UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
WINCHESTER DIVISION

I.P., a minor, by and through B.P.,

Plaintiff,

v.

TULLAHOMA CITY SCHOOLS, a political subdivision of the State of Tennessee; JASON QUICK, in his individual capacity; and DERRICK CRUTCHFIELD, in his individual capacity,

Defendants.

Case Number: 4:23-cv-26

Hon. Katherine A. Crytzer
Magistrate Judge Susan K. Lee

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT ON LIABILITY AS TO CLAIM IV

ORAL ARGUMENT REQUESTED

Darrick L. O'Dell
(BPR #26883)
SPICER RUDSTROM, PLLC
414 Union St., Ste. 1700
Nashville, TN 37219
(615) 259-9080
dlo@spicerfirm.com

Conor T. Fitzpatrick
(Mich. No. P78981, D.C. No. 90015616)*
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION
700 Pennsylvania Ave. SE, Ste. 340
Washington, D.C. 20003
(215) 717-3473
conor.fitzpatrick@thefire.org

Jeffrey D. Zeman*
(Penn. No. 328570)*
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION
510 Walnut St., Ste. 900
Philadelphia, PA 19106
(215) 717-3473
jeff.zeman@thefire.org

*Admitted *Pro Hac Vice*

Counsel for Plaintiff

Plaintiff I.P. moves under Federal Rule of Civil Procedure 56(a) for summary judgment as to liability on Claim IV because there are no genuine issues of material fact in dispute. As set forth in the accompanying memorandum of law in support of this motion, Defendant Tullahoma City Schools is liable under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), for violating I.P.'s First Amendment rights by punishing him for his nondisruptive off-campus expression (Claim IV).

Plaintiff respectfully requests the Court grant him summary judgment on Claim IV.

Dated: May 12, 2025

Respectfully Submitted,

/s/ Conor T. Fitzpatrick

CONOR T. FITZPATRICK
(Mich. No. P78981, D.C. No. 90015616)*
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION
700 Pennsylvania Ave. SE, Ste. 340
Washington, D.C. 20003
(215) 717-3473
conor.fitzpatrick@thefire.org

DARRICK L. O'DELL
(BPR #26883)
SPICER RUDSTROM, PLLC
414 Union St., Ste. 1700
Nashville, TN 37219
(615) 259-9080
dlo@spicerfirm.com

JEFFREY D. ZEMAN
(Penn No. 328570)*
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION
510 Walnut St., Ste. 900
Philadelphia, PA 19106
(215) 717-3473
jeff.zeman@thefire.org

*Admitted *Pro Hac Vice*

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2025, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing upon all ECF filing participants.

/s/ Conor T. Fitzpatrick
Conor T. Fitzpatrick
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
WINCHESTER DIVISION

I.P., a minor, by and through B.P.,

Plaintiff,

v.

TULLAHOMA CITY SCHOOLS, a political subdivision of the State of Tennessee; JASON QUICK, in his individual capacity; and DERRICK CRUTCHFIELD, in his individual capacity,

Defendants.

Case Number: 4:23-cv-26

Hon. Katherine A. Crytzer
Magistrate Judge Susan K. Lee

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON LIABILITY AS TO CLAIM IV

Darrick L. O'Dell
(BPR #26883)
SPICER RUDSTROM, PLLC
414 Union St., Ste. 1700
Nashville, TN 37219
(615) 259-9080
dlo@spicerfirm.com

Conor T. Fitzpatrick
(Mich. No. P78981, D.C. No. 90015616)*
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION
700 Pennsylvania Ave. SE, Ste. 340
Washington, D.C. 20003
(215) 717-3473
conor.fitzpatrick@thefire.org

Jeffrey D. Zeman*
(Penn. No. 328570)*
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION
510 Walnut St., Ste. 900
Philadelphia, PA 19106
(215) 717-3473
jeff.zeman@thefire.org

*Admitted *Pro Hac Vice*

Counsel for Plaintiff

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

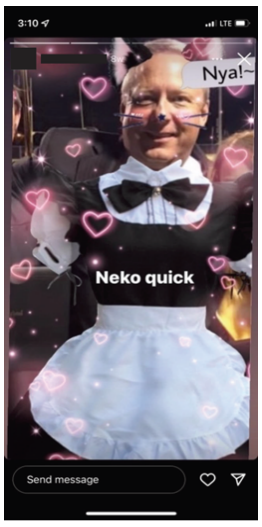
Other Authorities

Rules

INTRODUCTION

A high school principal's bruised ego does not trump the First Amendment. The Supreme Court has made clear that unless a student's off-campus expression causes or may reasonably be forecast to cause substantial disruption at school, students retain their right to freedom of speech and the job of policing their behavior falls to parents, not the government. *Mahanoy Area Sch. Dist. v. B.L. ex rel. Levy*, 594 U.S. 180, 190–92 (2021). Yet Defendant Tullahoma City Schools suspended student I.P. for posting three images on his personal Instagram lampooning Tullahoma High School Principal Jason Quick's overly serious demeanor. I.P. posted the images using his own phone, on his own time, off school property, and they did not disrupt any classes or school activities. The First Amendment therefore prohibited punishing I.P. for the posts.

I.P.'s Instagram memes were benign. The first showed Quick with a box of vegetables. The second depicted him as a Japanese cartoon cat in a French maid dress. And the third showed him being hugged by a cartoon bird:



The School District's witnesses concede a lack of disruption. And it had no evidence to support a reasonable forecast these images could somehow substantially disrupt a *public high school in 2022*.

The fact I.P.'s off-campus posts lampooned his school principal and portrayed him in an unflattering light does not remove First Amendment protection. The correct reaction by a school is thus illustrated by the unanimous Third Circuit *en banc* decision invalidating a high school's suspension of a student who created a parody Myspace profile calling his principal (among other things) a "big fag" and "big whore," and referencing his "not big dick." *Layshock ex rel. Layshock v. Hermitage Sch. Dist.*, 650 F.3d 205, 216–19 (3d Cir. 2011). As that court explained, because the off-campus posts "did not cause disruption in the school, we do not think that the First Amendment can tolerate the School District stretching its authority" into the home to censor even "vulgar," "lewd," or "offensive" expression about the principal. *Id.* at 216, 217.

