



## **PARTIES**

1. Providence Teachers Union, AFT Local 958 (“PTU”) is a labor organization representing certified personnel, including teachers, employed by the Providence School Board. PTU brings this action on behalf of all teachers employed by the Providence Public School District.

2. Plaintiff Maribeth Calabro is a teacher in the Providence Public School District and President of the PTU.

3. Defendant Providence School Board (“PSB”) is an instrumentality of the City of Providence, Rhode Island, having general supervisory authority for the management of the Providence Public School District.

4. Nicholas Hemond, Nina Pande, Travis Escobar, Diagneris Garcia, Liz Goldberg, Muyideen Ibiyemi, Mark Santow, and Kinzel Thomas are members of the Providence School Board and are sued in their official capacities.

5. Harrison Peters is the Superintendent of the Providence School District. He is sued in his official capacity.

6. Angelica Infante-Green is the Rhode Island Commissioner of Elementary and Secondary Education. She is sued in her official capacity.

## **JURISDICTION**

7. Jurisdiction over the Request for Injunctive Relief is vested in the Superior Court pursuant to R.I. Gen. Laws § 8-2-13.

8. Jurisdiction over the Petition for Writ of Mandamus is vested in the Superior Court pursuant to R.I. Gen. Laws § 8-2-16.

## **FACTS**

9. According to the Centers for Disease Control and Prevention, as of October 30, 2020, the Coronavirus Disease 2019 (COVID-19) has infected 8,834,393 people in the

United States, leading to 227,045 deaths. See <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

10. COVID-19 is a respiratory illness. According to the CDC, the severity of the illness can range from mild/moderate (mild symptoms up to mild pneumonia) to severe in 14% of cases (including dyspnea, hypoxia, or more than 50% lung involvement on imaging) to critical in 5% of cases (respiratory failure, shock, or multiorgan system dysfunction). See <https://www.cdc.gov/coronavirus/2019ncov/hcp/clinicalguidancemanagement-patients.html>.

11. COVID-19, like most respiratory illnesses, is spread most easily through close person-to-person contact. It can also be spread through respiratory droplets on surfaces. See <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Spread>.

12. Rhode Island has seen 32,874 COVID-19 cases, leading to 1,201 deaths. <https://ri-department-of-health-covid-19-data-rihealth.hub.arcgis.com/>

13. On or about March 9, 2020, Gina Raimondo, the Governor of Rhode Island, (“the Governor” or “Raimondo”) issued an Executive Order declaring a state of emergency due to the danger to health and life posed by COVID-19.

14. On or about March 13, 2020, the Governor ordered schools to close. For the remainder of the 2019-2020 school year, all Rhode Island Schools, including those in the Providence Public School District, operated remotely, their instructors teaching students through “distance-learning.”

15. On June 19, 2020, the Governor released detailed guidelines for the reopening of schools.

16. On August 24, 2020, the State of Rhode Island published guidance for the physical reopening of Rhode Island’s elementary and secondary schools. See [https://reopeningri.com/wp-content/uploads/2020/08/Facilities-Physical-Plant-Guidance\\_AUG24\\_Final.pdf?189db0&189db0](https://reopeningri.com/wp-content/uploads/2020/08/Facilities-Physical-Plant-Guidance_AUG24_Final.pdf?189db0&189db0).

17. Included in the REOPENING RI guidelines for schools there is a physical distancing section where it states “Maintaining physical distance is critical in reducing the transmission of the novel coronavirus. Schools should aim for a physical distance of 6 feet when feasible, even when in stable groups.”

18. Included in the REOPENING RI guidelines for schools there is a stable group section where it states “Stable groups help to mitigate the risk of spreading the novel coronavirus. It is still expected that individuals within stable groups maintain as much physical distance as possible. Students are required to maintain stable groups in elementary and middle school.”

19. On September 14, Nathanael Greene Middle School in the Providence Public School District opened for in-person learning.

