IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:26-cv-00590-D-RN

SCOTT LASSITER,

Plaintiff,

v.

WAKE COUNTY BOARD OF EDUCATION,

Defendant.

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS AMENDED COMPLAINT

Defendant Wake County Board of Education ("Board" or "Defendant"), by and through counsel, submits this brief in support of its motion to dismiss the Amended Complaint.

INTRODUCTION

Plaintiff, Dr. Scott Lassiter ("Plaintiff" or "Lassiter") resigned his employment as an assistant principal in the Wake County Public School System ("WCPSS") through a settlement agreement negotiated by counsel that contained a full release of claims against the Board. Am. Compl., Ex. G, DE9-7. Plaintiff entered into that agreement freely and voluntarily, having had time to consult with his attorney. *Id.*, Ex. G ¶ 10. Plaintiff, through this action, is seeking to avoid the plain terms of that agreement and bring claims against the Board related to his employment. Plaintiff bases this attempt on his assertion that he was fraudulently induced to enter the agreement because Defendant, both before and after the date of the agreement, made required reports regarding his alleged misconduct to the North Carolina Department of Public

Instruction ("DPI"). Plaintiff acknowledges these reports were mandatory. *See, e.g.*, Am. Compl. ¶ 38, DE9. Plaintiff does not allege that he was told the reports would not be made. On the contrary, the settlement agreement specifically states: "nothing in this agreement should be construed as impairing the school system from complying with its legal obligations." Am. Compl., Ex. G., ¶ 4, DE9-7. Lassiter also specifically waived his right to challenge the agreement and acknowledged that no promises or inducements had been made to him not specifically set out in the agreement. *Id.*, Exhibit G, ¶¶ 8, 11. Plaintiff cannot be allowed to avoid the plain terms of the agreement he chose to enter freely and voluntarily and with the advice of counsel. The Board respectfully requests that this Court enforce the terms of the agreement and dismiss this case with prejudice.

PROCEDURAL HISTORY

The Complaint in this action was filed on July 17, 2026, in Wake County Superior Court, captioned as *Scott Lassiter v. Wake County Board of Education, Case No. 26CV026792-910*. The Board was served with the Summons and Complaint on July 22, 2026, and timely removed this action to this Court on August 19, 2026. Following the Board's initial motion to dismiss, Plaintiff filed an Amended Complaint on September 28, 2026. Defendant moved for and was granted an extension of time until November 2, 2026, to respond.

FACTS AS ALLEGED IN THE COMPLAINT

Plaintiff began working as an Assistant Principal at Connections Academy, a school within WCPSS, in February 2018. Am. Compl. ¶ 10, DE9. At the time of his resignation, effective November 5, 2024, Plaintiff was serving pursuant to a four-year

contract that ran from July 1, 2021, to June 30, 2025. Id. ¶ 5.

Plaintiff alleges that on May 22, 2024, he and a behavior support specialist ("BST") intervened in a physical altercation during which they restrained a student, attempted to deescalate, and then "removed" the student. Id. ¶¶ 11,12. Plaintiff alleges that, in response to the incident, the student's adult brother and mother came to the school and threatened him, resulting in the police handcuffing and detaining the adult brother. Id. ¶ 16. Plaintiff alleges he reported the incident to his area superintendent verbally and in writing and contends that these reports were "consistent with Plaintiff's prior warnings about school safety, staff safety, and inadequate security support." Id.; *see also* ¶ 56 (describing Plaintiff's alleged complaints and advocacy relating to school safety issues). Plaintiff states that at the end of the school year, in his yearly summary evaluation, his principal rated him as Accomplished in each of the seven North Carolina school executive standards and that the evaluation did not identify the May 22 intervention "as misconduct or recommend corrective action concerning it." Id. ¶ 18. Plaintiff does not allege that his principal had seen video of the May 22 intervention or that his Area Superintendent was shown video of the incident contemporaneous with Plaintiff's report of the incident. Likewise, Plaintiff alleges that the school system's Superintendent and Chief of Staff were aware of the May 22 incident by July 30, 2024, and did not address it as misconduct, but again Plaintiff does not allege that the Superintendent or Chief of Staff had seen video of the incident at that time. Id. ¶ 19.

In late August 2024, a sheriff's deputy served a subpoena on Plaintiff seeking surveillance footage of the May 22 incident sought by the public defender defending the

brother of the student removed by Plaintiff. *Id*. ¶ 20. Shortly thereafter, the matter was brought to the attention of Human Resources, and Plaintiff was suspended with pay. *Id*. ¶ 21. Plaintiff attaches the suspension with pay letter dated September 5, 2024, which informed Plaintiff that cause may exist for his dismissal based on an alleged negative physical interaction with a student and that circumstances justified his immediate suspension with pay pending further review. *Id*., Ex. C, DE9-3. Plaintiff notes that the "letter did not disclose that a NC Department of Public Instruction ("DPI") misconduct report would be made within days or that a subsequent report would be submitted after Plaintiff's resignation," and that in other cases suspension letters issued by Defendant have advised employees of forthcoming reports to DPI. *Id*. ¶ 21. Plaintiff omits that State Board of Education Policy governing mandatory reporting of employee misconduct was revised approximately ten months after Plaintiff' suspension, July 1, 2025, to require school systems to inform employees of such reports to DPI, but that requirement was not in effect at the time of Plaintiff's suspension.[1] Plaintiff also alleges that although he was told by a senior director of employee relations that his personnel matter was "highly confidential," the suspension letter copied all members of the Board of Education. State law, however, requires that members of the Board of Education be informed of an employee's suspension with pay within two days of the suspension. *See* N.C. Gen. Stat. § 115C-325.5(c).

