

STATE OF NORTH CAROLINA

File No.

24-CVS-

CABARRUS County

In The General Court Of Justice
[ ] District [X] Superior Court Division

Name And Address Of Plaintiff 1
SAVE OUR SCHOOLS ASSOCIATION, et al.
c/o John Scarbrough
141 Union Street South
Concord NC 28025

FILED

2024 MAR 26 P 12:13

GENERAL

Name And Address Of Plaintiff 2
(See "Additional Plaintiffs" section below)

CABARRUS CO, CIVIL ACTION COVER SHEET

[X] INITIAL FILING [ ] SUBSEQUENT FILING

BY [Signature]

Rule 5(b) of the General Rules of Practice for the Superior and District Courts

VERSUS

Name And Address Of Defendant 1
THE CABARRUS COUNTY BOARD OF EDUCATION
c/o Denise Adcock, Board Chair
1020 Chadbourne Ave NW
Concord NC 28027

Name And Address Of Attorney Or Party, If Not Represented
John Scarbrough
Scarborough & Scarborough, PLLC
141 Union Street South
Concord NC 28025

Summons Submitted
[X] Yes [ ] No

Telephone No. (704) 782-3112
Cellular Telephone No.

Name And Address Of Defendant 2

NC Attorney Bar No. 41569
Attorney Email Address jfs@sandslegal.net

[X] Initial Appearance in Case [ ] Change of Address

Summons Submitted
[ ] Yes [ ] No

Name Of Firm Scarborough & Scarborough, PLLC
Fax No. (704) 782-3116

Counsel For
[X] All Plaintiffs [ ] All Defendants [ ] Only: (list party(ies) represented)

[ ] Jury Demanded In Pleading [ ] Complex Litigation [ ] Stipulate to Arbitration

TYPE OF PLEADING

- (check all that apply)
[ ] Amend (AMND)
[ ] Amended Answer/Reply (AMND-Response)
[ ] Amended Complaint (AMND)
[ ] Assess Costs (COST)
[ ] Answer/Reply (ANSW-Response) (see Note)
[ ] Change Venue (CHVN)
[X] Complaint (COMP)
[ ] Confession Of Judgment (CNFJ)
[ ] Consent Order (CONS)
[ ] Consolidate (CNSL)
[ ] Contempt (CNTP)
[ ] Continue (CNTN)
[ ] Compel (CMPL)
[ ] Counterclaim (CTCL) Assess Court Costs
[ ] Crossclaim (list on back) (CRSS) Assess Court Costs
[ ] Dismiss (DISM) Assess Court Costs
[ ] Exempt/Waive Mediation (EXMD)
[ ] Extend Statute Of Limitations, Rule 9 (ESOL)
[ ] Extend Time For Complaint (EXCO)
[ ] Failure To Join Necessary Party (FJNP)

- [ ] Failure To State A Claim (FASC)
[ ] Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
[ ] Improper Venue/Division (IMVN)
[ ] Including Attorney's Fees (ATTY)
[ ] Intervene (INTR)
[ ] Interplead (OTHR)
[ ] Lack Of Jurisdiction (Person) (LJPN)
[ ] Lack Of Jurisdiction (Subject Matter) (LJSM)
[ ] Modification Of Child Support In IV-D Actions (MSUP)
[ ] Notice Of Dismissal With Or Without Prejudice (VOLD)
[ ] Petition To Sue As Indigent (OTHR)
[ ] Rule 12 Motion In Lieu Of Answer (MDLA)
[ ] Sanctions (SANC)
[ ] Set Aside (OTHR)
[ ] Show Cause (SHOW)
[ ] Transfer (TRFR)
[ ] Third Party Complaint (list Third Party Defendants on back) (TPCL)
[ ] Vacate/Modify Judgment (VCMD)
[ ] Withdraw As Counsel (WDCN)
[ ] Other (specify and list each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must include either a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

(Over)

**CLAIMS FOR RELIEF**

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Administrative Appeal (ADMA)      | <input type="checkbox"/> Limited Driving Privilege - Out-Of-State   | <input type="checkbox"/> Product Liability (PROD)                 |
| <input type="checkbox"/> Appointment Of Receiver (APRC)    | <input type="checkbox"/> Convictions (PLDP)                         | <input type="checkbox"/> Real Property (RLPR)                     |
| <input type="checkbox"/> Attachment/Garnishment (ATTC)     | <input type="checkbox"/> Medical Malpractice (MDML)                 | <input type="checkbox"/> Specific Performance (SPPR)              |
| <input type="checkbox"/> Claim And Delivery (CLMD)         | <input type="checkbox"/> Minor Settlement (MSTL)                    | <input type="checkbox"/> Other (specify and list each separately) |
| <input type="checkbox"/> Collection On Account (ACCT)      | <input type="checkbox"/> Money Owed (MNYO)                          | <b>Declaratory Judgment, Injunctive Relief</b>                    |
| <input type="checkbox"/> Condemnation (CNDM)               | <input type="checkbox"/> Negligence - Motor Vehicle (MVNG)          |   |
| <input type="checkbox"/> Contract (CNTR)                   | <input type="checkbox"/> Negligence - Other (NEGO)                  |   |
| <input type="checkbox"/> Discovery Scheduling Order (DSCH) | <input type="checkbox"/> Motor Vehicle Lien G.S. Chapter 44A (MVLN) |   |
| <input type="checkbox"/> Injunction (INJU)                 | <input type="checkbox"/> Possession Of Personal Property (POPP)     |   |

