

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

HANOVER COUNTY UNIT OF THE NAACP,

Plaintiffs,

v.

HANOVER COUNTY and COUNTY SCHOOL
BOARD OF HANOVER COUNTY,

Defendants.

No. 3:19-cv-00599

COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF

(Violation of Rights under the
First and Fourteenth
Amendments to the U.S.
Constitution and Equal
Educational Opportunities
Act)

INTRODUCTION

1. This case seeks to eradicate the vestiges of a shameful, racist educational system in Hanover County that forces African American students to champion a legacy of segregation and oppression in order to participate in school activities. Forcing public school children to use Confederate names as a condition of participation forces them to engage in speech they disavow, in violation of their First Amendment right to be free of compelled speech. Forcing African American students to attend a school rife with Confederate imagery and veneration creates a school environment that denies students of color an equal opportunity to an education and violates their right to Equal Protection under the Fourteenth Amendment.

2. This civil rights complaint, brought by the Hanover County Unit of the National Association for the Advancement of Colored People (“NAACP”), challenges the use of Confederate names and imagery at Lee-Davis High School (“Lee-Davis HS”) and Stonewall Jackson Middle School (“Stonewall Jackson MS”) by Defendant Hanover County and Defendant County School Board of Hanover County (the “Hanover County School Board”), in violation of Plaintiffs’ rights under the First and Fourteenth Amendments to the United States Constitution and the Equal Educational Opportunities Act.

3. Defendant Hanover County School Board operates Lee-Davis High School, a public school named “in the memory and honor of two prominent members of the Confederacy”—Jefferson Davis and Robert E. Lee. (Hanover County School Board Minutes, May 6, 1958.) The officially endorsed school team and student-body name is the “Confederates”; students who attend Lee-Davis HS are known as “Confederates”; and a Confederate soldier has been used as a mascot for Lee-Davis HS in official school activities.

4. Defendant Hanover County School Board approved the name “Lee-Davis” on May 6, 1958. The school opened in 1959 and was maintained by Defendants as a white-only school until 1963. Lee-Davis HS was not operated as a fully desegregated school until the 1969-1970 school year, fifteen years after the Supreme Court’s decision in *Brown v. Board of Education* required public schools to be integrated “with all deliberate speed.”

5. Defendant Hanover County School Board also operates Stonewall Jackson Middle School, a public school named for Thomas J. “Stonewall” Jackson, another prominent member of the Confederacy. The officially endorsed school team and student-body name is the “Rebels,” in reference to Confederate soldiers, and students who attend Stonewall Jackson MS are known as “Rebels.”

6. Defendant Hanover County School Board approved the name “Stonewall Jackson” on May 8, 1969, shortly after the United States District Court for the Eastern District of Virginia issued an order requiring the Hanover County Public School system to come into compliance with the Supreme Court’s May 1968 decision in *Green v. County School Board of New Kent County, Virginia*, which placed on Defendants “the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch.” The school opened in February 1970.

7. The Confederacy and its leadership are inextricably intertwined with the history of slavery in America and continue to be symbols of racial oppression and hatred. As discussed below, Confederate leaders explicitly identified the defense of slavery as a “cornerstone” upon which the Confederacy was founded and are today used as symbols and rallying cries of white supremacy.

8. When African American students are compelled to attend schools that glorify the leaders and ideals of the Confederacy, they experience racial harassment that has significant psychological, academic, and social effects.

9. When African American students are required to identify as “Confederates” or “Rebels” in order to participate in school activities, they are required to endorse the violent defense of slavery pursued by the Confederacy and the symbolism that these images have in the modern white supremacist movement.

10. When African American students are forced to walk in their graduation ceremony behind a banner with pictures of Lee and Davis and the motto “Tradition and Pride,” that “Tradition” includes the defense of slavery and racial inequality.

11. The names “Lee-Davis” and “Stonewall Jackson” were intended to communicate to African American students that they were not welcome.

12. As discussed below, beginning in the mid-1950s, Virginia led a movement known as “Massive Resistance” which employed numerous tactics to resist and delay desegregation, including steps as extreme as closing public schools while issuing tuition vouchers for white students to attend private, segregated schools.

13. Defendant Hanover County was one of the last counties in Virginia to integrate its public schools, which it did only when compelled through litigation. Historically, elementary and middle schools in Hanover County were entirely segregated. Until 1950, Defendant Hanover County did not provide any high school education at all for African American students.

14. In 1955, in response to the Supreme Court’s decision in *Brown*, Defendant Hanover County School Board adopted a resolution threatening to close its public schools to avoid integration. It was not until 1963 that a handful of African American students were permitted to enroll in “white” schools in Hanover County. On that basis, Defendants claimed to be operating integrated schools.

15. In October 1968, compelled by order of the United States District Court for the Eastern District of Virginia, Defendants finally filed a plan to desegregate Hanover County public schools for the 1969-1970 school year. That was fifteen years after *Brown*. The plan was approved by the Court in November 1968.

16. Six months later, Defendant Hanover County School Board selected “Stonewall Jackson” as the name for its new junior high school. Defendant maintained the name “Lee-Davis” for one of its high schools.