As required by law and State Board Policy in effect at the time, Defendant

[1] See North Carolina Board of Education Policy LICN-007, section 9(e) ("If a PSU terminates the employment of an educator, does not renew the educator's contract, or accepts the educator's resignation for any reason that may require a report under this Policy, an administrator for the PSU shall notify the educator of the reporting requirement upon separation from employment.") (effective July 1, 2025).

reported the alleged negative physical interaction to DPI both following his suspension and ultimate resignation. Plaintiff attaches both report forms to his Amended Complaint. *See* Am. Compl., Exs. E and I, DE9-5 and DE9-9. On both forms, in the section titled "description of the allegations" under review, Defendant reported the allegation that: "Lassiter, along with another employee, pushed a student out of a building door causing her to fall on the ground. He then threw the student's shoe, which had fallen off, in the direction of the student." *Id.*, Exhibit I, p. 3, DE9-9. Another attachment to the Amended Complaint states that the student's mother alleged "Lassiter swung [student] by her arm, causing her to fall to the ground while removing her from the school." *Id.*, Ex. H, DE9-8. Plaintiff does not dispute the description of the allegations under review by Human Resources; rather, he complains about the timing of his suspension and the submission of the reporting form, noting that the first report was submitted on September 13, 2024, nine days after his suspension, whereas State Board Policy requires the report to be made within five days. *Id.* ¶ 24. With respect to the report made following his resignation, Defendant made the required report on November 14, nine days after the effective date of his resignation, whereas, again, State Board Policy required the report to be made within five days of his resignation. *Id.*, Ex. I, DE9-9.

At the time of Plaintiff's suspension, he was a candidate for a seat in the North Carolina State Senate. Plaintiff alleges that the day after he was placed on suspension he met with the school system's Employee Relations Director, Kendra Hill,[2] and

[2] Plaintiff, without factual support, attempts to characterize Ms. Hill as a "known Democratic Party operative." *Id.* ¶ 26.

expressed his concern about the implications of his suspension for his ongoing political campaign. *Id*. ¶ 26. Plaintiff alleges that the Director responded by stating that "those circumstances were why she would never run for elected office." *Id*.

Plaintiff states that he spoke with Ms. Hill again approximately three weeks later on September 27, 2024. Plaintiff alleges that during that call, Ms. Hill, "warned Plaintiff that he should take the weekend and consider resigning; if he resigned, she represented that the matter would be over, but if he did not resign she would recommend termination publicly to the Board." *Id*. ¶ 27.

Plaintiff alleges that Defendant was "motivated by Defendant officials' knowledge of [Plaintiff's] active State Senate candidacy in a vigorously challenged election between Plaintiff (a Republican) and Democratic State Senator Lisa Grafstein, and the foreseeable effect that a public termination proceeding would have on his campaign and professional reputation." *Id*. ¶ 27. Plaintiff also alleges, however, that he was supported by the most senior leadership in the school system and that the Board Chair, Vice-Chair, and Superintendent all wrote him letters of recommendation for future employment following his resignation. *Id*. ¶ 52, Exs. J, K, L, DE9-10, DE9-11, DE9-12.

In an attempt to support his allegations of political bias, Plaintiff attaches the declaration of an anonymous former employee of the school system. *Id*., Exhibit F, DE9-6. The declarant does not state where within the school system she worked, although she does state that she did not work with Plaintiff. Without providing any factual detail -who, what, where, when-the declarant states that she "never heard anything overtly derogatory about Dr. Lassiter, however I did sense a general dislike of his political affiliation and outspokenness on security issues at the various schools." *Id*.

Declarant does not state from whom she got this sense of "general dislike." Declarant also states that "[f]rom what [she] overheard" it was her impression that "people in authority" supported Dr. Lassiter's political opponent. *Id*. Again, the declarant does not state what she overheard or who said it or where or when the statements were supposedly made. The school system has thousands of administrators, managers, directors, and supervisors, and declarant does not clarify who she means by "people in authority." Declarant further states that "from what [she] was told" Dr. Lassiter did nothing wrong in the May 22 incident and that "[f]rom what [she] overheard it was [her] distinct impression" that Dr. Lassiter was singled out for punishment because of "his political race and his constant complaints about the lack of security and safety measures in the schools." *Id*. Again, declarant provides none of "who, what, where, or when" in support of these vague allegations, and it is clear that declarant has no direct knowledge of the May 22 incident or the school system's response.

Plaintiff also attaches an affidavit from another former school system employee, Leonor Both, who worked at Connections Academy with Plaintiff. *See Id*., Ex. M, DE9-13. Both states her belief that "Plaintiff's politics" *may* have influenced Defendant's treatment of him. Both also states that she witnessed the beginning of the May 22 incident, but she does not state that she witnessed Lassiter's and the BST's removal of the student from the school building. *Id*. Ms. Both provides scant factual support for her "belief" that Plaintiff "may" have been treated differently because of his political beliefs, but states only that Plaintiff's political activity "was known"—she does not state by whom—and that she observed "attention surrounding his political activities." She does not state what this "attention" consisted of or who it involved. *Id*.

