

## **STUDENTS FIRST VA**

### **Petition for Removal of Virginia Beach City School Board Member Kimberly A. Melnyk**

**WHEREAS**, Virginia Code section 24.2-233 states in pertinent part: “Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court ... [f]or neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office.”

**WHEREAS**, on July 10, 2020, The American Academy of Pediatrics released the following statement:

We recognize that children learn best when physically present in the classroom. But children get much more than academics at school. They also learn social and emotional skills at school, get healthy meals and exercise, mental health support and other services that cannot be easily replicated online. Schools also play a critical role in addressing racial and social inequity. Our nation’s response to COVID-19 has laid bare inequities and consequences for children that must be addressed. This pandemic is especially hard on families who rely on school lunches, have children with disabilities, or lack access to Internet or health care.

**WHEREAS**, on July 7, 2020, the Virginia Beach City School Board received an update on planning efforts for the reopening of schools that noted advice from the American Academy of Pediatrics that “all policy considerations for the coming school year should start with a goal of having student physically present in school,” and that “policies to mitigate the spread of COVID-19 within schools must be balanced with the known harms to children, adolescents, families, and the community by keeping children at home.”

**WHEREAS**, as outlined in the school board bylaws, as a school board member Kimberly A. Melnyk is “representing the people of the community,” it is “the responsibility of the School Board to adopt policies for governing schools,” and the school board must “operate and maintain the schools in the School Division, consistent with state statutes and regulations of the Virginia Board of Education.”

**WHEREAS**, school board policy requires the board to “provide leadership to improve the quality of schooling” by, among other things, providing “educational opportunities to overcome factors of socioeconomic background or preschool disadvantage to ensure that all students learn,” and by protecting and advancing “the belief that preparing students to be successful learners, workers and citizens is the most important purpose of schooling.”

**WHEREAS**, Kimberly A. Melnyk voted to keep all Virginia Beach City public schools closed thereby overruling and ignoring local and national medical experts which have stated that keeping schools closed would be detrimental to all children and, thereby, violating their duty and responsibility as a school board member.

**WHEREAS**, keeping schools closed hurts children with disabilities the most, and violates their legal rights.

**WHEREAS**, by voting in opposition to reopening Virginia Beach City public schools without making any dispensations for students with special needs or disabilities, Kimberly A. Melnyk caused the school district to act without regard to certain federal, state, and local laws and regulations, including the requirement in 8 Virginia Administrative Code 20-81-30 that “[e]ach local school division shall ensure that all children with disabilities aged two to 21, inclusive, residing in that school division have a right to a free appropriate public education.”

**THEREFORE**, we the undersigned registered voters of Virginia Beach City ask that the Virginia Beach Circuit Court immediately suspend Kimberly A. Melnyk from the Office of School Board Member upon the filing of this petition, as allowed for by Virginia Code section 24.2-236, and subsequently set a trial for her removal.