The Supreme Court later ratified that approach. In holding the First Amendment protects off-campus student speech, the *Mahanoy* Court explained that "schools have a strong interest in ensuring that future generations understand the workings in practice of the well-known aphorism, 'I disapprove of what you say, but I will defend to the death your right to say it.'" 594 U.S. at 190. In doing so it reinforced its long-standing ideal that the fact that school districts "are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms …, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes." *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 637 (1943).

Our First Amendment is no mere platitude. It protects the right of all Americans—young and old—to freedom of speech. By suspending him for off-campus speech, Tullahoma City Schools deprived I.P. of that right. The Constitution protects I.P.'s satire, and there is no genuine issue of fact that his expression did not cause substantial disruption or provide a basis for the School District to reasonably forecast one. This Court should enter summary judgment for I.P. on his damages claim against the School District (Claim IV) and set a trial to determine their amount.

STATEMENT OF UNDISPUTED MATERIAL FACTS

I.P. uses Instagram for personal expression, including satire.

Plaintiff I.P.[1] grew up in Tullahoma, Tennessee, and graduated from Tullahoma High School ("THS") in 2024. (Ex. D, I.P. Tr. 15:11–16:13.) THS is part of Tullahoma City Schools (the "School District"). During high school, I.P. earned accolades as a trombonist in the school band and was a leader in his local Boy Scout troop. (*Id.* at 19:9–20:6, 21:21–22:14, 22:21–23:7.) I.P.'s talent and dedication to music, coupled with good grades, earned him scholarships to a major university, where he studies trombone. (*Id.* at 22:21–23:7; Ex. E, B.P. Tr. 24:21–25:3.)

Like millions of high school students, I.P. used social media to express himself. (Ex. D, I.P. Tr. at 52:4–52:17.) I.P.'s preferred social media platform was Instagram, which he used to share pictures and videos with family and friends. (*Id.* at 52:4–53:3.) During his freshman and sophomore years, I.P. grew to perceive his (now former) THS principal, Jason Quick, as an ineffective administrator focused less on students' well-being than his own image and presenting an air of authority. (*Id.* at 47:23–48:7, 49:5–18, 210:24–211:1.) I.P. believed Quick had ignored I.P.'s concerns regarding a discriminatory school dress code policy, treated I.P. unfairly after he voiced concerns about a substitute teacher, and had acted inappropriately with other students. (*Id.* at 39:18–41:20, 42:1–25, 47:23–48:7, 50:4–20.) So I.P. decided to poke fun at Quick's "authoritative" demeanor by posting three memes of Principal Quick in silly situations (I.P.'s "Instagram Posts"). (*Id.* at 60:15–16; 61:14–21; 62:14–17, 63:5–8, 69:20–70:10, 70:17–71:2, 71:15–21.)[2]

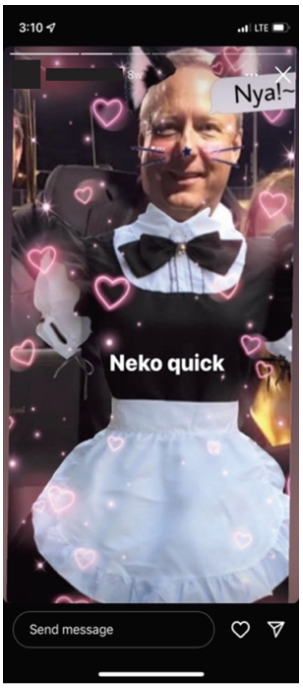
---

[1] Because I.P. was a minor at the time of these events, he, his mother, and other then-minors are referred to only by their initials to protect the minors' identities.

[2] The deposition transcripts frequently refer to exhibits by number, rather than description. I.P.'s Instagram Posts are therefore referred to in the transcripts as "Exhibit 3" (Ex. B, Quick as a cat in a French maid dress), "Exhibit 4" (Ex. A, Quick holding vegetables), and "Exhibit 5" (Ex. C, Quick hugged by a cartoon bird).

On May 22, 2022, while at his father's home in Alabama during summer vacation, I.P. reposted an image of Quick holding a box of fruit and vegetables with the text "🔥MY BROTHA🔥." (*Id.* at 63:3–64:10; Ex. A, I.P. Instagram Post: Quick Holding Vegetables; Doc. 1, Verified Comp. ¶¶ 26–28.)[3] By reposting the image and adding the text "like a sister but not a sister<33," I.P. intended to satirize his own relationship with Quick, which his friends knew was not as close as the text suggested. (Ex. D, I.P. Tr. 64:21–66:15.) I.P. also ironically added the text "On god," as if he firmly believed in the message. (*Id.* at 64:11–65:2.)

During a subsequent family vacation to Italy, I.P. posted an image on June 9, 2022, showing Quick as an anime (i.e., Japanese cartoon) cat wearing whiskers, cat ears, and a French maid dress. (Ex. B, I.P. Instagram Post: Quick as a Cat in a French Maid Dress; Verified Comp. ¶ 30; Ex. D, I.P. Tr. 59:17–60:9.) The image included the text "Neko quick" and "Nya!" because Neko means "cat" in Japanese and "Nya" represents the sound a cat makes in Japanese onomatopoeia. (Verified Comp. ¶¶ 31–32; Ex. D, I.P. Tr. 59:19–23, 61:10–13, 62:22–63:2.) The image meant to satirize Quick for presenting himself as overly masculine and authoritative in his interactions with the student body. (Ex. D, I.P. Tr. 61:14–19, 62:14–21.)



[3] A verified complaint "carries the same weight as would an affidavit for the purposes of summary judgment." *El Bey v. Roop*, 530 F.3d 407, 414 (6th Cir. 2008).

On August 2, 2022, while at home following the second day of school, I.P. posted a third image showing Quick's head superimposed on a hand-drawn cartoon meant to resemble a character from the popular online game *Among Us*. (Ex. C, I.P. Instagram Post: Quick Hugged by a Cartoon Bird; Verified Comp. ¶ 34; Ex. D, I.P. Tr. 68:17–69:8.) The image also shows a cartoon bird named Mordecai, from the Cartoon Network television series *Regular Show*, hugging Quick's leg. (Verified Comp. ¶ 34; Ex. D, I.P. Tr. 68:17–23.) I.P. posted the image to satirize Quick's desire to be seen by students as a serious authority figure by implying the school principal had a relationship with a cartoon bird. (Verified Comp. ¶ 35; Ex. D, I.P. Tr. 70:17–71:2.)