Following his suspension, an investigation by Human Resources, and negotiations with Lassiter and his counsel, on or about October 6, 2024, Plaintiff entered into a resignation, settlement, and release agreement with the Board, which Plaintiff attached to his Complaint. *Id*. ¶ 31; Ex. G, DE9-7. The agreement was labeled "Confidential Personnel Agreement," and it is confidential and protected by North Carolina's personnel privacy statutes applicable to public school employees. *See* N.C. Gen. Stat. § 115C-319, 321. Pursuant to the agreement, Lassiter voluntarily resigned his employment effective November 5, 2024. Am. Compl., Ex. G, DE9-7. The agreement also contains a full release of claims against the Board that Lassiter had or "may have" had up to the date of the agreement "including but not limited to any actual or potential claims arising out of or connected with [his] employment." *Id*. Exhibit G, ¶ 8, DE9-7. Lassiter also specifically waived any right to contest the terms of the agreement, acknowledged that no promises or inducements had been made to him not specifically set out in the agreement, and entered into the agreement freely, knowingly, and voluntarily after consulting with his attorney. *Id*. Exhibit G, ¶¶ 8, 10, 11. Importantly, the agreement clearly states, "[N]othing in this agreement should be construed as impairing the school system from complying with its legal obligations." *Id*. Exhibit G, ¶ 4. Plaintiff now alleges that his resignation was not truly voluntary because he was forced to make a choice between resignation and a dismissal recommendation. *Id*. ¶ 32.

In Plaintiff's initial, verified Complaint, he alleged that the school system intentionally delayed making the required report to DPI until November. In his Amended Complaint, Plaintiff now explicitly acknowledges that the Board made two

reports—one in September following his suspension and another in November, following his resignation. Plaintiff does not dispute that the reports were required by law and state board policy, but he points out that both reports were filed with DPI a few days later than required. *Id*. ¶¶ 39, 43.

The reporting requirements at issue are set forth at the top of the reporting form attached to Plaintiff's Complaint as Exhibit I. First, the form states that under then-applicable State Board Policy,[3] school systems were required to report complaints of physical abuse made against licensed educators, such as Plaintiff, within five days of, *inter alia*, suspension with pay or resignation; the form also states other conduct that "may otherwise justify disciplinary action" against the educator's license "must" be reported within 30 calendar days following resignation. The school system therefore made a report to DPI regarding Lassiter following his suspension and provided an updated report following the effective date of his resignation. Although both submissions were a few days late, they were still submitted in order to comply with applicable law, including the requirement that local boards of education "shall provide to the State Board and to the Superintendent all information needed to carry out their duties," including licensure discipline. N.C. Gen. Stat. § 115C-13. Notably, the reports to DPI are confidential and it is unlawful, subject to a Class 1 misdemeanor, for any employee or officer of DPI to disclose any information that the school system could not lawfully disclose. *See* N.C. Gen. Stat. § 115C-13. The form Plaintiff attaches to his Complaint even reiterates this confidentiality in bolded text: "Pursuant to N.C.G.S.

[3] The reporting form sets forth the requirements of State Board Policy LICN-007 in effect at the time of the school system's submission. The policy has since been amended.

§ 115C-13, the SBE is an authorized recipient of confidential personnel records held by local boards of education, their officers, and their employees." Am. Compl., Ex. I, DE9-9.

Plaintiff alleges that he was not aware of the required reports at the time he entered into the resignation agreement and that if he had been aware, he would not have signed it. Am. Compl. ¶ 34, DE9. This is despite Plaintiff being represented by counsel at the time he entered into the agreement and the agreement's express language that no promises or inducements had been made to Plaintiff not specifically set out in the agreement and that the school system retained its ability to comply with its legal obligations. *See Id.*, Ex. G, DE9-7.

Plaintiff also alleges, based on upon information and belief, that "Defendant or its agent(s) reported the May 22 incident to the media to negatively affect his political campaign before the CPA was executed and, in fact, while it was being negotiated." Am. Compl. ¶ 51, DE9. The Amended Complaint does not state who allegedly made the report, nor does it state to which media outlet the report was made and what specifically was reported. Notably, Plaintiff has not alleged anywhere in the Amended Complaint that the school system shared with the media any non-public information regarding Plaintiff, as his suspension and resignation are both matters of public record. *See* N.C. Gen. Stat. § 115C-320(a)(9), (11).

Finally, Plaintiff claims that the school system had an inconsistent practice of fulfilling its mandatory reporting obligations set forth in State law and State Board policy, and that "Defendant's decisions suspending Plaintiff and thereafter delaying the report to the DPI constituted First Amendment retaliation against Lassiter for his

ardent student safety advocacy, and, more importantly, his political campaign." Am. Compl. ¶ 61, DE9. Plaintiff lists several instances in which he believes administrators received more favorable treatment from the school system. *Id*. ¶¶ 62-66.

Based on these allegations, Plaintiff attempts to state four causes of action—(1) a state law fraudulent inducement claim, (2) a claim for First Amendment retaliation under 42 U.S.C. § 1983 and "related State constitutional claims," (3) a Fourteenth Amendment Procedural Due Process claim, and (4) a claim for "deprivation of occupational liberty interest and denial of name-clearing process" under the Fourteenth Amendment.

STANDARD OF REVIEW

The purpose of a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) is to test the legal sufficiency of the complaint. *Edwards v. City of Goldsboro*, 178 F.3d 231, 243 (4th Cir. 1999). When considering a motion to dismiss under Rule 12(b)(6), a court must accept as true all well-pleaded factual allegations in the complaint, viewing the complaint in a light most favorable to the plaintiff. *Mylan Labs., Inc. v. Matkari*, 7 F.3d 1130, 1134 (4th Cir. 1993). However, a plaintiff has "the burden . . . to allege facts sufficient to state all the elements of her claim." *Bass v. E.I. Dupont De Nemours & Co.*, 324 F.3d 761, 765 (4th Cir. 2003). "[A] formulaic recitation of the elements of a cause of action will not do." *Francis v. Giacomelli*, 588 F.3d 186, 193 (4th Cir. 2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 55 (2007)).

