

July 8, 2022

HAND DELIVERED

John T. Frey, Clerk
FAIRFAX COUNTY CIRCUIT COURT
4110 Chain Bridge Road
Fairfax, Virginia 22030

Re: Fairfax County School Board v. Callie Oettinger
Fairfax County Circuit Court, Civil Action No. CL-2022-7046

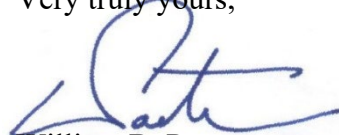
Dear Mr. Frey:

Enclosed for filing in the referenced matter, please find an original and one copy of Petitioner Fairfax County School Board's Demurrer and Motion to Dismiss Respondent's Request for Injunctive Relief and Damages. I would be obliged if you would return a file-stamped copy to our waiting office clerk.

Do not hesitate to contact me if you have any questions.

Best regards.

Very truly yours,



William B. Porter

WBP/ag
Encl.
cc (w/encl.): Callie Oettinger

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX

FAIRFAX COUNTY SCHOOL BOARD,)	
)	
Petitioner,)	
)	
v.)	Civil Action No.: CL-2022-7046
)	
CALLIE OETTINGER,)	
)	
Respondent.)	

**FAIRFAX COUNTY SCHOOL BOARD’S DEMURRER AND MOTION TO DISMISS
RESPONDENT’S REQUEST FOR INJUNCTIVE RELIEF AND DAMAGES**

Demurrer

COMES NOW Petitioner the Fairfax County School Board (the “School Board”), which operates the Fairfax County Public Schools (“FCPS”), by counsel, and, pursuant to Rule 3:8 of the Rules of the Supreme Court of Virginia and Code of Virginia section 8.01-2 73, states as follows for its Demurrer to the “Request for Injunctive Relief and Damages” filed by Respondent Callie Oettinger (“Ms. Oettinger” or “Respondent”).

1. Ms. Oettinger’s “Request for Injunctive Relief and Damages” contains only a single count for detinue (Count I), which fails to state a claim upon which relief may be granted for the following reasons:

a. An action in detinue is for the unlawful detainer of specific property in which the moving party has a property interest against another in possession of the specific property who unlawfully detains it. Ms. Oettinger has not pleaded, nor can she plead, that the School Board is in possession of her specific personal property and that it is wrongfully

withholding it from her. At best, she has pleaded that she has requested copies of certain documents through the Virginia Freedom of Information Act (“VFOIA”).

b. Ms. Oettinger has not pleaded, nor can she plead, that she owns or has a property interest in the copies of the documents responsive to her VFOIA request.

c. Ms. Oettinger has no right of immediate possession to the documents responsive to her VFOIA request. As authorized by law, the School Board has made a request of this Court to extend its deadline to provide copies of the documents responsive to Ms. Oettinger’s VFOIA request.

d. Ms. Oettinger has not pleaded, nor can she plead, that the material she requested from the School Board through her VFOIA action has been wrongfully detained from her. To the contrary, her allegations make clear that she made a VFOIA request, that the School Board agreed to produce responsive information, but that the School Board has requested additional time to respond to the VFOIA request.

2. At best, Ms. Oettinger’s right to any material from the School Board arises from the Virginia Freedom of Information Act (“VFOIA”), and no common law claim exists for any of the material sought by Ms. Oettinger in her pleading.

3. No basis in law exists for Ms. Oettinger’s request in paragraph B of her Prayer for Relief, which requests “100% refund of the \$700 already paid by Respondent.”

4. No basis in law exists for Ms. Oettinger’s request in paragraph D of her Prayer for Relief, which requests “Waivers of future FOIA requests until at which time Respondent reaches the ceiling of \$10,000 in requests.”

5. To the extent necessary, the School Board intends to file a memorandum in support of its Demurrer prior to any hearing or argument on the Demurrer.

Motion to Dismiss

COMES NOW Petitioner the Fairfax County School Board (the “School Board”), which operates the Fairfax County Public Schools (“FCPS”), by counsel, and, pursuant to Rule 3:8(a), moves this Court to dismiss the “Request for Injunctive Relief and Damages” filed by Respondent Callie Oettinger on the ground that, having fully responded to Respondent’s Virginia Freedom of Information Act request, the controversy that existed between the litigants has ceased to exist. *See Virginia Manufacturers Ass’n v. Northam*, 74 Va. App. 1, 18–19 (2021); *Chaffins v. Atlantic Coast Pipeline, LLC*, 293 Va. 564, 571-72 (2017) (“a case is moot and must be dismissed when the controversy that existed between litigants has ceased to exist”) (Citations omitted). As such, the issues raised in the “Request for Injunctive Relief and Damages” are moot and should be dismissed.

WHEREFORE, the Fairfax County School Board, by counsel, respectfully requests that this Court dismiss Respondent’s “Request for Injunctive Relief and Damages” and award it any such other further relief as this Court deems just and proper.

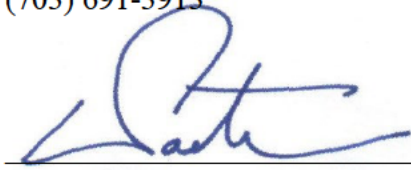
Respectfully submitted,

Fairfax County School Board
By Counsel

Date: July 8, 2022

BLANKINGSHIP & KEITH, P. C.
4020 University Drive, Suite 300
Fairfax, Virginia 22030
Phone: (703) 691-1235
Fax: (703) 691-3913

By:



William B. Porter, VSB No. 41798
wporter@bklawva.com
Counsel for Petitioner
Fairfax County School Board

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of July 2022, a true copy of the foregoing was sent by email and mailed, first class, postage prepaid to:

Callie Oettinger

REDACTED

Respondent



William B. Porter