Date

03/26/2024

Signature Of Attorney/Party



**FEES IN G.S. 7A-308 APPLY**

- Assert Right Of Access (ARAS)  
 Substitution Of Trustee (Judicial Foreclosure) (RSOT)  
 Supplemental Procedures (SUPR)

**PRO HAC VICE FEES APPLY**

Motion For Out-Of-State Attorney To Appear In NC Courts In A Civil Or Criminal Matter (Out-Of-State Attorney/Pro Hac Vice Fee)

No.	<input checked="" type="checkbox"/> Additional Plaintiff(s)
	Ben Williams, Amber Williams, Matthew Chisholm, Julia Chisholm, Aaron Thomas, Jenna Thomas, and Laura Rogers

No.	<input type="checkbox"/> Additional Defendant(s)	<input type="checkbox"/> Third Party Defendant(s)	Summons Submitted
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted

**STATE OF NORTH CAROLINA**

File No.

24-CVS-

Cabarrus County

In The General Court Of Justice  
 District  Superior Court Division

Name Of Plaintiff  
**Save Our Schools Association, et al.**

Address  
 141 Union Street S

City, State, Zip  
 Concord, NC 28025

**CIVIL SUMMONS**  
 ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

**VERSUS**

Name Of Defendant(s)  
**The Cabarrus County Board of Education**

Date Original Summons Issued  
 \_\_\_\_\_

Date(s) Subsequent Summons(es) Issued  
 \_\_\_\_\_

**To Each Of The Defendant(s) Named Below:**

Name And Address Of Defendant 1  
**The Cabarrus County Board of Education**  
 c/o Johnston Allison Hord, Attorneys for the Board of Education  
 1065 East Morehead Street  
 Charlotte NC 28204

Name And Address Of Defendant 2  
 \_\_\_\_\_



**IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!**

**¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!**

**Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!**

**A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)  
**John Scarbrough**  
 Scarbrough & Scarbrough, PLLC  
 141 Union Street South  
 Concord, NC 28025

Date Issued 3-21-24 Time 12:13  AM  PM

Signature [Handwritten Signature]

Deputy CSC  Assistant CSC  Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)  
 This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement \_\_\_\_\_ Time \_\_\_\_\_  AM  PM

Signature \_\_\_\_\_

Deputy CSC  Assistant CSC  Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
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- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

*Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)*

<input type="checkbox"/> Acceptance of service. Summons and complaint received by: <input type="checkbox"/> Defendant 1. <input type="checkbox"/> Other: <i>(type or print name)</i>	<i>Date Accepted</i>	<i>Signature</i>
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Other manner of service *(specify)*

Defendant WAS NOT served for the following reason:

**DEFENDANT 2**

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
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- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

*Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)*

<input type="checkbox"/> Acceptance of service. Summons and complaint received by: <input type="checkbox"/> Defendant 2. <input type="checkbox"/> Other: <i>(type or print name)</i>	<i>Date Accepted</i>	<i>Signature</i>
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Other manner of service *(specify)*

Defendant WAS NOT served for the following reason:

<i>Service Fee Paid</i> \$	<i>Signature Of Deputy Sheriff Making Return</i>
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<i>Date Received</i>	<i>Name Of Sheriff (type or print)</i>
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<i>Date Of Return</i>	<i>County Of Sheriff</i>
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STATE OF NORTH CAROLINA  
CABARRUS COUNTY

**FILED**

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

Case No. 24-CVS-\_\_\_\_\_

2024 MAR 26 P 12:13

SAVE OUR SCHOOLS )  
ASSOCIATION, BEN WILLIAMS )  
AMBER WILLIAMS, MATTHEW )  
CHISHOLM, JULIA CHISHOLM )  
AARON THOMAS, JENNA THOMAS, )  
and LAURA ROGERS, individually and )  
on behalf of all others similarly situated, )

**CLASS ACTION COMPLAINT**

Plaintiffs, )

v. )

THE CABARRUS COUNTY BOARD )  
OF EDUCATION, )

Defendant. )

**NOW COME** Plaintiffs, by and through their undersigned counsel, and complaining of Defendant Cabarrus County Board of Education, allege and state as follows:

**NATURE OF THE ACTION**

1. Plaintiffs bring this action for a declaratory judgment that the Cabarrus County Board of Education’s February 5, 2024 decision to permanently close Beverly Hills Elementary School (“Beverly Hills”) was *ultra vires* and an abuse of discretion. Plaintiffs also request that the Court enter an order setting aside the decision to close Beverly Hills as void *ab initio*. Finally, Plaintiffs seek an injunction to prevent the Board from demolishing the Beverly Hills school building, or selling the school property, until this litigation has been resolved.