20. On October 21, 2020 the State of Rhode Island published Outbreak Response Protocols for Rhode Island’s elementary and secondary schools. See [https://reopeningri.com/wp-content/uploads/2020/08/2020-09-14\\_K-12-Playbook\\_edited\\_v2.pdf](https://reopeningri.com/wp-content/uploads/2020/08/2020-09-14_K-12-Playbook_edited_v2.pdf).

21. Within the State of Rhode Island published Outbreak Response Protocols for Rhode Island’s elementary and secondary schools “close contact” is defined as “Being within 6 feet of an infected person (with or without a face mask) for at least 15 minutes, or having unprotected direct contact with secretions or excretions of a person with confirmed COVID-19 during the infectious period.”

22. Within the State of Rhode Island published Outbreak Response Protocols for Rhode Island’s elementary and secondary schools “Consistent/Stable Group” is defined as:

“A consistent group of students and staff who interacts with each other but not with members of other groups on a regular basis. Groups should be as small as possible, with maximum numbers outlined in the different reopening scenarios. When in a stable group, each group must physically distance themselves from each other and from other consistent groups.”

23. Upon information and belief, as of October 29, 2020, at least three (3) students and two (2) staff members have tested positive for COVID-19 at Nathanael Greene Middle School in the Providence Public School District.

24. Upon information and belief, as of October 29, 2020, thirty-three (33) staff members at Nathanael Greene Middle School are out due to COVID-19 related problems, of the thirty-three (33), twenty-two (22) have been officially directed to quarantine from the RIDOH, and the remainder are either waiting to get tested or waiting for testing results.

25. Upon information and belief, due to the fact that nearly half of the school's staff is on quarantine leave, the Nathanael Greene Middle School is co-mingling stable pods or so-called consistent groups as defined in paragraph 22 by bringing in teachers from other buildings and having teachers within the building teach multiple classes.

26. Upon information and belief, there are classrooms at Nathanael Greene Middle School where students are two (2) feet apart from other students.

27. Upon information and belief, there is a clear breakdown of contact tracing at Nathanael Greene Middle School where there have been specific employees and substitute teachers that have been sent home to quarantine some ten (10) days after exposure to a COVID-19 positive student or staff.

28. On October 29, 2020, Maribeth Calabro President, Providence Teachers Union, sent a letter to Angelica Infante-Green, Rhode Island Commissioner of Elementary and Secondary Education, Harrison Peters, Superintendent of the Providence Public School District, and Governor Gina Raimondo (Exhibit I attached and made a part hereof) delineating the details in this complaint in an attempt to have Nathanael Greene Middle School closed for in-person learning temporarily until conditions are safe to re-open, this was to no avail.

29. As of filing this complaint there is a clear outbreak of COVID-19 cases at Nathanael

Greene Middle School and there is a clear violation of state policies to keep students and staff safe and healthy.

**CAUSES OF ACTION**

**COUNT I**

**Injunctive Relief**

30. Plaintiffs hereby incorporate Paragraphs 1 through 29 as though fully set forth herein.

31. As a direct and proximate result of Defendants' violation of COVID-19 safety policies administered by the CDC and the RIDOH there is an out-break of COVID-19 cases at Nathanael Greene Middle School.

32. The employees represented by Plaintiffs will suffer irreparable harm if they are forced to come to work, possibly exposing themselves to the novel corona virus and COVID-19.

33. Defendants would suffer no harm from an injunction prohibiting them from opening an unsafe building until the safety policies administered by the CDC and the RIDOH are followed. Providence Public School District and Nathanael Greene Middle School do have plans in place to provide distance-learning.

34. An injunction prohibiting the Districts from reopening Nathanael Greene Middle School for in-person learning while teachers and students work remotely is not contrary to the public interest, but rather the injunction would protect the public from the spread of COVID-19.

35. Plaintiffs have a likelihood of success on the merits.

36. Plaintiffs have no adequate remedy at law.

37. The balancing of equities requires that the requested relief be granted.

WHEREFORE, Plaintiffs pray as hereinafter set forth.

