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School Board Members' Secret E-mails on Clifton Elementary Prompt Lawsuit

Actions of School Board officials compel latest filing in Fairfax County Circuit Court

Fairfax County, VA – Friday, January 7, 2011 – The content of e-mails released under the Virginia Freedom of Information Act (VFOIA) regarding the Fairfax County School Board's closure of Clifton Elementary School, has compelled the filing of a lawsuit against Fairfax County Public Schools and the School Board. Notably, the lawsuit seeks to require FCPS to produce and publicly post all withheld secret e-mails and other electronic communications. After all withheld information is made public, **the lawsuit requests the Court to compel the School Board to hold a proper public meeting to reconsider – and then re-vote - on all matters relating to the renovation or closure of Clifton Elementary.**

The lawsuit, filed this afternoon in Fairfax County Circuit Court by Patton Boggs, LLP, on behalf of Jill DeMello Hill, a Fairfax County resident, centers around multiple public meetings held by FCPS and the School Board last June and July, during which the filing states the **"School Board members exchanged substantive e-mails among each other in secret relating to the matters being addressed during the public meetings."**

The School Board ultimately concluded - in the much-debated vote - to close the Governor's Award winning and only elementary school in a large, rural portion of the county. The lawsuit states that **in communicating with each other "in secret, the School Board violated the VFOIA** and deprived the public of observing the discussion among the Board members as they transacted the public's business."

The multiple-count lawsuit includes other charges. In "flagrant disregard" of the Virginia General Assembly's mandate, the lawsuit outlines that FCPS and the School Board withheld and discussed important relevant information in secret during a public meeting, **repeatedly violated Virginia's Open Meetings laws** and that the School Board violated its own internal policies and regulations as defined in its "Strategic Governance Manual".

Virginia law mandates that actions of the government *"are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government"*. Since the VFOIA *"shall be liberally construed to promote an increased awareness"*, Hill seeks a favorable ruling by the Court on the numerous FCPS and School Board violations outlined in the petition.

Patton Boggs' filing seeks a number of other remedies from the Court, including the production of all e-mails and other non-public communications sent or received by each of the School Board members during the June 10, June 28 and July 8, 2010 meetings and work sessions and e-mails relating to the renovation or closure of Clifton Elementary. The petition also requests that the Court review the many emails FCPS refuses to produce based on claims that they are privileged or exempt from VFOIA to ensure the public is not being misled.

The lawsuit has been filed as a petition for a *writ of mandamus* – a type of order from a court requiring a government body, like the school board, to take actions to correct noncompliance with the law. Given the broad mandate of the General Assembly, it is FCPS' and the School Board's obligation to prove to the Court their compliance with the VFOIA and Open Meetings laws. The Court is required by Virginia law to hear FOIA cases within seven days.

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