IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ABBIE PLATT, et al, Plaintiffs, v. LOUDOUN COUNTY SCHOOL BOARD, et al., Defendants.	No. 1:24-cv-1873

ORDER

This matter comes before the Court on Plaintiffs' Motion for a Temporary Restraining Order (ECF 16). For the reasons stated in open court and for the reasons stated below, the Court will DENY Plaintiffs' Motion.

To obtain a temporary restraining order, Plaintiffs bear the burden of establishing that (1) they are likely to succeed on the merits of the case; (2) they are likely to suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest. *See Centro Tepeyac v. Montgomery Cnty.*, 722 F.3d 184, 188 (4th Cir. 2013) (citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). In the context of a purported First Amendment violation, if a plaintiff establishes that she is likely to succeed on the first *Winter*'s factor, the remaining three factors are also satisfied. That is because, "the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Furthermore, the "state is in no way harmed by issuance of a preliminary injunction which prevents the state from enforcing restrictions likely to be found unconstitutional." *Giovani Carandola, Ltd. v. Bason*, 303 F.3d 507, 521 (4th

Cir. 2002) (internal quotation marks omitted). And "upholding constitutional rights surely serves the public interest." *Id.* The Court therefore need only focus on the first factor.

For the reasons stated from the bench, Plaintiffs have not established that they are likely to succeed on their First Amendment Claims that Policy 2520 (1) as applied violates their free speech; (2) as applied violates their right to petition; and (3) is facially void for vagueness. Plaintiffs have failed to point to any evidence in the record to demonstrate that the school board has done anything other than apply its viewpoint-neutral policy in a reasonable manner. The evidence is clear that Plaintiffs were interrupted only after their comments targeted a specific student in direct violation of Policy 2520(A)(3). Accordingly, Plaintiffs' as applied challenges are unlikely to succeed on the merits.

Plaintiffs' facial challenge based on vagueness is similarly unlikely to succeed on the merits. The Fourth Circuit has already upheld a prior iteration of the policy in question, Policy 2-29(C), which prohibited any comments that harassed or amounted to a personal attack against any identifiable individuals, including students. *See Davison v. Rose*, 19 F.4th 626, 635-36 (4th Cir. 2021). And the Fourth Circuit has found that content-neutral policies focused on maintaining civility and decorum in a limited public forum are constitutionally permissible. *See Steinburg v. Chesterfield Cnty. Planning Comm'n*, 527 F.3d 377, 387 (4th Cir. 2008). This Court is of course bound by such precedent.

Because Plaintiffs have failed to establish that they are likely to succeed on the merits of all three claims, the Court need not reach the remaining factors. Accordingly, it is hereby

ORDERED that Plaintiffs' Motion (ECF 16) is DENIED.

It is SO ORDERED.

/s/
Hon. Michael S. Nachmanoff
United States District Judge

November 12, 2024
Alexandria, Virginia