17. Numerous counties and school boards across the state have recognized the harm that results from maintaining school names that were adopted during “Massive Resistance” to desegregation and to honor leaders of the Confederacy. At the start of 2018, thirty-one public schools in Virginia bore the names of Confederate leaders. By the end of that year, eighteen of those schools had removed those names. This progress has continued into 2019. Defendant Hanover County School Board has refused to recognize such harm or change the names of Lee-Davis HS and Stonewall Jackson MS.

18. On December 12, 2017, citizens of Hanover County petitioned to change the names of Lee-Davis HS and Stonewall Jackson MS because the names continue to communicate to African American students that they are not welcome in their own schools and community and cause them harm.

19. The petition was part of a movement in Virginia to recognize the harms caused by Confederate names and symbols. The petition was filed three months to the day after the murder of Heather Heyer during a violent rally held to protest the removal of a statue of Robert E. Lee from a public park in Charlottesville, Virginia.

20. On April 10, 2018, Defendant Hanover County School Board voted to retain the names “Lee-Davis” and “Stonewall Jackson.”

21. Having schools named to honor Confederate leaders creates an unequal learning environment for African American students.

22. Defendant Hanover County and Defendant Hanover County School Board have refused to put an end to the longstanding violation of the constitutional rights of its citizens. Plaintiffs therefore seek intervention of this Court to vindicate their constitutional rights.

23. This is a case to redress the creation of a hostile and discriminatory environment for African American students that erodes their right to receive an education and to be free from compelled speech they consider vile. Requiring Plaintiffs to attend schools named in honor of prominent members of the Confederacy, and compelling Plaintiffs to identify as “Confederates” and “Rebels,” violates Plaintiffs’ rights under the First and Fourteenth Amendments to the United States Constitution and the Equal Educational Opportunities Act.

JURISDICTION AND VENUE

24. This Court has subject matter jurisdiction over Plaintiffs’ claims under the Constitution, which are brought under 42 U.S.C. § 1983, pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3), and 20 U.S.C. § 1706.

25. This Court is authorized to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

26. Venue is proper in this Court under 28 U.S.C. § 1391(b), (c), and (d) because the Eastern District of Virginia is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, and in which all Defendants are located.

PARTIES

Plaintiffs

27. The Hanover County Branch of the NAACP is the local branch of the NAACP in Hanover County, Virginia. Its parent organization is the nation’s largest and one of the oldest civil rights grassroots organizations. Since the NAACP’s founding in 1909, its mission has been to ensure the political, educational, social, and economic equality of all persons and to eliminate race-based discrimination. The subject matter of this complaint is at the core of the mission of the Hanover County Branch of the NAACP. The NAACP has fought in the courts for decades to

protect the constitutional guarantee of Equal Protection under the law. To advance its mission, the NAACP has brought landmark civil rights cases over its 110-year history and continues to do so. The members of the Hanover County Branch of the NAACP include African American and white students and families at Lee-Davis HS and Stonewall Jackson MS who have standing and who are not necessary parties to obtain relief. The Hanover County Branch of the NAACP brings this action on behalf of those members.

Defendants

28. Defendant Hanover County is located in the Commonwealth of Virginia. It is governed by a seven-member Board of Supervisors, representing its seven magisterial districts, and a County Administrator.

29. Defendant the County School Board of Hanover County oversees and is the policy-making body for the Hanover County Public Schools system, and has final authority over the names of Stonewall Jackson MS and Lee-Davis HS. It is comprised of seven members appointed by the Hanover County Board of Supervisors.

FACTUAL BACKGROUND

The Confederacy

30. Just three weeks before the Civil War began at Fort Sumter in South Carolina, Confederate Vice President Alexander Stephens identified the “cornerstone” upon which the Confederacy was founded. In his speech, Stephens criticized the “prevailing ideas entertained by [Thomas Jefferson] and most of the leading statesmen at the time of the formation of the old Constitution, that the enslavement of the African was in violation of the laws of nature.”

Stephens continued:

[The Confederacy’s] new government is founded upon exactly the opposite ideas; its foundations are laid, its cornerstone rests, upon the great truth that the negro is

not equal to the white man; that slavery, subordination to the superior race, is his natural and normal condition. This, our new government, is the first, in the history of the world, based upon this great physical, philosophical, and moral truth.

Address at the Athenaeum in Savannah, Georgia (Mar. 21, 1861).

31. Jefferson Davis, Robert E. Lee, and Thomas J. “Stonewall” Jackson were prominent Confederate leaders.

32. Davis was the President of the Confederate States of America. During his public career, he openly conveyed his view that African American persons are inferior to whites. For instance, shortly before the Civil War, as a United States Senator from Mississippi, Davis stated that African American persons, as a race, are “inferior” and that this “inferiority [was] stamped upon that race of men by the Creator[.]” CONG. GLOBE, 36TH CONG., 1ST SESS. 917 (1860). He justified slavery as “nothing but the form of civil government instituted for a class of people not fit to govern themselves.” *Id.*

33. General Lee was general in chief of the Confederate States Army, and commander of the Army of Northern Virginia, one of the primary fighting forces of the Confederacy.