A motion to dismiss under Rule 12(b)(6) will succeed if a plaintiff fails to establish a "plausible" claim for relief. *Twombly*, 550 U.S. at 556. When considering a motion to dismiss, a court need not accept a complaint's legal conclusions. *Iqbal,* 556 U.S. at 678-

79; *Nemet Chevrolet Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 253 (4th Cir. 2009). Similarly, a court need not accept as true a plaintiff's "unwarranted inferences, unreasonable conclusions, or arguments." *Eastern Shore Mkts. v. J.D. Assocs. Ltd.*, 213 F.3d 175, 180 (4th Cir. 2000). A complaint must allege "more than a sheer possibility that a defendant has acted unlawfully." *Iqbal*, 556 U.S. at 678.

ARGUMENT

I. Plaintiff has failed to state a claim for fraudulent inducement.

To state a fraudulent inducement claim under North Carolina law, a plaintiff must allege: "(1) [f]alse representation or concealment of a material fact, (2) reasonably calculated to deceive, (3) made with intent to deceive, (4) which does in fact deceive, (5) resulting in damage to the injured party. . . . Additionally, any reliance on the allegedly false representations must be reasonable." *Dillon v. The Leazer Grp., Inc.*, 374 F. Supp. 3d 547, 559 (2019) (quoting *Forbis v. Neal*, 361 N.C. 519, 526-27 (2007)).

Additionally, Federal Rule of Civil Procedure 9(b) imposes a heightened pleading standard for fraud and requires a plaintiff to "state with particularity the circumstances constituting fraud or mistake." Fed. R. Civ. P. 9(b). "'[T]he 'circumstances' required to be pled with particularity under Rule 9(b) are 'the time, place, and contents of the false representations, as well as the identity of the person making the misrepresentation and what he obtained thereby.'" *Dillon*, 374 F. Supp. at 559 (quoting *Harrison v. Westinghouse Savannah River Co.*, 176 F.3d 776, 784 (4th Cir. 1999)). "These facts are often referred to as the who, what, when, where, and how of the alleged fraud." *Bakery & Confectionary Union & Indus. Int'l Pension Fund v. Just Born II, Inc.*, 888 F.3d 696, 705 (4th Cir. 2018). "In North Carolina, a fraud claim is fatally defective unless it

alleges detrimental reliance, and damages proximately flowing from such reliance, with particularity." *Food Lion, LLC v. Schuster Mktg. Corp.*, 382 F. Supp. 2d 793, 798 (2005).

Here, Plaintiff has failed to plausibly plead with particularity any of the required elements for his fraudulent inducement claim. With respect to the first element, false representation or concealment of a material fact, Plaintiff alleges that Defendant's employee's "representation that resignation would mean the matter was over, coupled with Defendant's silence about an already-filed report, created a materially false understanding of what resignation would accomplish." Am. Compl. ¶ 77, DE9.

This allegation cannot serve as the basis for a viable fraud claim. With respect to the allegation that Defendant's Employee Relations Director stated to Plaintiff that "resignation would mean the matter was over," Plaintiff specifically acknowledged in his resignation agreement that "no promises or inducements have been made to [Plaintiff] that are not specifically set out in this Agreement." *Id.*, Ex. G, ¶ 11, DE9-7. Plaintiff also specifically waived the right to challenge any terms of the agreement. Id., Ex. G, ¶ 8. This alone should bar Plaintiff's claim.

Furthermore, as Plaintiff acknowledges, *see* Am. Compl. ¶ 61, DE9, the misconduct reports were required by state law and State Board of Education policy, and the resignation and release agreement signed by Plaintiff states, "[N]othing in this agreement should be construed as impairing the school system from complying with its legal obligations." *Id.* Exhibit G, ¶ 4, DE9-7. Plaintiff was therefore plainly on notice that the agreement allowed the school system to comply with its legal obligations, including mandatory reporting. As a school system administrator, Lassiter had a duty to be familiar with State Board policies and thus he knew or should have known of the

school system's reporting obligations. It is not plausible that Lassiter was unaware of the reporting requirement and it is not reasonable for him to have relied on a belief that the school system would not comply with its mandatory reporting obligations and potentially face criminal charges for failing to do so. Lassiter now argues that neither he nor his attorneys were aware of the required reports because the Defendant allegedly has a policy of sometimes not making required reports. Am. Compl. ¶ 61, DE9. In attempt to support this theory, he lists a series of incidents in which he alleges employees received more favorable treatment following incidents of misconduct, but those allegations do not support his claim of a 'vacillating policy' of complying with the law. *Id.*, ¶¶ 61-66. It hardly seems plausible that Plaintiff could have reasonably relied on a belief that Defendant would disregard a reporting requirement and not make reports to DPI—reports that he acknowledges the law requires.

With respect to the second and third elements, that the alleged concealment was reasonably calculated to deceive, made with the intent to deceive, and that Plaintiff was in fact deceived, Plaintiff has pled no facts to support his claim. Defendant did not act pursuant to calculated deception when it informed Plaintiff in writing that it retained the right to meet its legal obligations and then subsequently took action to comply with those obligations. Plaintiff has not alleged that anyone within the school system made any representation to him that the school system would not comply with its legal obligations and make the required report or that DPI would not initiate licensure proceedings. *Cf Leardini v. Charlotte-Mecklenburg Bd. of Educ.*, 2012 U.S. Dist. LEXIS 12338, *3 (2012) (denying summary judgment when the defendant had allegedly affirmatively mispresented to the plaintiff that there would not be a law enforcement

investigation if the plaintiff resigned).

