

Congress of the United States

Washington, D.C. 20515

October 29, 2021

Delivered via Email

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland,

We write to you not only as senior Republicans on the U.S. Senate and House Education Committees but also as concerned parents. It is perplexing to us that the Department of Justice (DOJ) is currently focused on investigating parents exercising their free speech rights at school board meetings, while it is not concerned, at least publicly, with alleged crimes occurring against students in our nation's public schools.

On May 28, 2021, the School Resource Officer at Stone Bridge High School received a report from a school staff member that an alleged sexual assault had taken place on the school's campus. It is unclear how events transpired after this, but ultimately the alleged victim's father, and subsequently, the Loudoun County Sheriff's Office, were called to the school. It is also unclear whether the school called the sheriff's office to respond to the alleged sexual assault or to the understandably upset father. After an investigation by the sheriff's office, a 14 year-old male student at Stone Bridge High School was arrested and has since been found guilty of forcible sodomy of a fellow female student.¹

It does not appear that the school responded in any reasonable manner to the allegations. Instead, an email was sent to all parents informing them of the police presence at the school without any mention of the alleged sexual assault. Then, during a June 22, 2021, school board meeting, when questioned about sexual assault incidents taking place in Loudoun County (VA) Public Schools (LCPS), Superintendent Scott Ziegler said the following: "To my knowledge, we don't have any record of assaults occurring in our restrooms." He has since acknowledged that this was untrue and emails show that Mr. Ziegler had notified the school board of the May 28, 2021, incident on the day the incident occurred.²

¹ https://www.washingtonpost.com/local/public-safety/in-case-at-center-of-political-firestorm-judge-finds-teen-committed-sexual-assault-in-virginia-school-bathroom/2021/10/25/42c037da-35cc-11ec-8be3-e14aaacfa8ac_story.html; <https://www.nbcwashington.com/news/local/northern-virginia/teen-accused-of-sexual-assaults-in-2-virginia-high-schools/2831314/>

² https://www.loudountimes.com/news/superintendent-notified-school-board-of-may-28-sexual-assault-on-same-day-lcps-says/article_e2f09a98-32e2-11ec-a900-03b9b54d8877.html

It was also reported that at some point Mr. Ziegler transferred the accused student to Broad Run High School. Tragically, the public has since learned that this same student allegedly committed yet another sexual assault on October 7, 2021. LCPS and Mr. Ziegler not only lied to the public but also failed to protect students from a heinous crime and failed to protect their right to equal access to education.

Title IX requires K-12 school districts to respond to allegations of sexual harassment and assault to ensure every student, regardless of sex, has equal access to education. It is our understanding that, historically, when enforcing Title IX, DOJ has applied the Department of Education's Title IX regulations. These regulations not only outline the procedures a school must take when an allegation is made, but also state that a school is in violation of Title IX when the school has failed to "respond promptly in a manner that is not deliberately indifferent." This means that in order to comply with Title IX, LCPS and Mr. Ziegler were under an obligation to respond promptly to the May 28 incident in a manner that is not "clearly unreasonable in light of the known circumstances."

According to the available evidence, neither LCPS nor Mr. Ziegler followed any of the procedures outlined in the Title IX regulations. For example, there is no known evidence that the victims were offered supportive measures. Instead, there is evidence that at least one of the victim's parents was arrested and painted as a "domestic terrorist." Further, the only known response that LCPS and Mr. Ziegler had was to conceal the original incident, transfer the accused student while known criminal charges were pending, and create the opportunity for another student to be assaulted. While it is for your office to determine whether these actions violate civil rights laws, the victims would undoubtedly have been spared indignity and trauma had LCPS and Mr. Ziegler acted reasonably by being truthful from the beginning and not transferring the accused student while criminal proceedings were pending.

On October 4, 2021, you announced that you had directed the Federal Bureau of Investigation (FBI) and the Offices of the U.S. Attorney to work with local law enforcement to establish "strategies for addressing [the] disturbing trend" of "intimidation and threats of violence against school board members, teachers, and workers in our nation's public schools." We can all agree that intimidation and threats of violence have no place in our nation's schools. However, this historic overreach of power was in response to a letter to President Biden from the National School Boards Association (NSBA). That letter was an attempt by NSBA to use the parent of one of these sexual assault victims as their poster child for their disturbing definition of a "domestic terrorist."³ We have since learned that this parent was not only protecting his own child but all the children who attend LCPS. Moreover, NSBA has since apologized for issuing the letter.⁴ Therefore, it is time for DOJ to focus on ensuring LCPS is not concealing incidents of rape instead of legitimizing NSBA's claims that concerned parents are "domestic terrorists."

³ https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosam&stream=top

⁴ <https://www.edweek.org/policy-politics/national-school-board-groups-apology-for-domestic-terrorism-letter-may-not-quell-uproar/2021/10>

Given the very serious nature of the alleged crimes that have been committed and LCPS' obligations under Title IX to protect equal access to education for all students, we write to request answers to the following questions by November 5, 2021:

- 1- Does LCPS receive federal funds from DOJ?
 - a. If LCPS receives such funds, we request that DOJ's Civil Rights Division immediately open a full investigation to determine whether LCPS and Mr. Ziegler's actions surrounding the May 28, 2021, rape and the subsequent October 7, 2021, rape allegations violate Title IX. In addition, to the extent possible, we request our staff be updated regularly on the status of the investigation.

- 2- In 2014, a "Memorandum of Understanding between the United States Department of Education, Office for Civil Rights, and the United States Department of Justice, Civil Rights Division" (MOU) was entered into outlining the coordination between the Department of Education Office for Civil Rights (ED OCR) and the DOJ's Civil Rights Division. Is this MOU still in effect?
 - a. If this MOU is still in effect, and LCPS receives federal funds from DOJ, is DOJ Civil Rights Division coordinating with ED OCR in any manner concerning LCPS and Mr. Ziegler's actions surrounding these two incidents?

Thank you for your attention to this matter.

Sincerely,



Richard Burr
Ranking Member
U.S. Senate Committee on Health, Education,
Labor and Pensions



Virginia Foxx
Ranking Member
U.S. House Committee on
Education and Labor