34. Davis and Lee were among the Confederate leaders that were indicted for treason following the Civil War. These indictments stated that both had “unlawfully, falsely, maliciously, and traitorously...lev[ied] war against the United States.” *Case of Davis*, 7 F. Cas. 63, 87 (C.C.D. Va. 1871). Lee’s indictment characterized him as inciting insurrection and rebellion.

35. Jackson commanded the Army of Northern Virginia’s Second Corps. He served under Lee until 1863, when he died of wounds he received during the Battle of Chancellorsville, Virginia.

36. In addition to representing the goals of the Confederacy, the names Lee, Davis, and Jackson and the language and imagery of “Confederates” and “Rebels” are often used as symbols promoting segregation.

37. White supremacy and other hate groups adopt symbols of American and Confederacy history to signal a preference for a time in American history when African American people were considered sub-human.

38. The Confederate flag in particular is a controversial symbol that “symbolizes slavery, segregation, and hatred.” *Sons of Confederate Veterans, Inc. ex rel. Griffin v. Comm'r of Va. Dep't of Motor Vehicles*, 288 F.3d 610, 624 (4th Cir. 2002).

Brown v. Board of Education

39. On May 17, 1954, the Supreme Court issued its opinion in *Brown v. Board of Education* (“*Brown I*”), holding that “separate but equal” educational facilities are inherently unequal and violate the Equal Protection Clause of the Fourteenth Amendment.

40. On May 31, 1955, the Supreme Court issued its opinion in *Brown v. Board of Education* (“*Brown II*”), which required desegregation of public schools with “all deliberate speed.”

41. As was noted by the Supreme Court in *Brown v. Board of Education*, 347 U.S. 483, 494 (1954), state-sanctioned discrimination creates “[a] sense of inferiority [that] affects the motivation of a child to learn.” Citing the famous Clark doll test, the Court found that discrimination causes psychological harm.

42. Beginning in 1956, finding little progress, the federal government required desegregation in public schools, including at times by force.

Virginia's "Massive Resistance" to Desegregation

43. In response to *Brown*, Virginia openly declared its intention to violate the United States Constitution and to defy the federal government's efforts to protect the fundamental rights of American citizens living in Virginia.

44. In the years that followed, Virginia utilized numerous tactics to resist and delay integration of its public schools.

45. Virginian Senator Harry Byrd was a leading force in the creation of the "Southern Manifesto"—an agreement among certain southern states to resist the desegregation of public schools in direct contravention of *Brown*.

46. In 1956, Senator Byrd called for a program of "Massive Resistance" to *Brown*, which led Virginia to adopt a series of laws and amendments to the Virginia Constitution designed to prevent integration of its schools. In 1957, federal courts began to strike down as unconstitutional laws enacted by Virginia as part of its campaign of Massive Resistance.

47. In 1958, in response to a federal court order requiring the integration of various schools in Virginia, Governor J. Lindsay Almond ordered schools in several counties to be closed to avoid integration.

48. In January 1959, the U.S. Court of Appeals for the Fourth Circuit ordered Norfolk County to reopen and integrate its schools. In public remarks ten days later, recognizing that "Massive Resistance" policies were destined to fail, Governor Almond proposed an alternative approach to minimizing and delaying integration through "token integration." That approach became known as "Passive Resistance."

49. By 1962, eight years after *Brown I*, ninety-nine percent of Virginia's public schools remained segregated.

Hanover County's Resistance to Desegregation

50. Prior to 1950, Defendant Hanover County did not provide a public high school education for African American students. In 1950, Defendant opened a "black" high school, which it named John Gandy High School after the recently-retired former President of the Virginia State College of Negroes (now Virginia State University).

51. In 1955, in response to *Brown*, Defendant Hanover County School Board openly declared its intention to resist desegregation, and approved a resolution stating that it would close its public schools entirely before it would permit African American students to attend school alongside white students.

52. In May 1958, as federal courts struck down Massive Resistance laws in Virginia and ordered integration of public schools in other Virginia counties, Defendant Hanover County School Board approved the name "Lee-Davis" for its new "white" high school. In its resolution, Hanover County School Board announced that the name of the school was selected "in the memory and honor of two prominent members of the Confederacy, Robert E. Lee and Jefferson Davis." When Lee-Davis HS opened in 1959, only white students were permitted to enroll.

53. During the late 1950s, the federal government was enforcing the Supreme Court's decision in *Brown*, which made clear that public school systems could no longer maintain separate "white" schools and "black" schools. It was during this time of increased federal efforts to eradicate state-sanctioned segregation that Defendant Hanover County School Board decided to name its new public high school after two prominent Confederate figures, neither of whom had any specific connection to Hanover County.

54. By naming the school after Confederate figures with no specific connection to Hanover County, Defendants departed from past practice. Defendants had previously named two

“white” schools after prominent American figures born in Hanover County: (1) Patrick Henry, a Founding Father and former Governor of Virginia; and (2) Henry Clay, former Speaker of the U.S. House of Representatives and the ninth U.S. Secretary of State.

55. The intent of Defendant Hanover County School Board in naming its new high school “in the memory and honor of two prominent members of the Confederacy” was to make clear that African American students were not welcome. Despite *Brown*, and in open defiance of federal anti-segregation efforts in Virginia, Lee-Davis HS remained completely segregated for years.