Plaintiff claims that he was deceived because the resignation and release agreement was labeled "Confidential" and the report to DPI breached this confidentiality. As noted above, the report to DPI was itself confidential and, as noted on the reporting form, "Pursuant to N.C.G.S. § 115C-13, the SBE is an authorized recipient of confidential personnel records held by local boards of education, their officers, and their employees." Am. Compl., Ex. I, DE9-9.

It is also unclear how Lassiter has been damaged by Defendant's alleged concealment of the required reports. In an attempt to plead damages, Lassiter alleges that he had to expend $10,000 in attorney's fees for representation with respect to the licensure proceedings and that it caused him anxiety and mental-health injury. Am. Compl. ¶¶ 49-50, DE9. Plaintiff, however, would have been subject to the licensure proceedings whether or not the school system informed him of the required report prior to his signing of the resignation agreement. According to his allegation, if he had known of the reports, he would not have resigned and would have challenged any dismissal recommendation. *Id*. ¶ 81. In that scenario he still would have had to expend the same resources and would have suffered the same alleged emotional harm from the licensure proceedings. In short, the mandatory report and Plaintiff's choice to resign are unrelated.

To the extent plaintiff is attempting to base his fraud claim on his vague and unsupported allegation that an unnamed agent of the school system reported the student altercation incident to the media prior to execution of the agreement, this allegation fails to meet the heightened pleading requirements of Rule 9. Plaintiff does

not state who made the media report, when it was made, to whom it was made, or what information the report contained.[4] Even if there had been such a disclosure from somewhere within the school system, Plaintiff does not include any particularized allegations that the disclosure was in any way connected to the negotiation of his resignation agreement. Under this theory, the material fact concealed would apparently be that the school system entered into the agreement having secretly provided a leak to the media prior to the execution of the agreement. Plaintiff includes no particularized allegations to support such a theory. Further, even if such a media report had been made, it is not plausible that Plaintiff would have been unaware of the media report when he signed the resignation and release agreement waiving all claims against the Board. Plaintiff's fraudulent inducement claim fails to meet the pleading requirements of *Twombly/Iqbal* and heightened pleading standard of Rule 9 and is subject to dismissal. *See MichJeff, LLC v. FCX Glob., Inc.*, 2025 U.S. Dist. LEXIS 32630, *32-34 (2025) ("Plaintiffs' amended complaint lacks sufficient 'factual enhancement' to move plaintiffs' 'naked assertions' of fraud against the defendants from possible to plausible.").

II. Plaintiff has failed to state a First Amendment retaliation claim.

Plaintiff must satisfy three elements to state his First Amendment retaliation claim: "(1) his speech was protected, (2) the 'alleged retaliatory action adversely affected' his protected speech, and (3) a causal relationship between the protected speech and the retaliation." *Raub v. Campbell*, 785 F.3d 876, 885 (4th Cir. 2015). The causation

[4] As noted above, if Plaintiff is alleging that the school system shared with the media the fact of Plaintiff's suspension and/or resignation, such information is public record. *See* N.C. Gen. Stat. § 115C-320(a)(9), (11).

requirement is "rigorous," and "it is not enough that the protected expression played a role or was a motivating factor in the retaliation; claimant must show that 'but for' the protected expression the [state actor] would not have taken the alleged retaliatory action." *Huang v. Bd. of Governors of the Univ. of N.C.*, 902 F.2d 1134, 1140 (4th Cir. 1990). Moreover, "[u]nder the *Monell* line of cases, a municipality does not incur Section 1983 liability solely because of its employer-employee relationship with an alleged wrongdoer." *Huggins v. Sch. Dist. of Manatee Cnty.*, 151 F.4th 1268, 1285 (11th Cir. 2025) (dismissing first amendment retaliation claim against a board of education in part based on failure to include allegations imputing liability to the board pursuant to *Monell*).

Plaintiff alleges that the Defendant engaged in First Amendment retaliation through his suspension and the required misconduct report made to DPI. Am. Compl. ¶ 92, DE9. As an initial matter, to the extent Plaintiff is basing his claim on his suspension[5] and the September report to DPI that occurred prior to execution of his resignation agreement, the claim is barred by the agreement's release. *See* Compl. Ex. G, ¶ 8, DE9-7. To the extent his claim is based on the second report to DPI made following the effective date of his resignation, Plaintiff's claim should be dismissed

[5] Even if it were not barred by the release, Plaintiff's suspension with pay could not support his retaliation claim because placing an employee on suspension with pay for purposes of an investigation is not an adverse employment action. *See Lacasse v. Didlake, Inc.*, 194 F. Supp. 3d 494, 504 (E.D.Va. 2016) (holding within the Title VII context that "[p]aid leave is not an adverse employment action."). Plaintiff has also not plausibly pled that his political activity was the 'but-for' cause of his suspension, as the allegations in the Amended Complaint make clear that Plaintiff was suspended due to his conduct reflected in the surveillance video that was subject of the subpoena issued to him by the public defender's office in late August 2024. As acknowledged by Plaintiff, the BST involved in the incident was also suspended. Am. Compl. ¶ 23, DE9.

because he has failed to plausibly allege sufficient facts to satisfy the second and third elements set forth by the Fourth Circuit in *Raub*.