2. A local board of education’s authority to close a school is conditioned on the board satisfying two important prerequisites in Section 115C-72 of the General Statutes. First, the board of education must cause a thorough study to be made of the school in question and the study must focus **primarily on the welfare of the children to be affected by the closure**. Second, the board

must hold a properly noticed public hearing on the proposed school closure. Only after satisfying these prerequisites may a board of education permanently close a school. Simply put, any decision to close a school must be based on the welfare of the school's students and must fully involve the community.

3. The Cabarrus County Board of Education ("Defendant" or "the Board") violated N.C.G.S. § 115C-72 when it voted to permanently close Beverly Hills on February 5, 2024.

4. In the Board's haste to realign school boundaries in Cabarrus County, the Board neglected its statutory obligation to consider the effect of a school closure on Beverly Hills students. The Board did not "cause a thorough study of [Beverly Hills] to be made, having in mind primarily the welfare of the students to be affected." As a result, the Board did not make its decision to close Beverly Hills "upon the basis of the study" as required by N.C.G.S. § 115C-72.

5. Further, the Board did not even follow its own rules of procedure in giving notice of the public hearing on the closure of Beverly Hills.

6. These legal requirements are not mere "formalities" that can be dispensed with at the Board's whim. As Board member Keshia Sandidge recognized, the decision to permanently close Beverly Hills disrupts already disenfranchised students at a school that is thriving. Instead of having in mind the welfare of the Beverly Hills students, as required by Section 115C-72, Board member Brian Floyd described the Board's decision to close Beverly Hills as a "district-wide decision that's best for the district of 35,000 plus kids."

7. In this litigation, Plaintiffs are not asking the Court to substitute its judgment for the judgment of the Board. Instead, Plaintiffs are asking that the Court order the Board to comply with N.C.G.S. § 115C-72 and make the decision on whether to close Beverly Hills on the basis of a thorough study focused on the welfare of the school's students and then only after giving adequate

notice to the public.

**PARTIES, JURISDICTION, AND VENUE**

8. Plaintiff Save Our Schools Association is a nonprofit corporation organized under Chapter 55A of the North Carolina General Statutes for the purpose of advocating against the closure of Beverly Hills. Its membership is comprised of parents of Beverly Hills students who will be adversely affected by closure of the school.

9. Plaintiffs Ben Williams and Amber Williams are citizens and residents of Cabarrus County. The Williams's son is a first grader at Beverly Hills. He has thrived academically and socially at Beverly Hills, but the closure will divide him from his teachers and friends. Further, the Williams's commute time to school will be increased by at least four times their commute to Beverly Hills.

10. Plaintiffs Matthew Chisholm and Julia Chisholm are citizens and residents of Cabarrus County. The Chisholms' daughter is a first grader at Beverly Hills. The Chisholms' twin sons would attend Beverly Hills as kindergartners for the 2024-2025 school year. Their daughter is thriving in the Beverly Hills' STEM program, but the closure will result in her attending a school without an established STEM program, and will greatly increase the Chisholms's commute time to school.

11. Plaintiffs Aaron Thomas and Jenna Thomas are citizens and residents of Cabarrus County. The Thomas's have three children who attend Beverly Hills—a first grader and two second graders. As a result of the closing of Beverly Hills, the Thomas's children will be attending a much larger elementary school and will not receive the individual attention they have received at Beverly Hills, which is a close-knit, neighborhood school. Further, Beverly Hills is within walking distance of the Thomas's home and the closure will greatly increase the Thomas's school commute time.

12. Plaintiff Laura Rogers is a citizen and resident of Cabarrus County. Ms. Rogers' son is a

second grader at Beverly Hills. The increased commute time resulting from the school's closure will disrupt the stability that comes with living close to a neighborhood school and will also limit Ms. Rogers' availability to volunteer at school.

13. The Cabarrus County Board of Education is a local board of education established under N.C.G.S. § 115C-35. It has the capacity to sue and be sued pursuant to N.C.G.S. § 115C-40.

14. This Court has jurisdiction over the parties to this action.

15. This Court has jurisdiction over this claim pursuant to, *inter alia*, N.C.G.S. § 1-253.

16. Plaintiffs have standing to bring this action for a declaratory judgment on behalf of themselves and all other persons similarly situated pursuant to N.C.G.S. § 1-253, *et seq.*, Rule 23 of the North Carolina Rules of Civil Procedure, and Rule 57 of the North Carolina Rules of Civil Procedure.

17. A genuine controversy exists between the parties in that Plaintiffs contend that the Board's decision to close Beverly Hills was *ultra vires* and an abuse of discretion, whereas, upon information and belief, the Board contends that it acted within the scope of its authority and did not abuse its discretion.

18. The declaratory judgment requested by Plaintiffs will serve a useful purpose in clarifying and settling the legal relations at issue. It will also terminate and afford relief from the uncertainty, insecurity, and controversy giving rise to this proceeding.

19. Cabarrus County Superior Court is the proper venue for this claim.

#### **CLASS ALLEGATIONS**

20. Plaintiffs bring this action on behalf of themselves and on behalf of all other persons similarly situated pursuant to Rule 23 of the North Carolina Rules of Civil Procedure. The Class which Plaintiffs seek to represent in this action includes parents and their children who are students

of Beverly Hills and who will be affected by the closure of the school. Plaintiffs estimate this Class to contain well over 600 persons.