Quick and Crutchfield suspend I.P. from school for his Instagram Posts.

A full ten days into the fall semester, I.P.'s first two Instagram Posts had been visible to the public for more than two months and the third for more than a week. During that time and after—as THS administrators conceded during discovery—I.P.'s Instagram Posts did not cause any disruption at THS, did not cause any students to violate school rules, and did not result in any complaints from parents, teachers, or administrators. (Ex. F, Quick Tr. 66:21–24, 67:4–6, 67:14–22, 78:12–79:2, 93:6–12; 200:3–14; Ex. G, Crutchfield Tr. 39:17–24, 40:7–24, 44:15–21, 45:13–21, 49:23–50:8, 50:19–51:11; Ex. H, Flowers Tr. 27:22–28:7, 28:11–29:8, 30:9–24, 31:9–32:1, 33:8–18, 34:8–25.)

In fact, School District administrators saw I.P.'s Instagram Posts for the first time only while investigating two *other* images. (Ex. F, Quick Tr. 63:24–64:8, 67:23–68:12, 87:7–14; Ex. G, Crutchfield Tr. 36:15–23, 41:4–10, 48:3–9; Ex. H, Flowers Tr. 25:1–17, 29:9–17, 32:2–8.) On August 10, 2022, during a free period at school, student A.L. received an anonymous AirDrop of two images of Quick superimposed over photographs of Adolf Hitler and the KKK (the "New

Images").[4] (Ex. I, A.L. Decl. ¶¶ 4–9.) A.L. did not know who created or sent the New Images, or even how many other students had seen the New Images. (*Id.* ¶¶ 10–12.) But that day she reported to Quick she overheard another student in the lunchroom,[5] R.Y., say "L—" (a nickname I.P. uses) had posted images of Quick on Instagram. (*Id.* ¶¶ 16–19.) Quick and Assistant Principal Renee Flowers then pulled R.Y. out of band practice, showed her the New Images, and demanded she show them I.P.'s Instagram page. (Ex. J, R.Y. Tr. 16:18–18:2; 22:12–23:16.) R.Y. refused and denied I.P. had made the New Images. (*Id.* at 22:12–23:16.) But Quick and Flowers continued to pressure her, insisting they knew I.P. had created them. (*Id.* at 22:12–23:16, 24:19–25:11.) When R.Y. finally directed Flowers to I.P.'s Instagram profile, the New Images were not there, but Quick and Flowers saw I.P.'s three Instagram Posts. (Ex. H, Flowers Tr. 57:21–58:5.)

Immediately following band rehearsal, after classes had been dismissed for the day, Band Director Justin Scott escorted I.P. to the school's front office, where Quick and Assistant Principal Derrick Crutchfield were waiting. (Ex. K, Scott Tr. 50:11–16.) Quick demanded I.P. tell him why he shared the Instagram Posts.[6] (Ex. F, Quick Tr. 165:17–19.) I.P explained he shared his three Instagram Posts because he thought they were funny. (*Id.* at 165:13–22.) Quick then told I.P. that the Instagram Posts embarrassed him and ordered I.P. to read the school's Social Media Policy, which prohibited sharing photos that "embarrass" or "discredit" staff. (*Id.* at 166:15–22; Ex. G,

[4] In the deposition transcripts, the New Images are "Exhibit 1" (KKK) and "Exhibit 2" (Hitler).
[5] Quick confirmed THS students are permitted to use their phones during the lunch period. (Ex. F, Quick Tr. 116:24–117:2.)
[6] Quick also questioned I.P. about the New Images and I.P. denied creating them. (Ex. F, Quick. Tr. 165:4–12.) The School District has confirmed it did not suspend I.P. based on the New Images. (Mot. Dismiss Mem., Doc. 53 at 24.) The School District's confirmation is consistent with its contemporary correspondence in August 2022 when Quick wrote I.P.'s mother B.P. (with Crutchfield copied) and explicitly assured her I.P.'s suspension was not based on the New Images. (Ex. L, Quick Aug. 16, 2022 Email to B.P.)

Crutchfield Tr. 71:17–72:14; 74:24–75:9.) The policy, from the 2022–2023 Tullahoma High School Student handbook, provided:

> Any student who records and/or disseminates in any manner an unauthorized or misrepresented photograph, video, or recording for the purpose of embarrassing, demeaning, or discrediting the reputation of any student or staff, or that results in the embarrassment, demeaning, or discrediting of any student or staff, or results in any action or activity disruptive to the educational process shall be subject to disciplinary action up to and including suspension or expulsion at the discretion of the principal.

(Ex. F, Quick Tr. 133:24–134:23; Ex. M, THS Student Handbook 2022–2023 at 9.)

Quick ordered Crutchfield to suspend I.P. for five days. (Ex. G, Crutchfield Tr. 74:24–75:9.) At Quick's direction, I.P. and Crutchfield then went to Crutchfield's office, while Quick and Scott stayed behind. (Ex. D, I.P. Tr. 84:3–8.) Once in Crutchfield's office, consistent with Quick's order, Crutchfield told I.P. he would receive a five-day, out-of-school suspension. (*Id.* at 85:7–13.) Under School District policy, because I.P.'s suspension was fewer than eleven days, the administrators' action was final, with no possible appeal. (Ex. F, Quick Tr. 47:25–49:16; Ex. N, Tullahoma City Schools Suspension Policy.)

I.P. immediately had a debilitating panic attack. (Ex. D, I.P. Tr. 85:14–21.) He started breathing heavily, crying, and lost the ability to move or speak. (*Id.* at 85:22–86:19.) His muscles spasmed, and his hand contorted into a painful "claw." (*Id.*; Ex. K, Scott Tr. 57:19–58:1.) I.P. remained in this condition in Crutchfield's office for more than two hours before Crutchfield and I.P.'s mother, B.P., placed him in a wheelchair and wheeled him out to B.P.'s car. (Ex. G, Crutchfield Tr. 90:10–19.) I.P. did not regain full mobility and speech until later that evening. (Ex. D, I.P. Tr. 112:9–11.)