With respect to the second element:

> For a government employee to invoke protection under the First Amendment's bar on retaliation, the employee must allege that a government employer took a sufficiently retaliatory action against the employee. The nature of the retaliatory act must be 'more than *de minimis* or trivial.' On one hand, a government employer takes a sufficiently retaliatory action against an employee when the employer makes decisions that relate to the "promotion, transfer, recall, and hiring" of the employee based on the employee's exercise of his or her First Amendment rights. On the other hand, when the government employer takes an action that simply "critici[zes], false[ly] accus[es], or verbal[ly] reprimands" the employee, the action is insufficiently retaliatory.

Farrell v. Bd. of Educ., 2017 U.S. Dist. LEXIS 41011, *10-11 (D. Md. 2017) (internal quotations and citations omitted). Here, the misconduct report did not affect the terms or conditions of Plaintiff's employment. The report was not a finding of misconduct—the Board was simply communicating an allegation of misconduct to DPI as required by law. This was not an adverse action against Plaintiff by the Board.

With respect to the third element, Plaintiff cannot establish that his political activity was the 'but-for' cause of the misconduct report for multiple reasons, the most obvious of which is that, as Plaintiff concedes, the report was required by law. Notably, school officials had no discretion with respect to making the report and could have been subject to a felony charge for not making a required report. *See* N.C. Gen. Stat. 115C-326.20(b) ("Failure to report misconduct pursuant to this section is a Class I felony.") Taking required action to avoid criminal liability is an "obvious alternate explanation" for defendant's conduct in making the misconduct report to DPI, eliminating the

plausibility of Plaintiff's claim. *McCleary-Evans v. Md. DOT*, 780 F.3d 582, 588 (4th Cir. 2015).

The causation element of Plaintiff's claim is also undermined by the timing of the November report informing DPI of his resignation. Plaintiff's Complaint is premised on the notion that the school system retaliated against him based on his political affiliation and in attempt to interfere with his State Senate campaign. The November report, however, was made nine days after the election on November 5, 2024. If the report was designed to harm Plaintiff's campaign, it would have had to have been made before the election was over. *See Porter v. Bd. of Trs. of N.C. State Univ.*, 72 F.4th 573, 584-585 (4th Cir. 2023) (dismissing First Amendment retaliation claim based in part on failure to sufficiently allege 'but-for' causation).

Plaintiff has attempted to support his conclusory allegations of retaliatory intent by attaching the declaration of Leonor Both and an unnamed former employee of the school system. Neither declarant, however, names any particular official within the school system who expressed retaliatory animus toward Plaintiff. The anonymous declarant acknowledges that "she never heard anything overtly derogatory about Dr. Lassiter," and that she only "she sense[d] a general dislike of his political affiliation." Am. Compl., Ex. F, DE9-6. Likewise, Ms. Both states her *belief* that "Plaintiff's politics" *may* have influenced Defendant's treatment of him. In support of her belief, Ms. Both states only that Plaintiff's political activity "was known"—she does not state by whom—and that she observed "attention surrounding his political activities." *Id.*, Ex. M, DE9-13. She does not state what this "attention" consisted of or who it involved. *Id.* These vague and ambiguous declarations based on innuendo and hearsay fall far short of the

"tangible proof" required to allege retaliatory animus on the part of the Board. *See Roth v. Farmingdale Union Free Sch. Dist.*, 2019 U.S. Dist. LEXIS 121223, *12 (2019) (quoting *Kiernan v. Town of Southampton*, 734 F. App'x 37,42 (2d Cir. 2018) (summary order) (citing *Morris v. Lindau*, 196 F.3d 102, 110 (2d Cir. 1999)) ("Plaintiffs may not rely on conclusory assertions of retaliatory motive, but must offer instead some tangible proof to demonstrate that their version of what occurred was not imaginary.").

Finally, Plaintiff has included no allegations to impute any retaliatory action to the Board for purposes of Section 1983 liability. Plaintiff alleges that, "While the mandatory DPI reporting of certain misconduct was generally known by WCPSS employees it was, in the main, considered discretionary and not uniformly enforced, as alleged herein." Am. Compl. ¶ 69, DE9. Plaintiff's argument therefore appears to be that school officials had discretion over whether to obey the law.

First, review of the relevant State law and State Board of Education policy make clear that school officials have no discretion with respect to mandatory reports. Again, failure to make certain DPI misconduct reports is a felony and other misconduct reports remain required by the State Board of Education. N.C. Gen. Stat. § 115C-326.20(b); LICN-007. School officials do not have final policymaking authority with respect to DPI misconduct reports—that authority has been exercised and maintained by the North Carolina legislature and the State Board of Education. *See Hunter v. Town of Mocksville*, 897 F.3d 538, 555 (4th Cir. 2018) ("The question of who possesses final policymaking authority is one of state law."). Further, even if Plaintiff were correct that school officials have in some instances departed from the non-discretionary law and policy, which Defendant does not concede, those departures would not be imputable to

the Board. *See St. Louis v. Praprotnik*, 485 U.S. 112, 127 (1988) ("When an official's discretionary decisions are constrained by policies not of that official's making, those policies, rather than the subordinate's departures from them, are the act of the municipality.").

Plaintiff also alleges in conclusory fashion that the Board has delegated final decision-making authority to "subordinate officials" with respect to personnel decisions related to Plaintiff and the DPI report and, as an additional back-up argument, that the Board somehow ratified the alleged retaliatory action. *See* Am. Compl. ¶¶ 68, 70, 91, DE9.