## **COUNT II**

### **Writ of Mandamus**

38. Plaintiff hereby incorporates Paragraphs 1 through 37 as though fully set forth herein.

39. Angelica Infante-Green, in her capacity as Commissioner of Elementary and Secondary Education is required to follow appropriate state laws and regulations in allowing Providence Public School District Schools to remain open.

40. The Commissioner does not have the discretion to avoid her responsibilities under the law and regulations.

41. Plaintiffs and hundreds of students that attend Nathanael Greene Middle School have an incontrovertible right to work and learn in an environment that is safe and adheres to the guidelines laid down by the CDC and RIDOH.

### **PRAAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Honorable Court:

a. Temporarily enjoin the Providence Public School District from reopening Nathanael Greene Middle School for in-person learning unless and until the School is compliant with safety procedures, protocols and regulations required by the RIDOH and the CDC, including but not limited to mandating all students' desks be six (6) feet apart, have adequate staffing to ensure consistent stable groups, and have adequate contact tracing to ensure the safety of all students and faculty/staff.

b. Issue a Writ of Mandamus ordering Angelica Infante-Green, in her capacity as Commissioner of Elementary and Secondary Education to close Nathanael Greene Middle School until the proper precautions are in place for teachers and students to learn and teach safely;

c. Issue an order mandating Nathanael Greene Middle School and all other schools in

the Providence Public School District to place all student's desk six (6) feet apart.

d. Issue an order mandating that Nathanael Greene Middle School and all other schools in the Providence Public School District have adequate contact tracing and staffing to ensure there are consistent stable groups as delineated by the RIDOH;

e. Issue and order to mandate that Nathanael Greene Middle School and all other schools in the Providence Public School District follow all the guidelines provided by RIDOH and the CDC, and in such event that said guidelines are not followed require the Providence Public School District to resort to distance learning;

f. Retain jurisdiction on this matter so This Honorable Court can assist in events as they occur in real-time.

d. Award Plaintiffs their costs and attorney's fees; and

e. Award such other relief as the Court deems just and proper.




**VERIFICATION**

I, Maribeth Calabro, a competent person of the full age of majority, declare:

I have personal knowledge of the facts set forth in the Verified Complaint, and if called as a witness in this matter, I could and would testify competently to those facts under oath.

I declare under penalty of perjury that the foregoing is true and correct.

  
Maribeth Calabro

Providence Teachers Union, Plaintiffs  
By its attorney,

/s/ John DeSimone  
John J. DeSimone, Esq. (#3373)  
735 Smith Street  
Providence, RI 02908  
Tele: (401) 454-1400  
Fax: (401) 454-1402  
[jjd@desimonelaw.net](mailto:jjd@desimonelaw.net)

# EXHIBIT I



October 29, 2020

Mr. Harrison Peters  
Superintendent, Providence Public Schools  
797 Westminister Street  
Providence, RI 02903

Ms. Angélica Infante-Green  
Rhode Island Commissioner of Education  
RI Department of Education  
255 Westminister Street  
Providence, RI 02903

Dear Commissioner Infante-Green and Superintendent Peters:

It is with a great sense of frustration and a greater sense of purpose that I am asking you to temporarily close Nathanael Greene Middle School in Providence, where COVID-19 is spreading and more than 30 staff members are out on leave due to COVID-19-related issues, making any sense of quality teaching a herculean task, at best. Our request is that you immediately close the school to shift to distance learning and meet with us by tomorrow, Friday, Oct. 30, to discuss conditions necessary for safe reopening of the building.

If the school is not closed and a resolution found to the myriad problems affecting students and staff, the Providence Teachers Union will be filing a lawsuit against the state and school officials, seeking to shut down the school temporarily. There is an emergency at the school posing an immediate danger to students, teachers, staff and their families.

While we are only seeking to address this most urgent situation at Greene, similar situations are occurring at other Providence schools. We hope that a resolution at Greene will inform our approach to those situations and any new ones that will arise.