Two days later, on August 12, 2022, B.P. met with Quick and Crutchfield to discuss I.P.'s suspension. (Ex. E, B.P. Tr. 116:24–117:5.) Quick and Crutchfield informed B.P. that Crutchfield

had reduced I.P.'s suspension to three days but that I.P. would remain suspended. (*Id.* at 120:5–15, 125:7–9.) B.P. handed Quick and Crutchfield a letter citing *Mahanoy* and demanding they immediately lift I.P.'s suspension and preserve all relevant documents. (*Id.* at 125:7–126:5; Ex. O, B.P. August 12, 2022 *Mahanoy* Letter.) The following Monday, August 15, 2022, B.P. emailed Quick regarding their August 12 conversation and asked him to confirm the basis of I.P.'s suspension. (Ex. L, Quick Aug. 16, 2022 Email to B.P.) Quick, copying Crutchfield, confirmed in writing the School District based I.P.'s suspension solely on I.P.'s three Instagram Posts and contended I.P.'s posts violated the Social Media Policy's prohibition against "disrespecting" a staff member. (*Id.*)

I.P. sues, and the Court allows I.P.'s First Amendment claim against the School District to go forward.

On July 19, 2023, I.P. filed a Verified Complaint against the School District, Quick, and Crutchfield alleging his August 2022 suspension, the Social Media Policy, and another policy affecting student speech on social media violated the First and Fourteenth Amendments. (Doc 1, Verified Compl.) I.P. also sought a preliminary injunction asking the Court to lift I.P.'s suspension and halt enforcement of the policies while the case proceeds. (Doc. 4, Pl.'s Mot. Prelim. Inj. at 1.)

Hours after I.P. filed his complaint and the suspension began to attract national media attention, including from *The New York Times* and *Washington Post*,[7] the School District abruptly removed the challenged policies from the Student Handbook. (Ex. P, Stephens Decl. ¶ 2; Ex. Q, Stephens Text Message; Ex. R, School District's Resp. to Pl.'s Interrog. No. 5.) On August 14, 2023, the School District and I.P. entered an agreement whereby, in exchange for I.P. withdrawing

[7] *See* Christine Hauser, *A Student Sues After Suspension for Mocking Principal on Instagram*, N.Y. TIMES (July 24, 2023), https://www.nytimes.com/2023/07/24/us/student-memes-tennessee-suspended.html; Johnathan Edwards, *A Student Was Suspended for Memes Mocking His Principal. Now He's Suing.*, WASH. POST (July 24, 2023), https://www.washingtonpost.com/nation/2023/07/24/tennessee-meme-lawsuit-high-school.

his motion for preliminary injunction, the School District removed I.P.'s suspension from his record and confirmed it had removed the policies from the Student Handbook in response to I.P.'s lawsuit. (Doc. 25, Stipulation Regarding Pl.'s Mot. Prelim. Inj.)

After I.P. amended the complaint, the Defendants filed answers and affirmative defenses. (Doc. 36, Am. Compl.; Doc. 42, Quick Am. Answer; Doc. 43, Crutchfield Am. Answer; Doc. 44, School District Am. Answer.) The Defendants moved for judgment on the pleadings under Rule 12(c). (Doc. 51, Quick and Crutchfield Br.; Doc. 53, School District Br.) The Court granted the Defendants' motions in part, dismissing Quick and Crutchfield based on qualified immunity, but allowed I.P.'s damages claim (Claim IV) against the School District to proceed. (Doc. 109.)

The Court held Claim IV "plausibly alleges" the School District's "illegal 'official policy' was the 'moving force' behind the alleged violation" of I.P.'s rights. (Doc. 109, Mem. Op. at 19 (quoting *Kovalchuk v. City of Decherd*, 95 F.4th 1035, 1038 (6th Cir. 2024)).) Specifically, the Court reasoned, "the Amended Complaint alleges" the School District's "'policy' of permitting student punishment 'for engaging in nondisruptive, off-campus expression was the moving force behind' I.P.'s suspension and the violation of his First Amendment rights." (*Id.* (quoting Am. Compl. ¶ 195).) The Court also acknowledged that I.P. asserts "Defendants Quick and Crutchfield acted pursuant to that official 'policy'" and that I.P. "plausibly alleges that Defendants Quick and Crutchfield acted with final decision-making authority in suspending Plaintiff." (*Id.* (quoting Am. Compl. ¶¶ 191–93,195).)

Applying the allegations to the law, the Court explained that "taking the allegations of the Amended Complaint as true, Tullahoma High School 'did not experience material disruption or substantial disorder due to'" I.P.'s social media posts. (*Id.* at 19–20 (quoting Am. Compl. ¶ 41).) Nor, the Amended Complaint alleged, had the School District "received information which would

have led it to reasonably forecast a 'material disruption' or 'substantial disruption.'" (*Id.* at 20 (quoting Am. Compl. ¶ 43, 45).) The Court therefore held "Claim Four plausibly alleges that Defendant [School District], acting through an official with final decision-making authority, violated Plaintiff's First Amendment rights." (*Id.*) The parties conducted and completed discovery, and this motion followed.

ARGUMENT

The School District violated the First Amendment by suspending I.P. for his protected, off-campus, nondisruptive expression. Students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969). Even during school, the government may restrict only that expression which causes, or may be reasonably forecast to cause, substantial disruption or which invades the rights of others. *Id.* at 513–14. And once students exit the schoolhouse gates, "the leeway the First Amendment grants to schools" to restrict expression "is diminished" further still. *Mahanoy*, 594 U.S. at 190.

The School District must prove I.P.'s Instagram Posts caused substantial disruption, or supply evidence supporting a reasonable forecast of substantial disruption. *Tinker*, 393 U.S. at 509, 514. It cannot meet that burden. There is no genuine issue of fact that I.P. posted his images lampooning Principal Quick on his own time, away from school, from his own device, and that the posts did not cause or threaten to cause material disruption, substantial disorder, or an invasion of the rights of others. I.P.'s satirical expression, regardless of whether it embarrassed Quick, remained firmly within the First Amendment's protection. And there is no dispute the School District suspended I.P. for violating the Social Media Policy or that Quick and Crutchfield were

final, authorized decisionmakers for I.P.'s suspension under School District policy, making the School District liable for the constitutional violation.

