

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

FAIRFAX COUNTY SCHOOL BOARD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:25-cv-1432 (RDA/LRV)
	)	
LINDA McMAHON, Secretary of the	)	
Department of Education, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

**DEFENDANTS’ NOTICE REGARDING FACTUAL BACKGROUND**

Defendants respectfully submit this notice to correct a factual representation in their Memorandum of Law in Opposition to Plaintiff’s Motion for a Temporary Restraining Order and Preliminary Injunction (ECF No. 19) and address a matter discussed on the record during today’s hearing on Plaintiff’s motion for emergency relief.

Defendants previously asserted that Plaintiff had not requested reconsideration in response to the Department of Education’s (“ED”) August 19, 2025 letter notifying Plaintiff of its high-risk designation and of the specific conditions ED was imposing on grants Plaintiff received from ED. *See* ECF No. 19 at 8. At the time its brief was filed, ED did not have knowledge that reconsideration had been filed. After Plaintiff’s representations during argument today, ED conducted further investigation of the matter and discovered that on August 26, 2025, Plaintiff submitted a request for reconsideration via e-mail. It appears ED did not have knowledge that such request was submitted because the e-mail was caught by a spam filter. Plaintiff did not attach the request for reconsideration to their Complaint or Motion, and Defendants likewise do not believe it is necessary to put in the record now beyond clarifying its existence.

Notwithstanding this factual clarification, Plaintiff's request for reconsideration does not change the thrust of Defendants' arguments, including specifically that Plaintiff failed to exhaust administrative remedies. Plaintiff filed suit and requested a temporary restraining order only three days after submitting its reconsideration request and represented at the hearing that it did not believe it needed to wait for a response before filing suit. Defendants remain willing to consider the reconsideration request, but believe that if Plaintiff seeks for this to be resolved at the agency level – as its request for reconsideration suggests – that this action should be dismissed or stayed until such time as such reconsideration process concludes.

*[Signature page follows.]*

Dated: September 3, 2025

Respectfully submitted,

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