

September 17, 2020

Molly Spearman
State Superintendent of Education
1429 Senate Street
Columbia, SC 29201

Dear Superintendent Spearman:

I am in receipt of your letter dated September 16, 2020. I have worked with numerous state superintendents in my forty years in education and have never witnessed as disappointing an act from that position. First, and foremost, please confirm your intent to take buses away from students who need transportation the most. Or, is it your intent, to come and administer our transportation network and provide that service? If the latter, we can work with you to that end and resolve this matter quickly. Moreover, if you will agree to indemnify the school district in any future claim or lawsuit involving COVID19, we will quickly work toward implementing your mandate, which in our view is without authority.

Second, I am disappointed in your letter as the District has implemented the agreement reached with you just last week regarding masks and plans to stand by that agreement even in the face of your breach. Frankly, regarding the mask issue, you have repeatedly interpreted your own policy with weak statements of how it was to be interpreted. In point of fact, we believe our implementation of our policy is stronger than the statements you have made regarding your own. Our culture of compliance in wearing masks in hallways, arrival and dismissal, and while working in close proximity to others is strong while allowing children to have mask breaks and implement this safety protocol in a practical manner. I welcome you to tour our schools with me to see it for yourself.

I would be remiss to not comment that the District has worked to keep our students and schools safe, but our task is made all the more difficult by continuous changes in direction from your proverbial “bully pulpit.” For example, you caused great consternation by announcing teachers would not have to deliver both distance and in person instruction only to reverse yourself later – a pronouncement we knew from the get-go was impractical. Even regarding face coverings, your own memorandum calls your policy “guidance” and not a requirement. In yet another inconsistency, in a recent memorandum, you have stated: “...we cannot make all operational decisions based on any one document.” Yet, you are threatening the transportation for students who need face-to-face instruction arguably the most based on “one document.” You have also stated that “Districts operating face to face in high spread areas have shown how to do this successfully by strictly following the guidance and safety precautions put forth by the public health experts.” I would respectfully submit to you that Berkeley County is no exception, and we continue to analyze and follow strenuous safety protocols and have very few incidents even though we are the only “Big 4” District that has gone back to face to face instruction five days a week with no specific capacity limit.

Further, it is my understanding that our general counsel repeatedly asked your general counsel for the authority to support your position. It is rather simple – give us the statute or regulation that gives you the authority to take this action so we can answer our Board’s good questions regarding the same. Instead, in your letter, you simply refer to your broad authority without further citation or explanation. We believe we are entitled to examine the laws and regulations you rely upon, which you repeatedly failed to give.

On the other hand, and in our view, the General Assembly has been clear that the governance of schools lies with the locally elected school board and, although you failed to give any citation for your authority, I would point you to the authority we rely upon. Specifically, SC Code § 59-19-90, which sets forth in pertinent part that “[t]he board of trustees **shall** ...

(3) Promulgate rules and regulations. Promulgate rules prescribing scholastic standards of achievement and **standards of conduct and behavior that must be met by all pupils** as a condition to the right of such pupils to attend the public schools of such district. ...

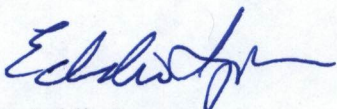
(5) Control school property. Take care of, manage and control the school property of the district; and

(7) Control educational interest of district. Manage and control local educational interests of its district, **with the exclusive authority to operate** ... any public school or schools;

I would request one last time for your legal authority to do that which you claim you intend to do. Of course, the District recognizes your powers regarding school buses and your limited spending power and the carrot approach to promulgate limited regulations. However, we wholly disagree that any such spending power would extend to unrelated issues, can be retroactive, punitive, or can violate state law.

I look forward to your fidelity to the law and prompt response to this letter.

Very truly yours,



Dr. Eddie Ingram
Superintendent
Berkeley County School District

cc: Berkeley County School District Board of Trustees