I.P. is therefore entitled to summary judgment. Fed. R. Civ. P. 56(a). The School District lacks "evidence on which the jury could reasonably find" in its favor. *Leonard v. Robinson*, 477 F.3d 347, 354 (6th Cir. 2007) (citation omitted). A "mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion" but rather there must be a "*genuine* issue of *material* fact." *Anderson v. Liberty Lobby Inc.*, 477 U.S. 242, 247–48 (1986). Here, on Claim IV, there is none. I.P.'s Instagram Posts are protected speech, the School District lacks an evidentiary basis for asserting substantial disruption, and the plain text of the School District's policies establishes municipal liability. The Court should grant I.P.'s motion.

I. The First Amendment Protects High School Students' Speech.

A. The First Amendment protects lampooning a high school principal.

The First Amendment protects criticizing and satirizing public officials, including public school administrators like Quick. *See, e.g.*, *Mahanoy*, 594 U.S. at 190–91; *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 273 (1964). Those protections extend beyond the spoken word and include symbolism and artistic expression. *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.*, 515 U.S. 557, 569 (1995). "[F]rom the early cartoon portraying George Washington as an ass down to the present day … satirical cartoons have played a prominent role" in American expression. *Hustler Mag., Inc. v. Falwell*, 485 U.S. 46, 54 (1988). And the First Amendment protects speech "even if the speech makes others feel quite uncomfortable." *Noble v. Cincinnati & Hamilton Cnty. Pub. Library*, 112 F.4th 373, 383 (6th Cir. 2024). That includes "giving offense" because "the proudest boast of our free speech jurisprudence is that we protect the freedom to express the thought that we hate." *Matal v. Tam*, 582 U.S. 218, 243, 246 (2017) (cleaned up).

That core principle of American free speech applies in public schools. *See id.* at 244 (citing, *inter alia, Tinker*, 393 U.S. at 514). Indeed, minors are "entitled to a significant measure of First Amendment protection." *Brown v. Ent. Merchants Ass'n*, 564 U.S. 786, 794 (2011) (citation omitted). That means public school students enjoy "fundamental rights which the State must respect," including the "freedom of expression." *Tinker*, 393 U.S. at 511. Schools that punish or censor speech thus bear the burden of demonstrating that a student's expression "would *materially and substantially interfere* with the requirements of appropriate discipline in the operation of the school." *J.S. ex rel. Snyder v. Blue Mountain Sch. Dist.*, 650 F.3d 915, 926 (3d Cir. 2011) (en banc) (quoting *Tinker*, 393 U.S. at 509).

Public schools have limited leeway to regulate some on-campus student speech to the extent schools stand *in loco parentis*, i.e., in place of parents. *Mahanoy*, 594 U.S. at 189. So, schools may limit on-campus speech only if it causes or can be reasonably forecast to cause material disorder, substantial disruption, or an invasion of the rights of others. *Tinker*, 393 U.S. at 513–14. Absent substantial disruption, schools can regulate only on-campus speech that "bear[s] the imprimatur of the school" if the regulation is for a pedagogical purpose; "can reasonably be regarded as encouraging illegal drug use"; or is vulgar, lewd, and indecent and made to a "captive audience of minors." *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 271–73 (1988); *Morse v. Frederick*, 551 U.S. 393, 397 (2007); *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 680, 683–85 (1986). But a student's *off-campus* speech that does not substantially disrupt school or invade the rights of others, like I.P.'s Instagram Posts, enjoys full First Amendment protection. *Mahanoy*, 594 U.S. at 187–88.

B. *Mahanoy* sharply restricts schools' authority to punish off-campus speech and placed I.P.'s Instagram Posts beyond the School District's reach.

Starting with *Morse*, and cemented in *Mahanoy*, the Supreme Court has made clear public schools have sharply decreased authority to punish off-campus student expression, even when, like I.P., the student's speech is about school or its administrators. As the Supreme Court explained in *Morse*, had the student in *Fraser* who received a suspension for giving an innuendo-laden student council election speech during an assembly "delivered the same speech in a public forum outside the school context, it would have been protected." *Morse*, 551 U.S. at 405 (citing *Fraser*, 478 U.S. at 682–83); *see also Mahanoy*, 594 U.S. at 192 (citing *Morse* and *Fraser* and holding same).

In 2021, *Mahanoy* squarely addressed the relationship between students' freedom of speech to discuss school on social media and school authority to police that speech. The Court held public schools' ability to punish a student for off-campus speech about school is even more limited than the already stringent *Tinker* test for on-campus speech. *Mahanoy*, 594 U.S. at 189. The Court noted "three features of off-campus speech that often, even if not always," distinguish off-campus speech from on-campus student expression. *Id.*

First, away from campus, schools "will rarely stand *in loco parentis*." *Id.* During the school day, administrators "stand[] in the place of students' parents" when parents are not there to "protect, guide, and discipline them." *Id.* But outside school, parents—not the government—are responsible for raising the next generation of Americans. Second, "from the student speaker's perspective, regulations of off-campus speech, when coupled with regulations of on-campus speech, include all the speech a student utters during the full 24-hour day." *Id.* Therefore, "courts must be more skeptical of a school's efforts to regulate off-campus speech, for doing so may mean the student cannot engage in that kind of speech at all." *Id.* at 189–90. And third, "the school itself has an interest in protecting a student's unpopular expression, especially when the expression takes

place off campus." *Id.* at 190. The Court stressed public schools "have a strong interest in ensuring that future generations understand" American protections for free speech, even for unpopular speakers. *Id.*

In holding a high schooler's cheerleading suspension unconstitutional, *Mahanoy* illustrates the restricted ability to punish off-campus social media expression. In that case, the student, disappointed at only making the junior varsity cheerleading team, posted two rants to social media expressing displeasure. One post read, "Fuck school fuck softball fuck cheer fuck everything." *Id.* at 185. The second accused the cheerleading coach of giving preferential treatment to another student. *Id.* at 184–85. As the Court noted, "[p]utting aside the vulgar language" of the posts, "the listener would hear criticism, of the team, the team's coaches, and the school—in a word or two, criticism of the rules of a community of which [the student] forms a part." *Id.* at 190. And criticism of one's community is the kind of "pure speech" to which the First Amendment provides strong protection. *Id*. at 191.