56. A full decade after opening, and after years of litigation, Lee-Davis HS remained largely segregated. In June 1968, enrollment at Lee-Davis HS included 1,140 white students and just 44 African American students, and 56 of the 58 teachers at the school were white. Meanwhile, there was not a single white student among the 574 students at Hanover County’s John Gandy High School, and only three of the 29 teachers were white, making it effectively a “black school.” At that point, the United States District Court for the Eastern District of Virginia rejected Defendants’ plan for desegregation.

57. In October 1968, Defendants finally filed a plan to desegregate Hanover County public schools for the 1969-1970 school year. By that point, students who had not even started elementary school at the time of the *Brown* decision had now graduated from high school. As a result of that plan, Hanover County’s African American-only high school was closed, and the percentage of African American students at Lee-Davis HS increased from 4% to 12% of the student population.

58. The desegregation plan was approved by the Court in November 1968. Six months later, Defendant Hanover County School Board selected “Stonewall Jackson” as the

name for its new junior high school. Under the court-approved desegregation plan, African American students would make up more than 14% of the student population. As with the name “Lee-Davis,” the name “Stonewall Jackson” was intended to communicate to African American students that they were not welcome.

59. Hanover County was one of the last counties in Virginia to desegregate.

**Defendants’ Maintenance of Public School Names
Adopted to Honor Prominent Confederate Leaders**

60. Today, nearly 1,500 students are enrolled at Lee-Davis HS, less than 10% of whom are African American. Over 1,000 students are enrolled at Stonewall Jackson MS, less than 10% of whom are African American.

61. Both the names (“Lee-Davis” and “Stonewall Jackson”) and the team and student-body names (“Confederates” and “Rebels”) of Lee-Davis HS and Stonewall Jackson MS are ubiquitous in student life.

62. The school names, and the team and student-body names, honoring the Confederacy and three of its leaders, feature prominently in student curricular and extracurricular activities, including sports, clubs, and performing arts.

63. Lee-Davis HS students enter school through a lobby adorned with “Lee-Davis” banners and a seal containing images of both Lee and Davis.

64. Lee-Davis HS places the name “Lee-Davis” on its outdoor scoreboard and the phrases “Lee-Davis Confederates” and “Tradition and Pride” on its indoor gymnasium scoreboard.

65. The name “Confederates” is used when announcing players and calling plays during sporting events.

66. “Lee-Davis” and “Confederates” are used in school-wide chants at pep rallies and other school spirit events.

67. In front of Stonewall Jackson MS is a sign that identifies the school as the “Home of the Rebels.”

68. Stonewall Jackson MS football uniforms have the team and student-body name “Rebels” printed over each player’s uniform number.

69. The names “Rebels” and “Confederates” are used in the school and town newspapers to report on athletics and other school events.

70. Upon information and belief, students at both LDHS and SJMS are permitted to wear apparel with the Confederate flag and other Confederate insignia.

71. On August 11-12, 2017, a “Unite the Right” rally was organized and held in Charlottesville, Virginia, to protest the removal of a statue of Robert E. Lee from a public park. Attendance at the rally included a large number of white supremacists. The rally turned violent and the Governor of Virginia declared a state of emergency. On the second day of the rally, a white supremacist deliberately drove his car into a group of counter-protesters, injuring several and causing the death of Heather Heyer.

72. On December 12, 2017, three months to the day after the murder of Heather Heyer, citizens of Hanover County presented a petition at a public session of Defendant Hanover County School Board. The petition called for a change to the names of Lee-Davis HS and Stonewall Jackson MS. The petition explained that there was a troubling history of racism and violence associated with the use of Confederate names and symbols, and their adoption as part of the opposition to desegregation described above. Speakers during the December 2017 School Board meeting explained that they sought this change in support of the School Board’s goals of

promoting diversity, inclusivity, and safety for all students, and because glorifying Confederate values contradicts those goals.

73. At the December 2019 School Board meeting, alumni of Lee-Davis HS and Stonewall Jackson MS spoke to the long-lasting harm caused by attending schools that glorified Confederate values.

74. On March 13, 2018, the Hanover County School Board held a meeting at which it discussed the results of a survey it had conducted to solicit community views regarding the name-change petition. The survey was not conducted using scientific methods, was not anonymous, did not include a mechanism to limit responses to residents of Hanover County, and did not prevent respondents from submitting multiple responses. The School Board nonetheless deferred to the fact that three quarters of responses reflected opposition to the name change.

75. On April 10, 2018, Defendant Hanover County School Board voted 5-2 in favor of maintaining the school names and team and student-body names at Lee-Davis HS and Stonewall Jackson MS, based in part on the results of the survey.

76. On June 26, 2019, one of the two Hanover County School Board members who voted in favor of the name change—Marla Coleman—was up for reappointment. Defendant Hanover County chose not to reappoint her. Ms. Coleman has since repeatedly stated that she was specifically told her vote on the name change was the reason Defendant Hanover County could not reappoint her.

The Impact of the School Names on NAACP Members and the Community

77. The members of the Hanover County Unit of the NAACP have been directly affected by the names of Lee-Davis HS and Stonewall Jackson MS. These members have standing and the individual members are not necessary parties to obtain relief.