21. The Class is so numerous that joinder of all members of the Class is impractical.

22. As set forth herein, there are questions of law and fact common to the Class.

23. The claims of the named Plaintiffs are typical of the claims of the Class.

24. The named Plaintiffs have no interests adverse or antagonistic to the interests of other members of the Class and will adequately represent and protect the interests of the Class. The Plaintiffs have retained experienced counsel who has been appointed as class counsel in numerous class actions against local governmental units.

25. The Defendant has acted or refused to act, and will continue to act or refuse to act, on grounds generally applicable to the Class, thereby making appropriate injunctive or declaratory relief with respect to the Class as a whole. Separate actions by individual members of the Class would create a risk of inconsistent adjudications which would establish incompatible standards of conduct for Defendant.

26. Questions of law and fact common to the members of the Class predominate over any question affecting only an individual member or members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

### **FACTUAL BACKGROUND**

27. Beverly Hills is located at 87 Palaside Drive NE in Concord and is the focal point of one of the oldest and most established neighborhoods in Concord. The elementary school first opened its doors in 1954; generations of Concord residents have walked its halls as school children.

28. Beverly Hills is a Title I school. According to data collected by Cabarrus County Schools

(“CCS”), nearly 70% of its student population is economically disadvantaged.<sup>1</sup> Despite these challenges, Beverly Hills has achieved the second highest academic “growth score” among Cabarrus County elementary schools according to the North Carolina Department of Public Instruction (“NCDPI”).<sup>2</sup> In recognition of the school’s achievements, the NCDPI has named Beverly Hills a “STEM School of Distinction” for “demonstrating evidence of distinguished STEM approaches to leading and learning.”<sup>3</sup>

29. On March 6, 2023, the Board retained Cooperative Strategies, LLC (“Cooperative Strategies”) to consult the Board on a county-wide realignment plan. Cooperative Strategies is a California company that describes itself as “educational facility and program planners” who are “experts with backgrounds in school facility management, educational program planning, 21<sup>st</sup> Century Learning principles, GIS capital planning, and community engagement.”<sup>4</sup>

30. In Fall 2023, CCS staff hosted “focus groups” of select members to discuss the potential boundary realignment. Upon information and belief, the focus groups were told “not to consider Beverly Hills” in their discussions.

31. On November 10, 2023, Cooperative Strategies sent an e-mail to CCS staff that included three scenarios for a county-wide boundary realignment. Scenarios “A” and “C” made the assumption that Beverly Hills would be permanently closed beginning with the 2024-2025 school

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<sup>1</sup> See August 14, 2023 “Data Framing” presentation to the Board of Education, available at <https://engagewithccs.com/district-re-alignment> (last visited March 12, 2024).

<sup>2</sup> See NCDPI “School Report Card” for Beverly Hills at <https://ncreports.ondemand.sas.com/src/school?school=130309&year=2023> (last visited March 12, 2024).

<sup>3</sup> *Id.*

<sup>4</sup> See Cooperative Strategies “Who We Are” at <https://coopstrat.wpenginepowered.com/who-we-are/> (last visited March 12, 2024).

year. Scenario “B”, however, offered a realignment plan in which Beverly Hills remained open.

32. In response to Cooperative Strategies’ November 10, 2023 e-mail, CCS staff member Dr. Jonathan Bowers asked if the inclusion of Beverly Hills in Scenario B was “intentional.” Cooperative Strategies replied that it was intentional and asked if it was staff’s preference to close Beverly Hills in all scenarios. Shortly thereafter, Cooperative Strategies e-mailed CCS an “updated Scenario B” that included the closure of Beverly Hills, stating that “all scenarios are now consistent on this topic.” A true and accurate copy of this e-mail exchange between Cooperative Strategies and CCS staff is attached hereto as Exhibit A.<sup>5</sup>

33. In late November 2023, Cooperative Strategies’ realignment scenarios were released to the public. As dictated by CCS staff, all three scenarios were based on the assumption that Beverly Hills would be permanently closed. This was the first time the public was made aware of the planned closure of the school.

34. After the realignment scenarios were made public, a community member sent a message to CCS through its online “Engage” portal, asking whether CCS and Cooperative Strategies had considered “the value of the community identity that is built around Beverly Hills Elementary School that would be discarded with abandoning any plan for a school at the site.” CCS replied, in relevant part, that while they valued “the rich history” of Beverly Hills: “[T]he recommendation of Cooperative Strategies has been to invest current deferred maintenance expenses from Beverly Hills into the construction of new capacity district-wide to align with the long-range facilities master plan.” Upon information and belief, this was not the recommendation of Cooperative Strategies.

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<sup>5</sup> This e-mail, among other e-mails and documents, was produced in response to a December 22, 2023 public records request by the Save Our Schools Association. N.C.G.S. § 132-6 required CCS to produce the e-mails and documents “as promptly as possible.” Despite this legal requirement and numerous attempts by the attorney for Save Our Schools to secure the records following the initial December 22, 2023 request, CCS staff did not produce the e-mails and documents until March 12, 2024.