In light of that, the Court assessed the student's social media posts through traditional First Amendment standards. It explained that although B.L.'s Snapchat posts aimed at the cheerleading coach were "crude, [they] did not amount to fighting words," and while they "used vulgarity, her speech was not obscene as this Court has understood that term." *Mahanoy*, 594 U.S. at 190–91. (first citing *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942); and then citing *Cohen v. California*, 403 U.S. 15, 19–20 (1971)). Yet B.L.'s high school still suspended her.

This violated the First Amendment, the Court held, because B.L. "spoke outside the school on her own time," when her parents, not the school, were responsible for her supervision. *Id.* at 191. Critically, the social media posts had a negligible impact at school: a few cheer squad members were "visibly upset" but "discussion of the matter took, at most, 5 to 10 minutes of an

Algebra class 'for just a couple of days.'" *Id.* at 185, 191–93. The Court held this minimal disturbance did not satisfy *Tinker*'s "demanding standard" of a substantial disruption to justify punishing a student for expression. *Id.* at 193. Nor could the school reasonably forecast substantial disruption without evidence to support its "undifferentiated fear." *Id.* (citing *Tinker*, 393 U.S. at 508).

Likewise, here, I.P. posted his Instagram Posts to social media on his own time, away from school, and the images did not substantially disrupt school or give the School District a reasonable basis to think they would. The posts gently poked fun at his high school principal, the head of the "community" of which I.P. "forms a part." *Id.* at 190. Like B.L.'s posts in *Mahanoy*, I.P.'s images "did not involve features that would place it outside the First Amendment's ordinary protection." *Id*. at 191. The posts did not amount to fighting words, nor were they obscene, and the School District has never asserted otherwise. *See id.*; *Chaplinsky* 315 U.S. 568; *Cohen*, 403 U.S. at 19–20. That means the posts retained First Amendment protection as commentary about I.P.'s "community." *Mahanoy*, 594 U.S. at 190.

Consistent with these principles, even before *Mahanoy*, courts have held the First Amendment protects students lampooning teachers and administrators on social media, even in vulgar and insulting terms, which is far from the case here. For example, the *en banc* Third Circuit unanimously held a public high school could not discipline a student for creating a Myspace profile parodying his principal as a "big steroid freak," a "big whore," and a "big fag," and listing the principal's interests as "Transgender, Appreciators of Alcoholic Beverages." *Layshock*, 650 F.3d at 207–08. The court held the student's parody profile, though abrasive, remained protected by the First Amendment because it "did not disturb the school environment and was not related to any school sponsored event." *Id.* at 207.

The *en banc* Third Circuit also held protected, in *J.S.*, a student's sexually vulgar Myspace profile calling her principal an "oh so wonderful, hairy, expressionless, sex addict, fagass, put on this world with a small dick PRINCIPAL" who loved "children, sex (any kind), dogs, long walks on the beach, tv, being a dick head, and … my darling wife who looks like a man." 650 F.3d at 921, 930–31. Although teachers overheard students discussing the profile in class and the school counselor had to cancel student appointments to accommodate a meeting about the profile, the court held these minor disturbances did not satisfy the demanding "substantial disruption" standard. *Id.* at 922–23, 925. The substantial disruption test requires much more than administrator embarrassment and student scuttlebutt.

The Sixth Circuit's decision in *Kutchinski ex rel. H.K. v. Freeland Community School District* showcases the high bar the School District cannot clear here. 69 F.4th 350, 359–60 (6th Cir. 2023). *Kutchinski* involved a student's off-campus social media posts threatening and targeting specific students and teachers. One read, "I will find and kill [teacher's name] I'm going to strangle him with my barehands [sic] until he is barely conscious then let go. Once he is awake again I'm gonna run him over with my fucking car and crush his skull into a million pieces." *Id.* at 354–55 (cleaned up). As the Sixth Circuit explained, a student "direct[ing] sexual and violent posts at three Freeland teachers and a student" would "substantially disrupt normal school proceedings," *id.* at 359, and the school had evidence to forecast substantial disruption because a targeted teacher "was crying in one of her classes" and others reported "several classroom disruptions … in their rooms," *id.* at 355 (internal quotation marks omitted).

The School District's basis for suspending I.P. here was not that his expression caused disruption. Instead, it insisted his posts violated school policy against "embarrassing" or "discrediting" the school principal. (Ex. F, Quick Tr. 166:15–22; Ex. L, Quick Aug. 16, 2022

Email to B.P.) Explaining why he objected to I.P.'s post playfully photoshopping him into a French maid dress (and perhaps inadvertently proving I.P.'s satirical point about Quick's humorlessness), Quick testified:

> 9 Q. Why did you object to being shown in a dress?
> 10 **A. Because that's not who I am. I don't wear**
> 11 **dresses nor -- I'll just leave it at that. I don't**
> 12 **wear dresses.**

(Ex. F, Quick Tr. 76:9–12.)

But "embarrassing" speech about school administrators, even if blatantly vulgar as in *Layshock* or *J.S.*, is outside the school's reach. *Layshock*, 650 F.3d at 207; *J.S.*, 650 F.3d at 925. After all, "[s]peech does not lose its protected character … simply because it may embarrass others." *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 910 (1982). That is likely why the School District hurriedly repealed the policy it suspended I.P. for violating just hours after I.P. filed suit. (Ex. P, Stephens Decl. ¶ 2; Ex. Q, Stephens Text Message; Ex. R, School District's Resp. to Pl.'s Interrog. No. 5.)

In sum, what a student says on their own time about school officials is none of the school's business *unless* the student's expression substantially disrupts or could be reasonably forecast to substantially disrupt the school day *and* the school can supply an evidentiary basis for that forecast. That requirement traces back to *Tinker*, which stressed that schools "must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasant-ness" of an unpopular opinion. *Mahanoy*, 594 U.S. at 193 (quoting *Tinker*, 393 U.S. at 509). As explained in the next section, such evidence is markedly absent here, where discovery confirmed the School District relies upon nothing more than a principal's hurt feelings at being the subject of an off-campus student joke.

II. There Is No Genuine Issue of Fact That I.P.'s Instagram Posts Did Not Cause Substantial Disruption or Provide a Basis for a Reasonable Forecast of Substantial Disruption.