78. As set forth in ¶¶ 61–70, the use of the names and team and student-body names of Lee-Davis HS (the “Confederates”) and Stonewall Jackson MS (the “Rebels”) and the glorification of the values of the Confederacy they represent permeate the school’s culture.

79. The School Board’s decision to name, maintain, and endorse the names subjects African American students to severe, pervasive, and objectively offensive racial harassment.

80. By creating an environment that glorifies racial oppression, Defendants subject African American students, including NAACP members, to a hostile education environment. Defendants subject African American students to a different and inferior educational experience than that afforded to white students, for whom the racially hostile environment has a less damaging impact.

81. High school is a critical time in the social, emotional and educational development of a child. It is also a critical time in the development of racial identity.

82. Persistent exposure to racially negative messages, images, and symbols affect a student’s sense of self-worth and has short and long-term impacts on a student’s academic achievement, adult success, and student well-being.

83. The impact of a racially hostile school environment is well-established and accepted in the school psychologist community. The National Association of School Psychologists noted in its position statement on Racism, Prejudice and Discrimination in 2012:

“[R]acism, prejudice, and discrimination harm all children and youth, and have a profoundly negative effect on school achievement, self-efficacy, and social-emotional growth. Poor student outcomes for all historically marginalized groups ultimately damage the well-being of our nation because of the long-term implications of educational success for adult employment, civic engagement, and health The presence of racism in educational settings harms everyone, but has the most negative and lasting impact on racial minority groups.”

NAT'L ASS'N OF SCH. PSYCHOLOGISTS, POSITION STATEMENT, RACISM, PREJUDICE, AND DISCRIMINATION (2012), <https://www.nasponline.org/x26830.xml>.

84. The National Association of School Psychologists identified the following as some of the harms that flow from a school environment permeated by prejudice:

- a. Negative mental health, academic and social outcomes;
- b. Increased negative feelings about their racial or ethnic group;
- c. Diminished sense of equal opportunities;
- d. Increased depression.

Id.

85. The National Academy of Pediatrics recognizes that positive racial identity is a significant determinant of health outcomes. In its statement on the Impact of Racism on Child and Adolescent Health, the Academy (2019) recognized that students may experience racism in schools and that “[t]he impacts of structural and personally mediated racism may result in internalized racism (internalizing racial stereotypes about one’s racial group). A positive racial identity mediates experiences of discrimination and generates optimal youth development outcomes. The importance of a prosocial identity is critical during adolescence, when young people must navigate the impacts of social status and awareness of personally mediated discrimination based on race.” Maria Trent et al., *The Impact of Racism on Child and Adolescent Health*, Am. Acad. of Pediatrics, (July 2019), <https://pediatrics.aappublications.org/content/early/2019/07/25/peds.2019-1765>.

86. African American students at Lee-Davis HS and Stonewall Jackson MS confront everyday messages from the school that they are less worthy than their white counterparts. These messages are harmful and cause long-lasting injury.

87. Academic and extracurricular activities are an integral part of the educational experience for students at Lee-Davis HS and Stonewall Jackson MS.

88. Members of the NAACP are dissuaded from participating in academic and extracurricular activities because, through participating, they would be forced to champion the racial inferiority that is inherent in the school names, team and student-body names, cheers, and culture and engrained in the educational experience at Lee-Davis HS and Stonewall Jackson MS.

89. One member of the NAACP lives in Hanover County with their spouse and children, some of whom are currently zoned to attend Lee-Davis HS and Stonewall Jackson MS and some of whom will be zoned to attend when they are of age. To avoid exposing this member's children to the harmful psychological effects of attending schools celebrating the Confederacy, they requested a variance for one of their children to attend another middle school in Hanover County, rather than Stonewall Jackson MS. This variance request was denied by Hanover County Public Schools, forcing this family to home-school their children to avoid a hostile and discriminatory educational environment.

90. Another member lives in Hanover County with their children, who are zoned to attend Lee-Davis HS. This parent attended Lee-Davis HS as a student, and personally experienced racial discrimination during their attendance, the impact of which still affects the member today. This parent is now concerned about the impact of sending their children to a school that still celebrates the Confederacy and will subject their child to the same harms, creating generational trauma.

91. One of this member's children attends a specialized academic program at a different high school, which they applied to in order to avoid attending a school that celebrates the Confederacy and to avoid glorifying Confederate figures through extracurricular activities.

The student's decision to do so was based in part on their experiences as a student at Stonewall Jackson MS, where they were a cheerleader for the school's "Rebels" sports teams. To be a cheerleader, they had to wear a uniform representing Stonewall Jackson and yell cheers that supported the Confederate rebellion. In high school, they did not want to be forced to advocate for the pro-Confederacy message reflected in the "Confederates" name of the Lee-Davis sports teams.

92. Another child of this member is attending Lee-Davis HS because the specialized program their sibling attends is not compatible with their professional interests. This student is harmed by the racially hostile environment at Lee-Davis HS and is forced to endure representing the Confederate and Lee-Davis names to receive their education. This student is not participating in school-sponsored activities, including sports teams, because they do not want to endorse the school's pro-Confederacy name, giving up a well-rounded high school experience and making choices that other students outside of their racial identity group are not forced to contend with.