35. Another message from a community member through the “Engage” portal asked: “What consideration has been given to the impact the closure of the school will bear on the students overall well-being?” Philip Furr, the CCS Director of Communications and Public Information forwarded the message to CCS staff with the comment: “I believe we’ll need a stock answer to these emotionally charged questions the farther along this process goes.” A true and accurate copy of the e-mail is attached hereto as Exhibit B.

36. At the Board’s January 8, 2024 meeting, Board member Rob Walter asked the CCS Superintendent, Dr. John Kopicki, whether CCS staff had taken into consideration recent community input opposing the closure of Beverly Hills. Dr. Kopicki replied that his staff would review the community’s input concerning Beverly Hills, but it would not change the fact that CCS would be making a recommendation based on the best outcome for the “system as a whole.”

37. At the Board’s January 16, 2024 meeting, Cooperative Strategies and CCS presented their official recommendation for the county-wide realignment—“Scenario C.” Like Scenarios A and B, Scenario C simply assumed that Beverly Hills would be permanently closed even though the Board had not considered or voted on the closure of Beverly Hills.

38. Also at the January 16, 2024 meeting, CCS presented an architectural rendering and 3-D walkthrough of a new pre-kindergarten facility to be built on the Beverly Hills site. Board member Keshia Sandidge commented that she was very concerned that the plan was just now being put in front of the public and that the public had not had time to review or comment on such a plan prior to the meeting.

39. On January 22, 2024, the Board of Education and the Cabarrus County Board of Commissioners held a joint meeting to discuss a Long-Range Facilities Master Plan for the school system. At this meeting it was decided that \$11 million would be re-allocated in the County’s

budget to replace Beverly Hills with the pre-kindergarten facility. Again, the Board had not yet considered or voted on the closure of Beverly Hills in public.

40. Also at the January 22, 2024 meeting, the Board finally scheduled a public hearing for the closure of Beverly Hills.

41. The Board did not give proper notice of the public hearing.

42. The Board's official Policy Manual governs, among other things, the form and timing of the notice which must be given in advance of a public hearing. Specifically, Policy 2320 ("Compliance with Open Meetings Law") states as follows:

Notice of a public hearing shall be given a **minimum of seven (7) calendar days prior to the hearing** or as otherwise provided by law. Written notice stating the purpose, location and time of the hearing shall be:

- Posted at the door of the usual meeting room of the board; and
- Mailed or delivered to all representatives of the media and any other individual who has requested notification of board meetings.

43. Notice of the public hearing regarding the closure of Beverly Hills was not posted seven days in advance of the hearing at the door of the Board's usual meeting room. Instead, the notice was posted on the CCS website late in the day on January 25, 2024, **only four days prior to the hearing**. Likewise, representatives of the media and other individuals who had requested notification of board meetings did not receive an e-mail notifying them of the public hearing until late in the day on January 25, 2024.

44. Furthermore, CCS made no attempt to notify the parents of Beverly Hills students. Such a notification would have been a simple task, as CCS regularly sends mass communications by text message to parents, including for events as mundane as a "Future Jewelry Designer Contest"

sponsored by a local jewelry store.<sup>6</sup>

45. On January 29, 2024—the day of the public hearing on Beverly Hills—Brian Cone, the Director of Architecture, Planning, and Construction for CCS, e-mailed other staff members an 87-page document titled “School Closing Procedure, Board of Education Information Packet, Project: Beverly Hills Elementary School.” The “Board of Education Information Packet” contained a hodgepodge of documents such as a PowerPoint presentation from 2018 showing the costs of a potential onsite re-build of Beverly Hills; slides taken from the Cooperative Strategies’ realignment presentation; and a list of unaddressed maintenance issues at Beverly Hills.

46. Upon information and belief, the “Board of Education Information Packet” was never actually shared with the Board of Education.

47. The Board voted on the closure of Beverly Hills at its February 5, 2024 meeting.

48. Before the February 5 vote, the following issues, among others, were raised:

- Board member Laura Blackwell Lindsey stated that she had asked staff for a realignment option that kept Beverly Hills open but was told that the Board would not be given such an option until it voted on the three options that included the closure of Beverly Hills. Superintendent Dr. John Kopicki confirmed Ms. Lindsey’s statement and explained that CCS was presenting the recommendation that it felt was best for the entire school system.
- Board member Rob Walter stated that he was disappointed in the process because Beverly Hills was a successful school and was being treated differently than other schools. Mr. Walter also expressed disappointment in the staff’s lack of engagement with the community.
- Board member Keshia Sandidge stated that neighborhood schools like Beverly Hills are

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<sup>6</sup> To date, Beverly Hills parents have not received a notice stating in plain terms that Beverly Hills will be closed beginning with the 2024-2025 school year. Instead, parents have been directed to CCS’s online “School Locator Tool” to find their child’s school assignment for next year.

important and that she would not sign onto a plan that disrupted already disenfranchised students in a school that was thriving.

49. The Board of Education voted 4-3 to close Beverly Hills. Board members who voted to close Beverly Hills were Denise Adcock, Pam Escobar, Sam Treadaway, and Brian Floyd. Board members who voted against closure were Laura Blackwell Lindsey, Keshia Sandidge, and Rob Walter.