The School District violated I.P.'s First Amendment rights by suspending him for off-campus expression that did not cause and was not reasonably forecast to cause substantial disruption at THS. Initially, the School District does not identify what interest, if any, it has in policing I.P.'s off-campus speech or how that overcomes I.P.'s interest in exercising his First Amendment rights. *See Mahanoy*, 594 U.S. at 191–92 (rejecting as insufficient to "overcome B.L.'s interest in free expression" the school's supposed interest "in punishing the use of vulgar language aimed at part of the school community," because "B.L. spoke outside the school on her own time" and "there is no reason to believe B.L's parents had delegated to school officials their own control of B.L.'s behavior"). Here, the *only* in-school effect Quick identifies from social media posts relates to the New Images circulating among students—images the School District concedes were not the basis of I.P.'s suspension (Doc. 53, SD Br. at 24.)[8] And the sum total of that is one (1) student came to Quick's office to tell him about the New Images. (Ex. I, A.L. Decl. ¶¶ 10–12, 16–19; Ex. F, Quick Tr. 116:19–23.) *That's it*. And the School District alleges zero in-school impact from I.P.'s Instagram Posts:

[8] The School District has disclaimed that it suspended I.P. based on the New Images. (Mot. Dismiss Mem., Doc. 53 at 24.) It cannot now rely on the New Images to justify I.P.'s suspension because, in a First Amendment challenge, the Court must rely on the government's contemporaneous justifications for its actions, not justifications asserted "*post hoc* in response to litigation." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 543 n.8 (2022) (citation omitted). The sole basis the School District provided I.P. and his mother for his suspension in August 2022 was I.P.'s three Instagram Posts. (Ex. E, B.P. Tr. 120:4–121:7; Ex. L, Quick Aug. 16, 2022 Email to B.P.) It "must rely only on the reasons originally provided" for I.P.'s suspension, *Norris ex rel. A.M. v. Cape Elizabeth Sch. Dist.*, 969 F.3d 12, 25–27 (1st Cir. 2020), and the Court must prevent the School District from using the New Images to rewrite its true justification for interfering with I.P.'s First Amendment rights, *Kennedy*, 597 U.S. at 543 n.8.

3	Q.	For any of the five images that we've talked
4		about today, are you aware of any student's academic
5		performance being harmed because of them?
6	**A.**	**No.**
7	Q.	For any of the five images that we've talked
8		about today, are you aware of any student's mental
9		health being affected?
10	**A.**	**No.**
11	Q.	With respect to any of the five images that
12		we've talked about today, are you aware of any
13		teacher's lessons being affected?
14	**A.**	**No.**

(Ex. F, Quick Tr. 200:3–14.)

The evidence here—or, more accurately, lack thereof—falls well short of the disruption the Supreme Court found insufficient in *Mahanoy*, which involved "visibly upset" students and in-class discussion for "a couple of days." 549 U.S. at 185, 191–93. Similarly, in *C1.G ex rel. C.G. v. Siegfried*, the Tenth Circuit held multiple parents bringing a student's anti-Semitic social media posts to the principal's attention did not constitute a "substantial disruption" because the principal failed to "substantiate his feeling that the learning environment had been impacted." 38 F.4th 1270, 1278–79 (10th Cir. 2022). Here? There is nothing.

The School District's actions also fly in the face of the command that any "reasonable forecast" of substantial disruption must be supported by concrete evidence beyond mere speculation. *See Mahanoy*, 549 U.S. at 193; *Castorina ex rel. Rewt v. Madison Cnty. Sch. Bd.*, 246 F.3d 536, 544 (6th Cir. 2001); *see also Tinker,* 393 U.S. at 508, 515 ("undifferentiated fear or apprehension of disturbance is not enough"); *J.S.*, 650 F.3d at 930 (schools must proffer specific facts showing "undifferentiated fear or apprehension" has "transform[ed] into a reasonable forecast that a substantial disruption or material interference will occur.")

For example, two Sixth Circuit cases diverged over whether public schools could ban Confederate flag t-shirts based on a "reasonable forecast" of substantial disruption precisely because one school supplied evidence supporting its prediction and the other did not. In *Barr v. Lafon*, the court held the school could reasonably forecast substantial disruption because it had evidence of severe racial tensions at school, including a fight between African American and Caucasian students, a lockdown during the previous school year due to threats of additional race-related violence, and on-campus graffiti of a confederate flag next to a noose. 538 F.3d 554, 567 (6th Cir. 2008). Conversely, in *Castorina v. Madison County School Board*, the court remanded for trial because finding in the school's favor required evidentiary support—lacking at that point in the case—for a reasonable forecast that Confederate flags would substantially disrupt the school. 246 F.3d 536, 544 (6th Cir. 2001).

In this case, there was no evidence of disruption, or even predictable disruption. Instead, Crutchfield insisted "Mr. Quick had to have a type of persona, character to be respected by students, faculty, community, parents" and posited that I.P.'s meme of Quick as a cartoon cat in a French maid dress could endanger that image. (Ex. G, Crutchfield Tr. 44:25–45:12.) But students having an unfavorable view of their principal is nowhere close to actual interference with classes or school activities. Similarly, Quick said I.P.'s Instagram Posts could "cause a distraction to learning" because the images were "very unflattering" to him. (Ex. F, Quick Tr. 77:24–78:11.) He also testified he thought the image of him being hugged by a cartoon bird could cause a "school distraction" but could not explain why. (*Id.* at 93:17–96:4.) Quick added that he equates "distraction" with "disruption" and testified he believed I.P.'s Instagram Posts could be disruptive because they might "distract" students into discussing them. (*Id.* at 78:8–11, 94:6–8; 94:25–96:4.)

The School District's expansive interpretation of "disruption" violates *Tinker* and the First Amendment. Students discussing others' expression in a manner that does not interfere with class is *protected speech*, not actionable "disruption." In *Tinker*, the Supreme Court held the First Amendment protected the right of students to wear controversial anti-war armbands protesting the Vietnam War. 393 U.S. at 514. Rejecting the school district's argument that the armbands would distract from the students' studies by triggering discussions and arguments among students, the Court explained such discussions are "not only an inevitable part of the process of attending school; [they are] also an important part of the educational process." *Id*. at 512. The Court held students "may express [their] opinions, even on controversial subjects … if [they do] so without materially and substantially interfering with the requirements of appropriate discipline in the operation of the school and without colliding with the rights of others." *Id.* (cleaned up).