93. Another member's child previously attended Stonewall Jackson MS and currently attends Lee-Davis HS. In order to avoid representing a school that honors the Confederacy and its pro-slavery values, this student does not participate in sports at Lee-Davis HS, even though they would otherwise do so if Lee-Davis HS did not have a name endorsing such values. A record of playing sports is often a critical component of submitting successful applications to colleges, and this member's child is hindered because of the school's mandate that they honor the Confederacy in order to participate. The student is giving up a well-rounded high-school experience and making choices that other students outside of their racial identity group are not forced to contend with.

94. This member's child endures a racially discriminatory environment at Lee Davis HS where they constantly feel uncomfortable and unequal because of the use of the symbols of the Confederacy that are approved by the school district and embraced by the student population. This member's child is exposed to racial epithets by other students that are often ignored or tacitly supported by school staff. This causes harm to the child's development, achievement, and social-emotional growth.

95. Another member has a child who attends Lee-Davis HS. That child is graduating early after having completed accelerated coursework, at financial cost to this member. The family decided to incur this cost in large part so that the child would not spend as many years associated with a school whose name represents Confederate values. This student was forced to represent Lee-Davis and the Confederates through their participation on multiple school sports teams.

96. These examples of the experiences of these members are illustrative of the experiences of student and parent members of the NAACP who attend or could attend Lee-Davis HS and Stonewall Jackson MS.

LEGAL CLAIMS

Claim 1

VIOLATION OF THE FIRST AMENDMENT Pursuant to 42 U.S.C. § 1983

97. Plaintiffs re-allege and incorporate by reference as if fully set forth herein the allegations in all preceding paragraphs.

98. The First Amendment to the United States Constitution affords citizens the right to free speech, including the right not to express a view with which a person disagrees.

99. By virtue of the Fourteenth Amendment to the United States Constitution, the First Amendment applies to the actions of state and local officials, including Defendants.

100. The use of the “Confederates” team and student-body name, as well as the well-known historical roles of Robert E. Lee and Jefferson Davis, imbues the “Lee-Davis” school name with the Confederacy’s pro-slavery, racist ideologies.

101. The use of the “Rebels” team and student-body name, as well as the well-known historical role of Stonewall Jackson, imbues the “Stonewall Jackson” school name with the Confederacy’s pro-slavery, racist ideologies.

102. By maintaining the names of Lee-Davis HS and Stonewall Jackson MS, and thus requiring students to wear uniforms or other apparel bearing the “Lee-Davis” and “Stonewall Jackson” names, and to play sports in front of scoreboards bearing the “Confederates,” “Rebels,” “Lee-Davis,” and “Stonewall Jackson” names, Defendants are compelling Plaintiffs’ members to express a view with which they disagree, namely that slavery and other values of the Confederacy should be endorsed and glorified.

103. Defendants compel students participating in extracurricular activities to wear uniforms or other apparel bearing the names “Lee-Davis,” “Stonewall Jackson,” or “Rebels,” which names were selected by Defendant Hanover County School Board for the purpose of honoring prominent leaders of the Confederacy and discouraging African American students from integrating the school.

104. Defendants compel students participating in extracurricular activities to identify as “Confederates” and “Rebels,” which names were selected by Defendant Hanover County School Board for the purpose of honoring the Confederacy and discouraging African American students from integrating the school.

105. Lee-Davis students who are unwilling to wear a uniform or apparel with the name “Lee-Davis” and participate on a team named “Confederates” are excluded from full participation in certain extracurricular activities at Lee-Davis HS. Stonewall Jackson students who are unwilling to wear a uniform with the name “Stonewall Jackson” and participate on a team named “Rebels” are excluded from full participation in certain extracurricular activities at Stonewall Jackson MS.

106. The names “Lee-Davis” and “Stonewall Jackson” appear on the schools’ uniforms and apparel because Defendants selected those names for the purpose of honoring prominent members of the Confederacy and discouraging African American students from integrating the school. As such, Defendants are compelling students who wish to participate in extracurricular activities to wear those uniforms and apparel, and thereby endorse the values of the Confederacy.

107. Among the well-known values of the Confederacy are the vehement defense of the institution of slavery and the treatment of African American individuals as inferior.

108. Student members who wish to participate in extracurricular activities disagree with the values of slavery and racism associated with the Confederacy and do not wish to endorse those values.

109. The requirement that students who wish to participate in extracurricular activities wear uniforms or other apparel with the names “Lee-Davis” and “Stonewall Jackson” is not narrowly tailored to serve a compelling government interest.

110. The requirement that students who wish to participate in extracurricular activities wear uniforms or other apparel with the names “Lee-Davis,” “Confederates,” “Stonewall Jackson,” and “Rebels” violates the right to freedom of speech guaranteed by the First and Fourteenth Amendments to the United States Constitution.

111. Among the members of the NAACP of Hanover County are students at Lee-Davis HS and Stonewall Jackson MS who participated in academics, sports, and other extracurricular activities in order to avoid being excluded from those activities, and despite their disagreement with the values of slavery and racism associated with the Confederacy.