50. None of the Board members who voted to close Beverly Hills stated that they were basing their decision on any study or, for that matter, on the welfare of Beverly Hills students. As Brian Floyd commented, the decision was a “district-wide decision that’s best for the district of 35,000 plus kids.”

51. The day after the 4-3 vote to close Beverly Hills, CCS staff sent an e-mail to the NCDPI stating that CCS was “in the process of finalizing the decision to close...one of our aging elementary schools,” and that CCS had “completed the NCDPI School Closing Procedure checklist...”

52. CCS plans to demolish the Beverly Hills school building in June or July 2024 and has contracted with an architectural firm to design the pre-kindergarten facility that will replace Beverly Hills. The school property is also being surveyed and, upon information and belief, plans are being made to sell the school’s playground to the City of Concord for the construction of pickleball courts. Beverly Hills’ demise as one of the few remaining neighborhood schools in Concord is imminent.

**FIRST CLAIM FOR RELIEF**  
**(Declaratory Judgment)**

53. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

54. N.C.G.S. 115C-72 governs the consolidation and discontinuance of schools. The statute provides, in pertinent part, as follows:

In determining whether two or more public schools shall be consolidated, **or in determining whether or not a school shall be closed and the pupils transferred therefrom**, local boards of education of the several counties **shall** observe and be **bound** by the following rules:

(1) **In any question involving the closing or consolidation of any public school, the local board of education of the school administrative unit in which such school is located shall cause a thorough study of such school to be made, having in mind primarily the welfare of the students to be affected by a proposed closing or consolidation** and including in such study, among other factors, geographic conditions, anticipated increase or decrease in school enrollment, the inconvenience or hardship that might result to the pupils to be affected by such closing or consolidation, the cost of providing additional school facilities in the event of such closing or consolidation, and such other factors as the board shall consider germane. Before the entry of any order of closing or consolidation, the local board of education shall provide for a public hearing in regard to such proposed closing or consolidation, at which hearing the public shall be afforded an opportunity to express their views. **Upon the basis of the study so made and after such hearing, said board may, in the exercise of its discretion, approve the closing or consolidation proposed.**

N.C.G.S. § 115C-72 (emphases added).

55. The grant of authority in N.C.G.S. § 115C-72 for the Board to close a school is conditioned on the Board **first** “caus[ing] a thorough study of such school to be made, having in mind primarily the welfare of the students to be affected[.]”

56. The Board did **not** cause a thorough study of Beverly Hills to be made, having in mind primarily the welfare of the students.

57. The Board did **not** make its decision to close Beverly Hills “upon the basis” of such a study.

58. Instead, the four Board members who voted to close Beverly Hills repeated the same theme: While Beverly Hills is a successful elementary school, its closure is in the best interest of the rest of the school district because it is required by the county-wide boundary realignment. This is not a valid basis for closing a school under N.C.G.S. § 115C-72.

59. The Board also failed to comply with its own rules of procedure governing notice of public hearings. As set forth above, notice of the public hearing on the proposed closure of Beverly Hills

was provided only four days before the hearing, even though Board Policy 2320 requires that notice be provided a **minimum** of seven days before a public hearing.

60. The four-day notice of the public hearing on the closure of Beverly Hills was unreasonable in time and scope. CCS and the Board did not even attempt to notify the parents of Beverly Hills students.

61. For all the foregoing reasons, and additional reasons to be shown at trial, Plaintiffs and the proposed class are entitled to a declaratory judgment that the Board acted outside the scope of its authority under N.C.G.S. § 115C-72 and abused its discretion in approving the closure of Beverly Hills.

**SECOND CLAIM FOR RELIEF**  
**(Order Setting Aside Vote to Close Beverly Hills)**

62. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

63. Plaintiffs and the proposed class are without an adequate remedy at law for the Board's *ultra vires* decision to close Beverly Hills. The only effective remedy is for the Court to enter an Order setting aside the Board's vote to close Beverly Hills.

64. Therefore, Plaintiffs request that the Court enter an order setting aside the Board's vote to close Beverly Hills as void *ab initio*, and further directing the Board: (1) to cause a thorough study of Beverly Hills to be made in compliance with N.C.G.S. § 115C-72, (2) to properly notice a public hearing on the closure of Beverly Hills in compliance with N.C.G.S. § 115C-72, due process, and the Board's adopted rules of procedure, and (3) to hold a vote on the proposed closure that is based on the thorough study and that takes place after the properly noticed public hearing.

**THIRD CLAIM FOR RELIEF**  
**(Injunctive Relief)**

65. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

66. Defendant is planning to demolish the Beverly Hills school building in June or July 2024.
67. Upon information and belief, Defendant is also preparing to sell the school playground property.
68. Plaintiffs will be irreparably harmed if the school building is demolished or the school playground property is sold.
69. Demolition of the school building during the pendency of this action would create an issue as to whether the Plaintiffs' claims are rendered 'moot' and would serve to further the Board's violations of North Carolina law.
70. Plaintiffs are likely to succeed on the merits of this action.
71. Injunctive relief is necessary to maintain the status quo until the matters at issue herein can be adjudicated on the merits.
72. Plaintiffs request that the Court issue a preliminary injunction and permanent injunction, as necessary, enjoining and restraining Defendant from taking any action which would have the effect of making it impossible for students to return to Beverly Hills for the 2024-2025 school year.