Here, the School District's vaguely asserted "disruption" had nothing to do with students discussing social media posts at a time or in a manner which interfered with school discipline (for example, during a math test). Instead, the School District's objection is that I.P.'s Instagram Posts *could* cause students to talk about the posts and the School District didn't want them to. Tough. *Tinker* explained, "In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved." *Id.* at 511. The School District has no objection to students discussing social media posts at school, unless the topic of discussion happens to be a post poking fun at the school principal. Then, regardless of whether students' discussions had *any* impact on classes or school activities, it's punishable "disruption." Under *Tinker*, that is constitutionally intolerable. *Id.* at 513.

By August 10, 2022, I.P.'s Instagram Posts were public for 80, 62, and 8 days, respectively. (Verified Comp. ¶¶ 26–30, 34; Ex. D, I.P. Tr. 59:17–60:9, 63:3–64:10, 68:17–69:8.) Quick and Crutchfield conceded during depositions they had no information suggesting that I.P.'s Instagram Posts had caused *any* disruption or even elicited any complaints. (Ex. F, Quick Tr. 66:21–24, 67:4–6, 67:14–22, 77:13–16, 78:12–79:2, 93:6–12, 200:3–14; Ex. G, Crutchfield Tr. 39:17–24, 40:7–24, 44:15–21, 45:13–21, 49:23–50:8, 50:19–51:11.) As in *Tinker*, *Mahanoy*, and *C1.G.*, the School's vague, unsubstantiated fears of a distraction are "not enough to overcome the right to freedom of expression." *Mahanoy*, 594 U.S. at 193 (citation omitted).

III. Under *Monell*, the School District Is Responsible for Violating I.P.'s Constitutional Rights.

The School District is liable for I.P.'s unconstitutional suspension because Quick and Crutchfield acted pursuant to the School District's policy and custom. *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978). Under *Monell*, "[a] local governmental entity may be held liable under 42 U.S.C. § 1983 for violations of federal law committed pursuant to a governmental 'policy or custom.'" *Soper v. Hoben*, 195 F.3d 845, 853 (6th Cir. 1999). And "a school district is a local governmental entity." *Id.* at 854.

To establish policy or custom, a student can show (1) evidence of a formal policy officially adopted by the district; or (2) a single, unconstitutional act or decision taken by an authorized decisionmaker. *Bible Believers v. Wayne Cnty.*, 805 F.3d 228, 260 (6th Cir. 2015). I.P. has both.

First, Quick and Crutchfield suspended I.P. based on the School District's written Social Media Policy. (*See* Ex. M, THS Student Handbook 2022–2023 at 9.) In Crutchfield's office, after Quick ordered the Assistant Principal to suspend I.P., Crutchfield justified I.P.'s suspension by explaining to I.P. that he violated the Social Media Policy by "disseminat[ing] unauthorized and misrepresented pictures that were embarrassing and discrediting to the reputation of Mr. Quick."

(Ex. G, Crutchfield Tr. 74:24–75:9, 83:18–84:23.) Days later, Quick responded to B.P.'s request for a written justification for I.P.'s suspension by sending her the Social Media Policy. (Ex. L, Quick Aug. 16, 2022 Email to B.P.) There is no genuine issue of fact that the School District suspended I.P. because it believed he violated the Social Media Policy.

Second, School District official policy and deposition testimony established Quick and Crutchfield were authorized decisionmakers when they suspended I.P. for his Instagram Posts. A single official's actions create liability for a local government entity when the official has "final policymaking authority." *Pembaur v. City of Cincinnati*, 475 U.S. 469, 482–83 (1986). When a government employee has final, unreviewable discretion, the government is liable for their actions. *See Paterek v. Village of Armada*, 801 F.3d 630, 652 (6th Cir. 2015) (holding a city's building inspector held final decisionmaking authority related to zoning ordinances because he was "imbued with the primary responsibility for enforcing [the ordinances] (and determining whether an ordinance had in fact been violated)").

School District Policy 6.316, "Suspension," establishes that Quick and Crutchfield had unreviewable authority to issue I.P.'s suspension because it was for fewer than eleven days, meaning I.P. had no ability to appeal his suspension to the School Board. (Ex. N, Tullahoma City Schools Suspension Policy.) Under School District policy, School District administrators have complete authority to investigate students for violations of school policy, determine students' responsibility for such violations, and issue non-appealable suspensions. (Ex. N, Tullahoma City Schools Suspension Policy; Ex. F, Quick Tr. 53:21–55:10.) To that end, testimony by the School District's administrators confirmed that in August 2022, Quick and Crutchfield had authority to enforce the Social Media Policy and final authority to impose an unappealable suspension of ten days or shorter for violating that policy, which they did with I.P. (Ex. F, Quick Tr. 47:25–49:16;

Ex. N, Tullahoma City Schools Suspension Policy.) That means the School District remains bound by, and responsible for, the First Amendment violations carried out by those it designated to exercise complete, unreviewable authority over student suspensions. *Paterek*, 801 F.3d at 652.

CONCLUSION

For the foregoing reasons, Plaintiff I.P. respectfully requests that this Court grant his Motion for Summary Judgment regarding liability on Claim IV and set a date for trial on damages.

Dated: May 12, 2025

Respectfully Submitted,

/s/ Conor T. Fitzpatrick

CONOR T. FITZPATRICK
(Mich. No. P78981, D.C. No. 90015616)*
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION
700 Pennsylvania Ave. SE, Ste. 340
Washington, D.C. 20003
(215) 717-3473
conor.fitzpatrick@thefire.org

DARRICK L. O'DELL
(BPR #26883)
SPICER RUDSTROM, PLLC
414 Union St., Ste. 1700
Nashville, TN 37219
(615) 259-9080
dlo@spicerfirm.com

JEFFREY D. ZEMAN
(Penn No. 328570)*
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION
510 Walnut St., Ste. 900
Philadelphia, PA 19106
(215) 717-3473
jeff.zeman@thefire.org

*Admitted *Pro Hac Vice*

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2025, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing upon all ECF filing participants.

/s/ Conor T. Fitzpatrick
Conor T. Fitzpatrick
FOUNDATION FOR INDIVIDUAL
RIGHTS AND EXPRESSION