



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

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July 16, 2018

Board of Education
Madison Metropolitan School District
545 West Dayton Street, Room 110
Madison, WI 53703

board@madison.k12.wi.us

To the Madison Metropolitan School District Board of Education:

We represent Mr. David Blaska who is a Madison resident and concerned citizen with respect to issues affecting the Madison Metropolitan School District.

MMSD's Education Resource Officer Ad Hoc Committee on educational resource officers is scheduled to convey its recommendation to the full Madison Metropolitan Board of Education by this August. We understand that a meeting to consider that recommendation is scheduled for this Wednesday, July 18, at 4:00 pm. Public appearances and comment will be permitted.

We commend the board and ad hoc committee for permitting public input. However, recent events suggest that a reminder with respect to how such appearances must be handled may be in order.

Our client intends to speak at the July 18, 2018, meeting. As you know, if a public body invites public comment, it cannot engage in viewpoint discrimination among those who wish to speak – even if other members of the public wish the public body to do so. At the last meeting of the ad hoc committee on Wednesday, June 20, other members of the audience heckled Mr. Blaska during his public comment and he was not allowed the full three minutes allotted him. An organized group of protestors interrupted his comments several times with signs and rehearsed chants such as “Silence white supremacy!” His ability to speak and be heard was finally halted completely by a loud and sustained chant: “Get Him Out! Get Him Out!”

A video of the disruption can be seen at https://youtu.be/Kdc4PR5ph_0.

We understand the difficulties that such uncivil behavior can present for a public body. But such difficulties cannot be used as a reason to silence and limit the speech of those whom the hecklers wish to veto. The Committee did not give Mr. Blaska the same uninterrupted three minutes that they gave to other speakers. Rather than demand that all voices be heard (only committee member Barbara McKinney Harrington did so), Chairman Loumos asked Mr. Blaska, “Can you just finish your comments?”

During the disruption, several committee members got up to leave, threatening a quorum. Chairman Loumos then called a five-minute recess. Upon reconvening, Chairman Loumos apologized to the disrupters for allowing Mr. Blaska to speak, and said that he had not realized Mr. Blaska would use “code words.”

Having reviewed Mr. Blaska’s comments, I am uncertain what “code words” Chairman Loumos is referring to and which Mr. Blaska is alleged to have spoken. But I am able to determine that Mr. Blaska’s comments were fully protected free speech. Chairman Loumos and other members of the committee are entitled to their opinions. But they may not silence a speaker – or encourage others to do so – based on the viewpoint he or she wishes to express. Such actions are not permitted by the First Amendment of the United States Constitution or Article I, Section 3 of the Wisconsin Constitution.

We trust that the Ad Hoc committee will allow all members of the public to speak at the July 18, 2018 meeting, and will do so without engaging in viewpoint discrimination or facilitating a “hecklers’ veto.”

Sincerely,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

A handwritten signature in dark ink, appearing to read "R. M. E", with a stylized flourish at the end.

Dated: July 16, 2018

RICHARD M. ESENBERG
President & General Counsel