

April 23, 2023

Via email

Jeffrey P. Garton, Esq.
Solicitor, Central Bucks School District
680 Middletown Blvd
Langhorne, PA 19047

RE: Andrew Burgess

Dear Mr. Garton:

We write to offer the District an opportunity to withdraw or clarify the vague and overbroad purported gag order the District issued to our client, Andrew Burgess, late Friday, April 21, 2023. Alternatively, if the District contends that Mr. Burgess does not have a “legal or constitutional right” under the terms of that gag order to make any of the disclosures described in this letter, provide us with that legal authority by Monday at 10:00 a.m.

On April 21, 2023, the Central Bucks School District took action affecting the terms and conditions of the employment of our client, Andrew Burgess. The letter that the District gave to Mr. Burgess in conjunction with that action, includes the following language trying to gag and intimidate Mr. Burgess, and his lawyers, from speaking publicly about the District’s actions:

b. You must keep everything (including, but not limited to the allegations, and all details thereof, the facts relating to this matter, the people involved, this process, the results of this process, witness names) fully confidential and you must not disclose any confidential information unless you have a legal or constitutional right to make the disclosure and only to the limits that the disclosure is protected by law. For example, you have the right to discuss this with your attorney, but he or she must keep this confidential to the same extent that you have the duty to keep this confidential. Another example you do have a legal right to discuss this with your union. If you or your attorney believe it is necessary to contact anyone to assist you in your defense of the allegations against you, you are directed to work through our attorney to arrange a reasonable plan to maintain the confidential nature of this process.

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Eastern Region Office
PO Box 60173
Philadelphia, PA 19102
215-592-1513 T
267-573-3054 F

Central Region Office
PO Box 11761
Harrisburg, PA 17108
717-238-2258 T
717-236-6895 F

Western Region Office
PO Box 23058
Pittsburgh, PA 15222
412-681-7736 T
412-345-1255 F

Warning: If you fail or refuse to comply with any of these directives, or if you violate any work rule or requirement, you may be subject to discipline, including discharge.

April 21, 2023, letter from District to A. Burgess (parenthetical and emphasis in original).

Mr. Burgess, for himself and through his attorneys, has a “legal or constitutional right” to publicly disclose the actions the District has taken against him, including CBSD’s April 21 letter, and to disclose information related to the allegations levelled at him during the April 20, 2023, School Board meeting and the report made public at that meeting. Moreover, should the District continue to take further retaliatory actions against Mr. Burgess, he would have a “legal or constitutional right” to disclose information about those actions, too. As has been our practice, neither Mr. Burgess nor his attorneys intend to violate the right to privacy of any student or faculty member.


The District has no legal basis to gag Mr. Burgess from exercising his legal and constitutional rights to respond, both in and out of court, to the District’s scurrilous assault on him at Thursday night’s public board meeting, the public release of the report, and Friday’s action affecting his employment status. The supposed “investigation” that the District conducted was result-oriented political theater, not a search for truth. Information was cherry-picked and provided without context. Where the District could not find “facts” to support its desired outcome, it resorted to spin and baseless assumptions. Key witnesses were ignored. The very fact that an investigation purportedly meant to examine the treatment of transgender students in CBSD, did not appear to interview a single transgender student or their family, makes clear the report’s lack of credibility. The District then chose to make their presentation by surprise, through a one-sided affair with no opportunity for rebuttal by those with first-hand knowledge of the actual events at issue. The disclosure of information counter to the District’s chosen narrative may be inconvenient for the District, but that does not make it any less a matter of public concern. In fact, quite the opposite.¹

To be clear, the District’s purported gag order against Mr. Burgess, and his lawyers, is the latest in a series of retaliatory actions it has taken against him, and if applied to prohibit any such disclosures by Mr. Burgess, it also operates as an unconstitutional prior restraint on free speech. *See, e.g., Amalgamated Transit Union Loc. 85 v. Port Auth. of Allegheny Cnty.*, 39 F.4th 95, 103 (3d Cir. 2022).

¹ The District also continues to refuse to provide Mr. Burgess with a copy of the transcript that the District made of Mr. Burgess “interview.” Through his union representatives and through us, Mr. Burgess has requested that transcript from you as the District’s Solicitor and the District’s *two* outside law firms. Yet, to date, without lawful basis, the District has refused to provide it to us. The transcript is an electronic PDF capable of being transmitted to us by the push of a button. In your capacity as the Solicitor, we ask, again, that you provide the document to us immediately.

If you disagree and have any authority supporting the position that our client, and his attorneys, do not have a “legal or constitutional right” to make each of the disclosures described above, **provide us with that legal authority by Monday at 10:00 a.m.**

Respectfully,



Witold Walczak
Legal Director
Richard Ting
Senior Staff Attorney
**AMERICAN CIVIL LIBERTIES UNION OF
PENNSYLVANIA**
P.O. Box 23058
Pittsburgh, PA 15222

**LeVAN STAPLETON SEGAL
COCHRAN LLC**

Eli Segal
John S. Stapleton

cc: Sharon O'Donnell, Esq.