112. Among the members of the NAACP of Hanover County are students at Lee-Davis HS and Stonewall Jackson MS who chose not to participate in academics, sports, and other extracurricular activities because of their disagreement with the values of slavery and racism associated with the Confederacy.

113. The actions of the Defendants described herein constitute an official policy and deliberate choice made under color of state law in direct violation of Plaintiffs' constitutional rights, and are therefore actionable under 42 U.S.C. § 1983.

Claim 2

VIOLATION OF THE FOURTEENTH AMENDMENT EQUAL PROTECTION CLAUSE Pursuant to 42 U.S.C. § 1983

114. Plaintiffs re-allege and incorporate by reference as if fully set forth herein the allegations in all preceding paragraphs.

115. The Equal Protection clause of the Fourteenth Amendment prohibits the states from "deny[ing] to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

116. The Equal Protection clause of the Fourteenth Amendment prohibits states and state actors from discriminating on the basis of race or national origin. Defendant Hanover County and its members, Defendant Hanover County School Board and its members, and other school officials and administrators are state actors under the Fourteenth Amendment.

117. The Equal Protection clause of the Fourteenth Amendment prohibits both facially discriminatory state action and purportedly facially neutral actions and decisions that discriminate on the basis of race or national origin.

118. The Equal Protection clause of the Fourteenth Amendment prohibits racial discrimination in state-supported institutions, such as public middle schools and high schools.

119. The Equal Protection clause of the Fourteenth Amendment prohibits racial discrimination in extracurricular activities of state-supported institutions, such as public middle schools and high schools.

120. As evident from numerous historical events, patterns of actions, and statements surrounding the Hanover County School Board's actions at the schools' founding, including those set forth above at ¶¶ 30-76, a motivating purpose for the School Board's decision to name the schools "Lee-Davis" and "Stonewall Jackson" was to discriminate against African American students and their families.

121. As evident from numerous historical events, patterns of actions, and statements surrounding the Hanover County School Board's actions at the schools' founding, including those set forth above at ¶¶ 30-59, a motivating purpose for the School Board's decision to use the team and student-body names "Confederates" and "Rebels" was to discriminate against African American students and their families.

122. The names "Lee-Davis," "Stonewall Jackson," "Confederates," and "Rebels" were selected as school names by the School Board for the purpose of honoring prominent leaders and the values of the Confederacy.

123. The names “Lee-Davis,” “Stonewall Jackson,” “Confederates,” and “Rebels” were selected as school names by the School Board for the purpose of discouraging African American students from integrating the school.

124. Given the Confederacy’s connection to slavery as an institution and the prominence of Davis, Jackson, and Lee in its leadership, Defendants’ decision to name two public schools “Lee-Davis High School” and “Stonewall Jackson Middle School” discriminates against African American students on its face.

125. As evident from numerous historical and current events, patterns of actions, and statements surrounding the Hanover County School Board’s actions, including those set forth above at ¶¶ 30–59, a motivating purpose for the School Board’s decision in 2018 to retain the school names was to preserve the ongoing discrimination against African American students and their families.

126. The Confederacy and its leadership are inextricably intertwined with the history of slavery in America and continue to be symbols of racial oppression.

127. The school names, and team and student-body names, disparage, humiliate, and harm African American students and their families by using a government stamp of approval to honor the Confederacy.

128. The endorsement of the school names and their use throughout the school culture subject African American students to severe, pervasive, and objectively offensive racial harassment.

129. Despite community concerns about the harm posed to students, the Defendants have maintained the names of the schools in honor of Confederate generals, adopted and maintained mascots, team names, and other symbols that venerate the Confederacy, and

celebrates those who fought to preserve the enslavement of African Americans. The school motto—“Tradition and Pride”—is a direct reference to the soldiers who fought to preserve slavery and racial inequality. The images of Jackson and Lee appear on banners at graduation and school events.

130. A majority of the School Board acted with discriminatory purpose when the School Board decided to adopt and retain the school names, “Lee-Davis” and “Stonewall Jackson,” and when it decided to adopt and retain the team names “Confederates” and “Rebels.”

131. By naming these schools to honor the Confederacy, Defendants have violated the core holding of *Brown v. Board of Education*: just as assigning African American students to separate but equal *facilities* because of their race violates their right to Equal Protection of the laws, assigning African American students to unequal learning *environments* based on their race violates their right to Equal Protection of the laws.

132. The school names and team names discriminatorily impact African American members of the NAACP by using a government stamp of approval to honor the Confederacy and all that the symbols of the Confederacy stand for today. As set forth in ¶¶ 78-88, the deliberate retention of those names creates a stigma against and feeling of inferiority among African American students who attend Lee-Davis HS and Stonewall Jackson MS. This effect endures even after students leave Lee-Davis HS and Stonewall Jackson MS, because former students continue to be associated with those schools by virtue of the schools’ names being represented on those former students’ transcripts, diplomas, resumes, and job applications.

133. As set forth in ¶¶ 78–85, the school names and team and student-body names treat African American members of the NAACP differently because the names and team and student-

body names cause particularized psychological harm that affects their sense of self-worth and have short- and long-term impacts on their well-being that are not experienced by white students.