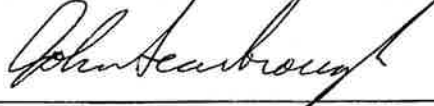
**WHEREFORE**, Plaintiffs, individually and on behalf of the proposed Class, pray Judgment of the Court as follows:

1. For a declaratory judgment pursuant to N.C.G.S. § 1-253, *et seq.* that the Board's decision to permanently close Beverly Hills was *ultra vires* and an abuse of discretion;
2. For an Order setting aside the Board's vote to permanently close Beverly Hills as void *ab initio* and remanding the question of the closure of Beverly Hills to the Board for further proceedings in compliance with N.C.G.S. § 115C-72;
3. For the injunctive relief requested herein;
4. For attorney's fees and costs; and

5. For such other relief as the Court may deem just and proper.

This, the 26 day of March, 2024.

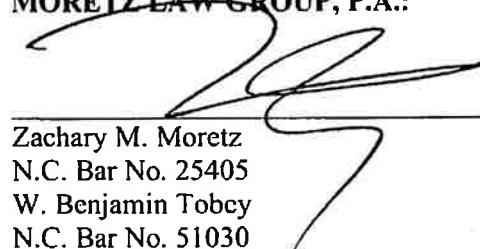
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# **EXHIBIT A**

E-mail Communications Between CCS and Cooperative Strategies  
(11/10/2023 to 11/13/2023)

**From:** [Bishop, Andrew](#)  
**To:** [Jonathan Bowers](#)  
**Cc:** [George \(Tim\) Lowder](#); [Frances Layne](#); [Brian Cone](#); [Rich, Justin](#); [Banuelos, Angela](#); [Grass, Janice](#); [Philip Furr](#)  
**Subject:** RE: Cabarrus County Schools - Updated Scenario Packets  
**Date:** Monday, November 13, 2023 11:57:35 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[ConceptualScenarioB.pdf](#)

## Cabarrus County Schools - CAUTION:

**This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!**

Hi Dr. Bowers,

I spoke with Justin and updated Scenario B so that we include the closure of Beverly Hills, so all scenarios are now consistent on this topic. I've attached the updated Scenario B for your records. Please let me know if you would like to discuss.

Thanks,  
Andrew

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**From:** Bishop, Andrew  
**Sent:** Monday, November 13, 2023 10:33 AM  
**To:** Jonathan Bowers <[Jonathan.Bowers@Cabarrus.k12.nc.us](mailto:Jonathan.Bowers@Cabarrus.k12.nc.us)>  
**Cc:** George (Tim) Lowder <[George.Lowder@Cabarrus.k12.nc.us](mailto:George.Lowder@Cabarrus.k12.nc.us)>; Frances Layne <[Frances.Layne@Cabarrus.k12.nc.us](mailto:Frances.Layne@Cabarrus.k12.nc.us)>; Brian Cone <[Brian.Cone@Cabarrus.k12.nc.us](mailto:Brian.Cone@Cabarrus.k12.nc.us)>; Rich, Justin <[Justin.Rich@woolpert.com](mailto:Justin.Rich@woolpert.com)>; Banuelos, Angela <[Angela.Banuelos@woolpert.com](mailto:Angela.Banuelos@woolpert.com)>; Grass, Janice <[Janice.Grass@woolpert.com](mailto:Janice.Grass@woolpert.com)>; Philip Furr <[Philip.Furr@Cabarrus.k12.nc.us](mailto:Philip.Furr@Cabarrus.k12.nc.us)>  
**Subject:** RE: Cabarrus County Schools - Updated Scenario Packets

Yes, it was intentional at the time since I was trying to balance utilization across all facilities. Would it be the preference that we close Beverly Hills in all options? I can update and recirculate ASAP. Let me know at your convenience.

Thanks,  
Andrew

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**From:** Jonathan Bowers <[Jonathan.Bowers@Cabarrus.k12.nc.us](mailto:Jonathan.Bowers@Cabarrus.k12.nc.us)>  
**Sent:** Sunday, November 12, 2023 4:02 PM  
**To:** Bishop, Andrew <[Andrew.Bishop@woolpert.com](mailto:Andrew.Bishop@woolpert.com)>  
**Cc:** George (Tim) Lowder <[George.Lowder@Cabarrus.k12.nc.us](mailto:George.Lowder@Cabarrus.k12.nc.us)>; Frances Layne <[Frances.Layne@Cabarrus.k12.nc.us](mailto:Frances.Layne@Cabarrus.k12.nc.us)>; Brian Cone <[Brian.Cone@Cabarrus.k12.nc.us](mailto:Brian.Cone@Cabarrus.k12.nc.us)>; Rich, Justin <[Justin.Rich@woolpert.com](mailto:Justin.Rich@woolpert.com)>; Banuelos, Angela <[Angela.Banuelos@woolpert.com](mailto:Angela.Banuelos@woolpert.com)>; Grass, Janice <[Janice.Grass@woolpert.com](mailto:Janice.Grass@woolpert.com)>; Philip Furr <[Philip.Furr@Cabarrus.k12.nc.us](mailto:Philip.Furr@Cabarrus.k12.nc.us)>  
**Subject:** RE: Cabarrus County Schools - Updated Scenario Packets

**CAUTION:** This email originated from outside of Woolpert. Do not click links or open attachments unless you recognize the sender and know that the content is safe.