With respect to delegation, first, in regard to DPI misconduct reports, there is no decision-making delegable under State law and State Board of Education Policy. *See* N.C. Gen. Stat. 115C-326.20; LICN-007. Second, with respect to other personnel matters and reports, State law clearly states that final decision-making authority over personnel decisions lies with the Board and the Board sets policy with respect to reports made by school officials. *See* N.C. Gen. Stat. § 115C-315 (hiring of personnel); § 115C-325.6 (providing that only the Board has authority to dismiss, demote, reinstate, or suspend without pay); N.C. Gen. Stat. § 115C-47 ("Local boards of education, upon the recommendation of the superintendent, shall adopt policies governing the conduct of employees, the kind of reports they shall make, and their duties in the care of school property."); *see also Riddick v. School Bd.*, 238 F.3d 518, 524 (4th Cir. 2000) ("Because the Board retained the final 'say-so' on personnel matters, [the district court] correctly concluded that the Board cannot be subjected to municipal liability based on the decisions of the superintendent and principal."); *see also Spates v. Horry Cnty. Sch.*

Dist., 2026 U.S. Dist. LEXIS 184969, *6 (D.S.C. 2026) ("The governing cases distinguish final decision-making from final policymaking. There is a 'marked difference between the authority to make final policy [and] the authority to make final implementing decisions.'"); *Socol v. Albemarle Cty. Sch. Bd.*, 399 F. Supp. 3d 523, 540 (W.D. Va. 2019) ("[T]he amended complaint does not plausibly allege that the School Board delegated any such authority in this case. Instead, [Plaintiff] makes only vague and conclusory allegations in this regard, which are insufficient under *Twombly* and *Iqbal*.").

With respect to ratification, the Amended Complaint contains no factual allegations with particularity to establish that the Board ratified any retaliatory act, nor could it. *See Socol*, 399 F. Supp. at 540-541 ("[P]laintiff's bare allegation of ratification is insufficient to withstand review under Rule 12(b)(6).").

Plaintiff has failed to allege a plausible claim of First Amendment retaliation claim against the Board, and his claim is subject to dismissal.[6]

III. Plaintiff fails to state a procedural due process claim related to a protected property interest in continued employment.

As an initial and determinative point, Plaintiff freely and voluntarily resigned his employment and therefore cannot sustain a claim based on a property interest in continued employment. It is well settled that an employee's voluntary resignation cannot support an action for violations of procedural due process. *See Stone v. Univ. of Maryland Med. Sys. Corp.*, 855 F.2d 167, 173 (4th Cir. 1988); *see also Dubois v.*

[6] Plaintiff appends to the end of his First Amendment retaliation claim a reference to alleged violations of the North Carolina Constitution. Am. Compl. ¶ 92, DE9. Plaintiff does not elaborate on these potential State constitutional claims, but, regardless, they would be subject to dismissal for the same reasons as his federal First Amendment retaliation claim.

Henderson Cty. Bd. of Educ., No. 1:13-CV-00131-MR-DLH, 2014 WL 340475, at *5 (W.D.N.C. Jan. 30, 2014).

Here, Plaintiff attaches to his amended complaint the resignation agreement that he signed, which specifically states that "I am entering this Agreement freely, knowingly, and voluntarily, having had adequate time to review the Agreement and to consider its advantages, disadvantages, and future consequences, after consulting with my attorney." Am. Compl, Ex. G, ¶ 10, DE9-7. Having executed such an agreement, Plaintiff cannot sustain a plausible claim based on a property interest in continued employment.

The release of claims in the resignation agreement signed by Plaintiff releases all claims "based on any alleged violations of the state or federal constitution," and "specifically including any claims alleging wrongful or constructive discharge." *Id.*, ¶ 8. This release clearly bars Plaintiff's claim.

Plaintiff attempts to avoid the obvious consequences of his resignation agreement by baldly asserting that it was coerced. However, an employee's resignation is not rendered involuntary simply because it was prompted "by events set in motion" by the employer. *Sherman v. Univ. of N. Carolina at Wilmington*, No. 7:07-CV-167-FL, 2008 U.S. Dist. LEXIS 140081, at *19 (E.D.N.C. Dec. 18, 2008). In *Sherman*, the court reasoned that the fact that "the employee's choice is between comparably unpleasant alternatives—resign or face disciplinary charges—does not itself establish that a resignation was induced by duress or coercion," *Id.* at *24, especially where "plaintiff was given sufficient time in which to choose whether to resign or face termination proceedings." *Id.* at *27. Furthermore, the fact that an employee "may perceive [her]

only option to be resignation—for example, because of concerns about [her] reputation—is irrelevant." *Stone v. Univ. of Maryland Med. Sys. Corp.*, 855 F.2d 167, 174 (4th Cir. 1988).

Rather, a resignation will only be found involuntary in one of two circumstances: (1) where it was "obtained by the employer's misrepresentation or deception," or (2) "where it was forced by the employer's duress or coercion"—in other words, where the "employer's conduct has prevented the employee from making a free and informed choice." *Id*. Here, Plaintiff does not plausibly plead any actual misrepresentation or deception, nor any duress or coercion.

As to misrepresentation or deception, Plaintiff merely asserts that the Board did not proactively advise him that it had complied with the law by reporting his alleged misconduct to DPI. There is no allegation that the Board *denied* making the required report, nor is there any allegation that the Board deceived Plaintiff about the existence of such report. And as stated in previous arguments, Plaintiff knew or should have known of the mandatory reporting requirement by virtue of his administrative position.

