was chosen to reflect the School Board’s opposition to federal school integration. *Id.* at ¶¶ 90-100. The EEOA does not permit a district to compartmentalize its history school by school; segregation was systemwide, and vestiges may persist anywhere within that system unless affirmatively eradicated. *See Green*, 391 U.S. 430 (1968); *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971); *Keyes v. Sch. Dist. No. 1*, 413 U.S. 189 (1973); 20 U.S.C. § 1703.

3. Vestiges May Persist in Formally Desegregated Schools

Defendant’s arguments assume that once a school system has achieved facial desegregation, as by eliminating racially separate attendance zones or assigning students without regard to race, no vestiges of the former dual system can remain. *See* ECF No. 262, at 26 (stating that “[o]bviously” a school that has been desegregated cannot have conditions that “perpetuat[e] segregation” or have “current conditions” that “require desegregation remedies” (citation omitted)). That assumption is flatly inconsistent with Supreme Court precedent and the EEOA itself, and Defendant cites no legal authority for its contention. *See id.* at 26-27. Instead, the Court has repeatedly recognized that

vestiges of de jure segregation may persist long after formal desegregation and may take intangible or symbolic forms that continue to stigmatize Black students or communicate racial hierarchy. *See Freeman*, 503 U.S. at 496 (vestiges may remain in “subtle” and “intangible” forms even after student assignment is desegregated); *Green v. Cnty. Sch. Bd.*, 391 U.S. at 435-38.

A vestiges inquiry, then, focuses not on the narrow question of whether Black students are permitted to attend the same schools as White students, but on whether current conditions remain causally linked to the prior de jure violation. *Stanley*, 879 F. Supp. at 1412 (quoting *Keyes*, 413 U.S. at 211 n.17) (citing *Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526, 537 (1979)). The current school names and the harm they cause Plaintiffs and other Black students are causally related to the de jure violation of the former segregation of Shenandoah County Public Schools. ECF No. 260 ¶ 14.

Nor is the “restoration . . . too attenuated from the school system’s former dual school status to be causally connected thereto.” ECF No. 262, at 26. Courts have been clear that “[t]he 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). Moreover, the School Board’s 2024 vote was deliberately intended to take these schools back to the names selected during and in service of the era of segregation and Massive Resistance.

Gray v. Lowndes County School District, cited by Defendant, is instructive on the scope of vestiges and how the affirmative acts and harm inform questions of causal connection to segregation. 900 F. Supp. 2d 703, 712 (N.D. Miss. 2012). In *Gray*, a federal court “seriously considered denying a declaration of unitary status” based solely on “the continued use of the ‘Confederates’ nickname” and playing of “a version of the song ‘Dixie’ when [the school’s] team scores a touchdown at football games.” *Id.* at 710-12. Putting aside the difference in the procedural posture, the reasons the *Gray* court ultimately did not decline unitary status in that case included (1) the limited nature of the school's association with the name; (2) failure to address the names was a

result of “inertia and an unwillingness to address a controversial issue;” (3) no individuals showed up to testify and there was no record of complaints or indication the nickname was the source of racial tension; and (4) “while this issue” was “a troubling one,” the court determined it was “one regarding which the District is making steady progress.” *Id.* Unfortunately, the same cannot be said about any of these factors in this case. The names at issue here are formal names of the school, emblazoned on at least some uniforms, and the default shorthand—not a rarely used nickname or occasionally played song at one type of sporting event. *See* ECF No. 259 ¶¶ 300, 325, 353. The Confederate names are the result of a deliberate and recent affirmative choice of the School Board, not inertia. This case itself is proof of the extent of the complaints about the names and stories of racial tension they cause—and the record is replete with further examples of both. Unlike in *Gray*, where “steady progress” was being made away from the Confederate nickname and symbology, here, the School Board is presently racing back to the Confederate school names and their segregationist implications.

Conclusion

For the reasons set forth herein, the Court should not adopt Defendant’s Proposed Findings of Fact (ECF No. 261) and Conclusions of Law (ECF No. 262).

Dated: March 23, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2026, I electronically filed the foregoing using the CM/ECF system, which will send notification of such filing to:

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