134. The school names, and team and student-body names, treat African American students, including members of the NAACP, differently because the names constructively prevent them from attending Lee-Davis HS and Stonewall Jackson MS and, as set forth in ¶¶ 89–91, burden African American students and their families who are forced to move, to travel to a school located farther from home, or to home-school their children rather than endure the humiliation and discriminatory impact of attending those schools.

135. The school names, and team and student-body names, treat African American members of the NAACP differently because the names and team and student-body names constructively prevent them from participating in school-sponsored events and activities—*e.g.*, athletic teams, academic teams, cheerleading, activities taking place in school facilities, fundraising activities involving school paraphernalia, and many similar activities—because such activities involve Confederate speech and symbolism that further disparages and humiliates African American students and their families. As set forth in ¶¶ 92–94, African American students are forced to give up a well-rounded high school experience and make choices that other students outside of their racial identity group are not forced to contend with.

136. The school names of “Lee-Davis” and “Stonewall Jackson” and the team and student-body names of “Confederates” and “Rebels” creates a school environment that denies African American students, including members of the NAACP, an equal opportunity to an education as set forth below at ¶¶ 141–147.

137. As a result of the discriminatory and discouraging impact of the school’s decisions set forth above at ¶¶ 60–76, African American students, including the members of the

NAACP as set forth above at ¶¶ 87–94, do not receive the same curricular and extracurricular experience at Lee-Davis HS and Stonewall Jackson MS that their white peers can experience.

138. By selecting and maintaining the school name “Lee-Davis” and the team name “Confederates,” Defendants have violated, and continue to violate, the Equal Protection clause of the Fourteenth Amendment.

139. By selecting and maintaining the school name “Stonewall-Jackson” and the team name “Rebels,” Defendants have violated, and continue to violate, the Equal Protection clause of the Fourteenth Amendment.

140. The actions of the Defendants described herein constitute an official policy and deliberate choice made under color of state law in direct violation of Plaintiffs’ constitutional rights, and are therefore actionable under 42 U.S.C. § 1983.

Claim 3

VIOLATION OF THE EQUAL EDUCATIONAL OPPORTUNITIES ACT, 20 U.S.C. §§ 1701-1758

141. Plaintiffs re-allege and incorporate by reference as if fully set forth herein the allegations in all preceding paragraphs.

142. The Equal Educational Opportunities Act (“EEOA”) provides that “[n]o State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by . . . the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps . . . to remove the vestiges of a dual school system.” 20 U.S.C. § 1703(b).

143. Defendant Hanover County School Board formerly practiced deliberate segregation on the basis of race as set forth in ¶¶ 50–59.

144. Defendant Hanover County School Board defied federal anti-segregation efforts in Virginia and required judicial intervention to permit the admission of African American students in Lee-Davis HS and Stonewall Jackson MS. Defendants willfully engaged in Massive Resistance as described in ¶¶ 50–59 to exclude African American students on the basis of race by resisting desegregation for over two decades.

145. Defendants further sought to deter the integration of African American students into Lee-Davis HS and Stonewall Jackson MS by branding their public schools with symbols of slavery and hatred, as set forth in ¶ 55.

146. By refusing to change the names and team and student-body names of Lee-Davis HS and Stonewall Jackson MS, Defendants have failed to take affirmative steps towards removing the vestiges of the dual, segregated system.

147. African American members of the NAACP are denied equal educational opportunities on account of their race because of the Defendants' failure to remove these vestiges.

148. As set forth in ¶¶ 77–88, African American students are denied equal educational opportunities because the deliberate retention of the school names creates a stigma against and feeling of inferiority among African American students who attend Lee-Davis HS and Stonewall Jackson MS.

149. As set forth in ¶¶ 133–34, African American students are deterred from enrolling in Lee-Davis HS and Stonewall Jackson MS and participating in extracurricular activities, due to the emotional distress, humiliation, and exclusion they experience in Defendants' celebration of the Confederacy. African American NAACP members have incurred financial loss and hardship

to move to another school district or homeschool their children to avert the distress they have or would have experienced by attending Lee Davis HS and Stonewall Jackson MS.

150. By selecting and maintaining the school name “Lee-Davis” and “Stonewall Jackson”, and the team and student-body names “Confederates” and “Rebels,” Defendants have violated, and continue to violate, the Equal Educational Opportunities Act.

RELIEF REQUESTED

Wherefore, Plaintiffs respectfully request that the Court:

A. Declare that Defendants are violating the Fourteenth and First Amendments of the U.S. Constitution by maintaining the names of Lee-Davis HS and Stonewall Jackson MS;

B. Enter injunctive relief requiring Defendants to rename Lee-Davis HS and Stonewall Jackson MS so that they are no longer named after leaders or representatives of the Confederacy;

C. Award reasonable attorneys' fees to Plaintiff, pursuant to 42 U.S.C. § 1988;

D. Award costs of litigation to Plaintiff, pursuant to 42 U.S.C. §§ 1920 and 1988;

and

E. Award such other and further relief as this Court may deem appropriate and in the interests of justice.

Dated: August 16, 2019

Respectfully submitted,

/s/ Azadeh Erfani

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