As to duress or coercion, Plaintiff appears to be alleging conspiratorial timing of the suspension and resignation agreement. However, as stated in *Stone*, the fact that Plaintiff perceived only one option (resignation) does not make that resignation involuntary. 855 F.2d at 174. Finally, duress and coercion are generally found only where there is immediate temporal pressure, but here the Amended Complaint shows on its face that Plaintiff did not sign the agreement until nine days after the alleged conversation with Defendant's Employee Relations Director and after having had time to consult with counsel. *See* Am. Compl. ¶ 27; Ex. G, DE9-7.

Finally, Plaintiff has failed to plausibly plead *Monell* liability to the Board for the alleged coerced resignation. The Fourth Circuit has repeatedly held that "isolated incidents of unconstitutional conduct by subordinate employees are not sufficient to establish a custom or practice for § 1983 purposes"; rather, "there must be 'numerous particular instances' of unconstitutional conduct in order to establish a custom or practice." *Lytle*, 326 F.3d at 473 (quoting *Kopf v. Wing*, 942 F.2d 265, 269 (4th Cir.1991)); *see also Carter*, 164 F.3d at 218 ("Outside of such formal decision-making channels, a municipal custom may arise *if a practice is so persistent and widespread and so permanent and well settled as to constitute a custom or usage with the force of law*." (emphasis added)).

Plaintiff's allegations do not demonstrate "numerous particular instances of unconstitutional conduct." Even if the Employee Relations Director's alleged communications were somehow unconstitutional—and the Board emphatically denies that they were—such a single instance would not be sufficient to establish *Monell* liability. In the absence of any allegation of numerous particular incidents, Plaintiff has failed to state a plausible claim for Board liability and the claim must be dismissed.

IV. Plaintiff fails to state a procedural due process claim related to a name-clearing hearing.

As an initial matter, as is true with all of Plaintiff's claims, Plaintiff's claim related to reputational harm and lack of a name-clearing is expressly barred by the terms of the resignation agreement's release of claims. The Board incorporates by reference its arguments above.

Plaintiff's claim would fail, however, even if it were not barred. To establish such a claim, a plaintiff must allege that the charges against him "(1) placed a stigma on his

reputation; (2) were made public by the employer; (3) were made in conjunction with his termination or demotion; and (4) were false." *Sciolino v. City of Newport News*, 480 F.3d 642, 646 (4th Cir. 2007). Plaintiff's claim fails on multiple grounds.

First, plaintiff has not plausibly alleged that any statement by Defendant placed a stigma on his reputation. This court has previously found that allegations of unsatisfactory job performance and/or inappropriate conduct "are not sufficiently stigmatizing to establish the deprivation of a liberty interest." *Harmon v. Cumberland Cty. Bd. of Educ.*, 186 F. Supp. 3d 500, 508 (E.D.N.C.). Here, all that is alleged to have been stated by WCPSS is that Plaintiff was suspended related to alleged inappropriate conduct, and later that he resigned while suspended for the same. These are not stigmatizing allegations under the law.

Second, Plaintiff has not plausibly alleged a stigmatizing public statement at all. *See* Am. Compl. ¶26, DE9, (referencing what Plaintiff' perceived as a *forthcoming* leak of the suspension); ¶51 (alleging "[u]pon information and belief" only that Defendant "reported the May 22 incident" to the media without indicating what was reported or that any confidential information was reported). As noted multiple times, above, the DPI misconduct reports were confidential, N.C. Gen. Stat. § 115C-13, and the fact of his suspension and/or resignation are public record, N.C. Gen. Stat. § 115C-320.

Third, the reports were not made in conjunction with a termination or demotion—Plaintiff was only suspended pending investigation and then agreed to resign. In a similar case, a plaintiff was suspended pending a recommendation for termination and resigned prior to a termination decision. *McCollough v. Town of S. Pines*, No. 1:09CV192, 2010 WL 3219351, at *2 (M.D.N.C. Aug. 12, 2010), *aff'd*, 439 Fed.

App'x 215 (4th Cir. 2011). The evidence reviewed by the court established that the plaintiff's resignation was voluntary, despite her subsequent characterization of it as a "firing," and further concluded that the plaintiff failed to exhaust all administrative remedies available to her by declining an opportunity for a name-clearing hearing. *Id.* at *12. Here, had Plaintiff not chosen to voluntarily resign and had he been subject to a dismissal or suspension without pay recommendation, he would have had the right to a hearing under N.C. Gen. Stat. § 115C-325 *et seq*.

Finally, Plaintiff does not allege that the reports to DPI were false—he only wishes to provide further context to the reports. *See* Am. Compl. ¶ 111, DE9. Plaintiff has failed to plausibly plead his fourth cause of action, and it is subject to dismissal.

CONCLUSION

For all of the reasons stated herein, the Board respectfully requests that this Court dismiss Plaintiff's Amended Complaint in full with prejudice.

Respectfully submitted, this the 2nd day of November 2026.

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CERTIFICATE OF WORD COUNT

Pursuant to Local Rule 7.2, counsel for Defendant certifies that this brief, was prepared using a 12-point proportionally spaced font with serifs, is less than 8,400 words (excluding covers, captions, indexes, counsel's signature block, certificates of service, and this certificate of compliance) as reported by the word-processing software.

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of November 2026, I electronically filed the foregoing Memorandum of Law in Support of Motion to Dismiss Amended Complaint with the Clerk of the Court using CM/ECF which will send notification of such filing to all counsel of record.

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