Hi Andrew!

Thanks for sharing these conceptual scenarios. I noted that scenarios A and C did not include Beverly Hills as an option, but scenario B has it included in the district's portfolio. Was this intentional?

Thanks!  
J. Bowers

**Jonathan C. Bowers, Ed.D.**

Chief of School Performance and Auxiliary Services  
Cabarrus County Schools  
4401 Old Airport Road  
Concord NC 28025



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**From:** Bishop, Andrew <[Andrew.Bishop@woolpert.com](mailto:Andrew.Bishop@woolpert.com)>  
**Sent:** Friday, November 10, 2023 3:56 PM  
**To:** Jonathan Bowers <[Jonathan.Bowers@Cabarrus.k12.nc.us](mailto:Jonathan.Bowers@Cabarrus.k12.nc.us)>  
**Cc:** George (Tim) Lowder <[George.Lowder@Cabarrus.k12.nc.us](mailto:George.Lowder@Cabarrus.k12.nc.us)>; Frances Layne <[Frances.Layne@Cabarrus.k12.nc.us](mailto:Frances.Layne@Cabarrus.k12.nc.us)>; Brian Cone <[Brian.Cone@Cabarrus.k12.nc.us](mailto:Brian.Cone@Cabarrus.k12.nc.us)>; Rich, Justin <[Justin.Rich@woolpert.com](mailto:Justin.Rich@woolpert.com)>; Banuelos, Angela <[Angela.Banuelos@woolpert.com](mailto:Angela.Banuelos@woolpert.com)>; Grass, Janice <[Janice.Grass@woolpert.com](mailto:Janice.Grass@woolpert.com)>; Philip Furr <[Philip.Furr@Cabarrus.k12.nc.us](mailto:Philip.Furr@Cabarrus.k12.nc.us)>  
**Subject:** Cabarrus County Schools - Updated Scenario Packets

**Cabarrus County Schools - CAUTION:**

**This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!**

Good afternoon Dr. Bowers,

Please find attached the updated draft scenario packets that we've been discussing this week. Here's a rundown of the draft scenarios:

**Scenario A** – previously named “Option 2”, nothing has changed other than the name.

**Scenario B** – This is the newest map where I tried to balance utilization at all schools by level. I started this option with the current ES attendance areas and began in the southwest at the Bethel boundary, then worked my way around to each adjoining boundary until all of the schools were nearly balanced. I followed the same workflow for the MS and HS boundaries as well. In this option I did not focus on feeder patters, just the utilization. The associated tables are included in the map packet.

**Scenario C** – previously named “Option 1”, nothing has changed other than the name.

Additionally, here’s a breakdown of students impacted by school level and scenario.

Scenario	Elementary School	Middle School	High School
Scenario A	786	1,119	1,183
Scenario B	3,109	1,292	1,329
Scenario C	1,950	1,720	1,314

Angela is working on the school locator tool, and she can send the link next week, but we first wanted to get the district’s take on Scenario B and whether to include it or shelve it. Once we hear back from you all then we’ll get the link over for the locator. The locator won’t be released to the public until after the first community meeting. Let us know what you think, we can discuss on Monday.

Thanks,  
Andrew



**Andrew Bishop**

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[Woolpert.com](http://Woolpert.com)

**Cooperative Strategies** is now part of Woolpert!

# **EXHIBIT B**

E-mail From Furr to Bowers, Cone, Lowder, and Layne  
(12/11/2023)

**From:** [Philip Furr](#)  
**To:** [Jonathan Bowers](#); [Brian Cone](#); [George \(Tim\) Lowder](#); [Frances Layne](#)  
**Subject:** Engage - BHES - Emotional response  
**Date:** Monday, December 11, 2023 3:08:50 PM

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Thoughts? I believe we'll need a stock answer to these emotionally charged questions the farther along this process goes.

I am a resident of the Beverly Hills community. The proposal of closing Beverly Hills Elementary School is of great concern for my kids and also for the community where I live! What is the plan for the current school building after closure? A vacant building in a neighborhood has never been a benefit to the surrounding properties!! What consideration has been given to the impact the closure of the school will bear on the students overall well being? CCS places a great emphasis of the well being of our kids so much so that surveys are administered 2 x's a year to check on this. The 3 plans propose a disruption of an entire community as well as an entire staff and student body of a school. This is a disruption that will make a negative impact on the well being of the students and families involved with this proposed closure as well as the continuity of the community as a whole. Is it the nature of the internal community to place more importance on money necessary for "deferred maintenance" versus the well being of the students that currently thrive there? Is the money seen more important than the continuity of the Beverly Hills community that these students live in? Will there be another scenario of realignment that considers BHES for facility utilization?



**Philip J. Furr**  
Director of Communications and Public Information, Cabarrus County Schools

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