Greene is experiencing an increasing number of COVID-19 cases, substantial contact tracing delays that have potentially exposed adults and children, chronic unsafe in-school conditions, and an inability to provide quality education to students—with nearly half the staff out due to quarantine, some with symptoms and others who are positive with the actual infection.

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99 CORLISS STREET PROVIDENCE, RHODE ISLAND 02904 TEL: (401) 421-4014 FAX: (401) 421-9239

• Maribeth K. Calabro, President • Maura M. Galvao, Executive Director of Member Services •  
• Louis A. Jannetta, Field Representative • Ed Neil, Field Representative •  
[www.providenceteachersunion.org](http://www.providenceteachersunion.org)

October 29, 2020

Letter to Superintendent Peters and Commissioner Infante-Green

As of Wednesday, October 28, here was the situation at Nathanael Greene, where, as you may know, I am a special education teacher:

- At least three students and two staff members have tested positive.
- 33 staff members are out due to COVID-19-related problems.
  - Twenty-two are on official Rhode Island Department of Health-directed quarantine, and the rest are on leave either getting tested or awaiting quarantine guidance from RIDOH.
- Because nearly half of the staff is on leave, the school is co-mingling the so-called stable pods.
- Greene is bringing in teachers from other buildings, who continue to teach their classes virtually as they monitor classes of students who are getting their instruction virtually.
- Three classes at a time are being held/monitored in larger spaces like the gym and cafeteria by one teacher.
- In some rooms, students are sitting within two feet of one another.
- Greene parents have received form letters and robocalls regarding each new case, but they are terribly confused and have no idea what is happening in their own child's classroom. What is being shared, however, is the false narrative that spaces are being managed and the school is safe.

Contact tracing delays at the state level have delayed notifications of close contact to some employees, including a substitute teacher at Greene, who was sent home on October 27 and told to quarantine based on a close contact with a COVID-19-positive person on October 16. That substitute was in school for more than 10 days after exposure. We have heard of several other similar stories around the district.

We believe the situation has reached this extremely dangerous point because there is no metric or defined criteria that every school and/or district must follow on how to handle positive cases and quarantines that hinder the safe daily operations of running a school. We have repeatedly asked for clear standards that all schools in the state should follow, but that request has been rejected and now we are facing the consequences.

Our legal action will ask for clear, specific guidelines in the event that we have multiple positive cases and quarantines that disrupt instruction and put students and teachers at risk. We demand answers on important and practical issues, such as how to handle classroom coverage, how to prevent breaking pods, how to have safe transitions, how to reduce class sizes, and the creation of a clear and specific standard that is used to determine when a school should be closed.

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October 29, 2020

Letter to Superintendent Peters and Commissioner Infante-Green

It has become abundantly clear that Providence public schools are being treated differently than those in other cities in the state. For instance, schools in Cranston, North Providence, Woonsocket and Cumberland, as well as Times2, a district-run charter in Providence, have temporarily closed due to positive cases because, among other reasons, they didn't have enough teachers and staff to cover the schools or actually teach kids, or out of an abundance of caution and concern for the health of staff and students. We need equity and clear standards to guide these decisions.

The situation has gone horribly wrong, placing students, teachers, and staff at risk. There is no uniform plan or guidance in place and therefore, schools are not educationally sound for kids. These students are not only being exposed to the virus, but also dealing with being taught by teachers who may or may not be their regular teacher and are simultaneously teaching another class, virtually.

Families are currently being told that things are under control, carefully managed and safe, but this is simply not true.

The decision that our next step will be to take legal action didn't come easily, but the risks to the health and safety of teachers, staff and the families we serve demand strong action.

As always, my team and I are available to collaborate on a resolution to these safety and health issues, as we did with the Virtual Learning Academy. If action to close the school and discussions around a path to reopening are not in motion by tomorrow, Friday, October 30, our attorney will proceed with the lawsuit.

Respectfully,



Maribeth K. Calabro  
President

Cc: Gov. Gina Raimondo