

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS

BRIGETTE HERBST, on behalf of herself
and her minor children, PH and BH,

Plaintiff,

Civil Action No. 2021-CP-08-00952

v.

BERKELEY COUNTY SCHOOL DISTRICT,
and EDWARD INGRAM, in his official
capacity as Superintendent of the
Berkeley County School District,

Defendants.

**NOTICE OF WITHDRAWAL OF
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
TEMPORARY INJUNCTION**

Plaintiff Brigitte Herbst hereby withdraws her Motion for Temporary Restraining Order and Temporary Injunction ordering Defendants, Berkeley County School District (BCSD) and Superintendent Edward Ingram, to provide Plaintiff's children, PH and BH, five-day per week in-person instruction, as required by S.C. Senate Bill 704, Section 1.

Hours after Herbst filed this lawsuit, BCSD called to inform her that her two children would now be allowed to attend their middle school in-person, starting the very next day. PH and BH were thrilled to start learning in-person alongside their classmates on Tuesday, May 4.

That same day, BCSD fulfilled a public records request to Herbst informing her that 124 other students were still on a "waitlist" for in-person learning because they requested in-person learning after the school year began in August 2020. *See* Exhibit A.

News coverage of the case prompted a number of parents of waitlisted students to reach out to counsel for Herbst, and several asked to join this lawsuit. Hours before counsel filed an amended complaint and amended motion for a TRO on behalf of those other families, BCSD sent an email to families on the waitlist informing them that, *mirabile dictu*, spots were now available for them to begin in-person learning in the very near future. *See* Exhibit B.

Subsequent emails from BCSD reveal that students at some schools are invited to return on May 12 (*see* Exhibit B), while other schools are not opening to all students until June 1 (*see* Exhibits C and D), even though the law required in-person instruction by April 26.

Plaintiff continues to believe that every child in BCSD is legally entitled to immediate access to in-person learning, and that the waitlist and subsequent delaying tactics from BCSD are illegal. Because Herbst's children are now back in the classroom with their teachers and peers, however, there is no longer a pressing need for a temporary restraining order.

[SIGNATURE ON FOLLOWING PAGE]

Dated: May 12, 2021

Respectfully Submitted,

LIBERTY JUSTICE CENTER

s/ Daniel R. Suhr

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*Pro Hac Vice motions to be filed.

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